Supreme Court of California
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Supreme Court of California
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FILED WITH PERMISSION

Original Case No. **S294386**

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

Adam Bereki,
Petitioner.

v.

Superior Court of California for the County of Orange
Respondent.

Karen Humphreys and Gary Humphreys
(Real Parties in Interest)

FIRST AMENDED PETITION FOR WRIT OF MANDATE AND PROHIBITION AND EXERCISE OF ORIGINAL JURISDICTION TO VACATE VOID JUDGMENT

(Following Dismissal of Appeal from Denial of
Independent Action in Equity)
Fourth Appellate District, Division Three– Case No. G065695
Orange County Superior Court– Case No. 30-2015-00805807

HEARING REQUESTED

*****STAY REQUESTED*****
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), including any sale, transfer, encumbrance, or disposition of the real property at 818 Spirit, Costa Mesa, California, and for an order restoring immediate possession to Petitioner incident to this Court's determination and direct vacatur of the void judgment and set aside the resulting foreclosure and unlawful-detainer proceedings. Date of act sought to be stayed/reversed: Eviction completed on or about April 2, 2025; ongoing enforcement of void judgment and threatened permanent deprivation of property.
Related case 30-2025-01459684 (Unlawful Detainer)
Judge: David Hesseltine, Dept. C-23, (657) 622-5223

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

NOTICE TO COUNSEL AND REAL PARTIES 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:

1. Petition for Writ of Mandate/Certiorari and/or Exercise of Original Jurisdiction to Vacate Void Judgment (*Bereki v. Superior Court* (Humphreys, Real Parties in Interest) Supreme Court Case No. S294386), 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. S294339).

Specifically:

- I telephoned William Bissell, Esq., counsel for Real Parites Karen Humphreys and Gary Humphreys, at (949) 287-4503, spoke with counsel personally, and emailed written confirmation to 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.

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. William G. Bissell – Counsel of record for Real Parties Karen Humphreys and Gary Humphreys.
3. Henry Paloci – Counsel of record for Canjian Hou in the unlawful-detainer and mandate actions.
4. Contractors State License Board – State agency that revoked Petitioner's general contractor license No. 927244 pursuant to Business & Professions Code § 7071.17 as a result of the 2017 judgment.
5. Orange County Sheriff's Department, Civil Enforcement Division – Agency that executed the writ of possession in the unlawful-detainer action.
6. Citizens Bank NA (Foreclosing entity; interest in validity of foreclosure sale)
7. Trustee Corps (Foreclosure trustee; interest in validity of trustee's deed)
8. Citibank N.A. as Trustee (Senior lienholder; disputed in rem lien on property)
9. 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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PROLOGUE

I file this Petition with full awareness that it does not sound like most petitions now before this Court. That is not because the claims are novel, but because the constitutional principles they rest upon have become unfamiliar in practice.

This Prologue is written in the first person because the dissonance it describes has been experienced personally. But the condition giving rise to it is not personal, isolated, or unique. Many Citizens approach their courts with a written Constitution in hand, only to encounter a judicial process that no longer treats the Constitution as a governing constraint on the exercise of power. The resulting disorientation is not merely legal; it is civic.

The understanding of constitutional government from which this Petition proceeds is not subjective. It is drawn from the Constitution's text, from historical records reflecting its original meaning, and from this Court's and the United States Supreme Court's own decisions describing the nature of judicial power and constitutional duty. Those sources reflect a consistent principle: when constitutional limits are properly invoked, courts have a non-discretionary duty to adjudicate them. When those limits are crossed, authority does not persist by inertia or convenience; it collapses.

What I have encountered instead—across trial courts, appellate courts, and collateral proceedings—is not rejection of constitutional principles on the merits, but their avoidance. Constitutional questions are deferred, displaced, or rendered unreachable through procedural posture and institutional considerations. In practice, adjudication has

been subordinated to management. This is not judicial error in the ordinary sense. It is non-adjudication.

When courts decline to decide constitutional limits because doing so would be disruptive, the consequence is structural. Constitutional government depends on a stabilizing principle: a judiciary willing to say when authority has been exceeded. When that duty is set aside, the system does not merely bend; it loses the mechanism by which lawful power is distinguished from unlawful power.

That failure does not remain confined to the courts. It propagates outward. Executive officers charged with enforcing the law often lack any functional protocol for responding to alleged constitutional violations. In one instance, a supervisory law-enforcement official informed me that reporting a deprivation of constitutional rights was an "unreasonable request." That response was not an anomaly; it was a symptom. When constitutional duties are treated as aberrational, it is because the constitutional framework has ceased to operate as a rule of decision.

The result is lived, not abstract. Enforcement proceeds while legitimacy remains undecided. Coercive power continues to operate without any branch willing to determine whether authority exists at all. What appears as finality is, in truth, the absence of a functioning constitutional forum.

This Prologue is not written as an accusation or a grievance. It is written to explain why this Petition may feel unfamiliar. Exposing a structural failure necessarily creates discomfort, particularly where the institution charged with correcting it has operated

without that correction for some time. But the purpose of this Petition is not to place the Court on trial. It is to place the constitutional conflict into full view so that the Court may perform the role the Constitution assigns to it.

This Petition does not seek punitive damages, retribution, or institutional humiliation. It seeks restoration of constitutional order. The accountability implicated here is constitutional, not penal. Where constitutional violations have occurred, the law requires adjudication, correction of the resulting legal consequences, and compensation for actual harm caused by the unlawful exercise of power. To do less is not restraint; it is abandonment.

The question presented therefore precedes all others. It is whether the Constitution remains the controlling law of this State when properly invoked, or whether it has been functionally displaced by a system in which continuity and institutional convenience substitute for constitutional constraint.

This Petition is submitted not to attack the judiciary, but to call it back to its original vocation: to decide, rather than defer, the limits of lawful authority—and thereby preserve the constitutional order it exists to serve.

INTRODUCTION

This Petition does not ask this Court to reweigh facts, revisit discretionary rulings, or correct ordinary legal error. It asks this Court to enforce a duty the Court of Appeal expressly acknowledged—and then refused to perform.

In dismissing Petitioner's appeal, the Fourth Appellate District expressly conceded that doctrines of res judicata, collateral estoppel, and law of the case do not preclude relief from a void judgment. Yet having made that concession, the court dismissed the appeal without ever determining whether the judgment is in fact void. That refusal directly contravenes this Court's settled rule—unchanged since its first term—that once a colorable claim of voidness is properly raised, vacatur is mandatory and non-discretionary. A court possesses no authority to decline that determination, nor to decline the exercise of jurisdiction once conferred. *Andrews v. Superior Court*, 29 Cal.2d 208, 214–215 (1946); *Thompson v. Cook*, 20 Cal.2d 564, 569 (1942); *People ex rel. Mulford v. Turner*, 1 Cal. 143 (1850); *Cohens v. Virginia*, 19 U.S. 264, 404 (1821) ("[w]e have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given.").

This refusal presents a more fundamental constitutional question than whether a single judgment is erroneous or void. The California Constitution does not contemplate a State that exists by name while one of its three mandatory branches declines to function. Legislative enactments and executive enforcement derive their legitimacy only from the existence of a judiciary that adjudicates jurisdiction and constitutional authority when properly invoked. Where courts accept jurisdiction yet refuse to determine whether the

State may lawfully exercise coercive power, judicial power does not merely malfunction—it is absent in operation. In that condition, California does not operate as a constitutional State governed by separated powers, but as an administrative system in which enforcement proceeds without lawful function and authority, and outside the Constitution itself.

Once a court accepts jurisdiction over a properly presented constitutional claim, it bears a non-delegable obligation to decide it. California courts do not possess discretion to acknowledge the governing constitutional standard yet decline to determine whether it has been violated. As this Court has made clear, the judicial duty to resolve state constitutional claims is independent, mandatory, and cannot be avoided through procedural dismissal, deference, or abstention. *Committee to Defend Reproductive Rights v. Myers*, 29 Cal.3d 252, 267–268 (1981).

The judgment at issue imposed a $930,000 punitive forfeiture for the public offense of unlicensed contracting in a proceeding labeled "civil," prosecuted by private parties, without indictment, jury trial, proof beyond a reasonable doubt, or any criminal-process safeguard. That sanction triggered automatic, prolonged destruction of Petitioner's professional license, destruction of his business, loss of livelihood, bankruptcy, and foreclosure of his home. Whether such a judgment is constitutionally void is not a discretionary question. It is a jurisdictional one that courts are bound to decide whenever properly raised.

Oddo v. Hedde confirms why that jurisdictional question cannot be avoided or recharacterized as mere "civil regulation." *Oddo* held that the contractor-license statutes

were not enacted "to work a hardship upon honest men," and that courts may not construe licensing/classification provisions (or administrative rules) to authorize total divestment of compensation where the contractor substantially complied and any defect was technical or nonculpable. 101 Cal.App.2d 375, 382–384 (1950). *Oddo* further reiterates that penal statutes encroaching on private rights, and statutes providing for forfeiture, must be strictly construed—and cannot be enlarged by implication into a mechanism of punitive forfeiture. *Id.* at 383–384. That principle applies a fortiori where, as here, the State's chosen enforcement mechanism is a massive forfeiture imposed for a public offense while withholding every criminal-process safeguard.

As confirmed by the Amicus Curiae submission of Pier Pjerin Prenga, even contractors who prevail on the merits and are found not to have violated licensing laws nonetheless suffer catastrophic punishment under sections 7031 and 7071.17—demonstrating that the constitutional defect is structural, not remedial.

By dismissing the appeal while expressly refusing to decide the dispositive jurisdictional issue, the Court of Appeal did not merely commit legal error—it failed to exercise the judicial power at all. A disposition that acknowledges the governing constitutional rule yet declines to apply it is not adjudication, but administrative avoidance. Such a refusal converts what purports to be a judicial act into a non-judicial one and leaves the resulting enforcement without the sanction of law.

More than a century ago, this Court confronted the same jurisdictional failure presented here. In *In re Curtis*, the Court held that a proceeding which imposes removal from office as punishment for a public offense is criminal in substance, and that where

the governing statute provides no avenue for appellate review, enforcement may not proceed absent lawful jurisdiction. 108 Cal. 661, 662–663 (1895). Building on that settled principle, this Court in *Kilburn v. Law* exercised its original jurisdiction to issue a writ of prohibition halting a proceeding that purported to be civil in form but imposed criminal punishment without constitutional authority. The Court held that where no facts could be alleged that would confer jurisdiction on the inferior court, extraordinary writ relief was not discretionary but required, and that permitting a lower court to proceed on the theory that it could later determine its own jurisdiction would eviscerate constitutional limits on judicial power. 111 Cal. 237, 242–243 (1896). That principle governs here: once a colorable claim is made that a court lacks constitutional authority to impose punishment, enforcement must stop until jurisdiction is adjudicated, and where inferior courts refuse to perform that non-discretionary duty, this Court's original jurisdiction is both proper and compelled.

From its earliest decisions, this Court has held that a judgment entered without jurisdiction is a nullity; that no lapse of time or prior proceeding can breathe life into it; and that mandamus—including a peremptory writ in the first instance—is the proper and immediate remedy. *People ex rel. Mulford v. Turner*, 1 Cal. 143 (1850); *People ex rel. Field v. Turner*, 1 Cal. 190 (1850). Because the Court of Appeal refused to perform its non-discretionary duty to decide whether the judgment is void, and no lower court will do so, this Court's original jurisdiction is both warranted and constitutionally compelled.

After judicial adjudication was withheld, Petitioner placed executive and law-enforcement authorities on formal notice that enforcement of an allegedly void judgment was continuing and causing ongoing deprivation of his property and liberty. Those

authorities declined to investigate, intervene, or provide any forum in which the legality of the judgment or its enforcement could be examined. In response to direct requests for investigation, one supervisory law-enforcement official characterized the reporting of constitutional deprivations as an "unreasonable request" (Ex. 29– Audio Recording/ E29T, p.12– Transcript); another stated that "there's nothing here that I have to offer you… at the police department" (Ex.31– Audio Recording / Ex.31T, p.12– Transcript); and a supervising officer acknowledged that he did not know how a claim alleging deprivation of constitutional rights would be investigated at all. During notice to vacate prior to eviction from his home, Petitioner repeatedly requested that the serving officer investigate what he asserted was an ongoing deprivation of constitutional rights and the commission of a crime; the officer refused without intervention, stated that it was "a civil matter," and that he was only serving papers, disclaiming any authority to act (E39– Video Recording)/E39T– Transcript). These responses occurred after notice, by officials charged with enforcing the law, and they left no branch of government—judicial or executive—willing to determine whether lawful authority existed to continue exercising coercive power. The significance of that systemic failure, and its constitutional consequences, are addressed in Section V.

At its heart, this case is about official integrity and accountability—the same accountability the government requires of the People.

PETITION AND GROUNDS FOR ORIGINAL JURISDICTION

Petitioner Adam Bereki respectfully petitions this Court, pursuant to its common-law and equitable authority and/or Code of Civil Procedure § 1085, for a peremptory writ

of mandate and prohibition in the first instance and for this Court's direct exercise of original jurisdiction to vacate as void ab initio the judgment entered April 20, 2017, in Orange County Superior Court Case No. 30-2015-00805807 (Court of Appeal No. G055075). Because the judgment was entered without subject-matter jurisdiction and in violation of mandatory and prohibitory constitutional provisions, no lawful judgment exists to which deference may attach, and issuance of a peremptory writ is not discretionary but compelled. Petitioner further requests such direct orders and writs as are necessary to bind the Superior Court of Orange County, the Court of Appeal, Fourth Appellate District, Division Three, and all other state actors to give effect to this Court's vacatur, restore the status quo ante, and vindicate constitutional limits on judicial power.

This Court's original jurisdiction is not invoked as a substitute for appellate review, but because the appellate process has repeatedly failed in a manner that leaves no forum authorized to perform a mandatory judicial duty. Most recently, the Court of Appeal expressly acknowledged that doctrines of res judicata, collateral estoppel, and law of the case do not bar relief from a void judgment, yet dismissed the appeal without deciding whether the judgment is void. Having accepted jurisdiction and conceded the governing rule, the court lacked authority to decline adjudication of the dispositive jurisdictional question. No adequate remedy exists in any lower court.

The questions presented are therefore of profound statewide importance. They concern not merely the validity of a single judgment, but whether California courts may acknowledge constitutional limits on their power while insulating judgments that violate those limits from any adjudication through procedural dismissal. Where a court refuses to

determine whether a judgment is void, despite a properly raised and colorable challenge, the duty to vacate devolves upon this Court. *County of Sacramento v. Hickman*, 66 Cal.2d 841, 845 (1967).

This Court's precedent leaves no discretion in such circumstances. A judgment entered without jurisdiction is a nullity, immune from finality doctrines, and subject to correction at any time by mandamus, including a peremptory writ in the first instance. If courts possess discretion to decline adjudication of properly raised constitutional voidness, then constitutional prohibitions are advisory rather than binding. Where a colorable jurisdictional challenge is properly raised, a court has a mandatory duty to decide voidness and, if jurisdiction is lacking, to vacate the judgment. *People ex rel. Mulford v. Turner*, 1 Cal. 143 (1850); *People ex rel. Field v. Turner*, 1 Cal. 190 (1850); *Andrews v. Superior Court*, 29 Cal.2d 208, 214–215 (1946); *Thompson v. Cook*, 20 Cal.2d 564, 569 (1942).

In *Andrews*, this Court compelled expungement of an eleven-year-old judgment entered without jurisdiction, holding that "no discretion rested in the court except to expunge it from the record." 29 Cal.2d at 215. The same rule governs here. The Superior Court never acquired fundamental subject-matter jurisdiction to impose a $930,000 penal forfeiture for the public offense of unlicensed contracting in a proceeding prosecuted by private parties without indictment, jury, or criminal-process safeguards. The resulting judgment is void ab initio, remains subject to attack at any time by any available procedure, and must be vacated as a matter of law.

The United States Supreme Court recently reaffirmed this principle in *Axon Enterprise, Inc. v. Federal Trade Commission*, 598 U.S. 175 (2023), holding that structural constitutional challenges to the authority of a decisionmaker must be resolved at the threshold because the injury inheres in subjection to power without lawful authority. Jurisdictional avoidance—declining to decide whether authority exists while permitting the exercise of power—is not restraint; it is a failure to exercise judicial power. (*Axon* is cited here not for its administrative context, but for its articulation of the nature of structural constitutional injury: that the harm lies in being subjected to the exercise of power by a decisionmaker whose authority has not been lawfully established.)

Additionally, once a court breaches its mandatory jurisdictional duty, and that breach results in continued enforcement or the creation of reliance interests, remand to the same court is constitutionally unavailable, not merely inadequate. Remand would require the court to adjudicate the legality of its own prior non-exercise of jurisdiction and the consequences flowing from it.

Because the constitutional injury arises from the refusal of all inferior courts to perform a mandatory jurisdictional duty, denial of this Court's original jurisdiction would leave no constitutional forum in California in which the validity of the judgment may be determined.

OVERVIEW

This case is about civil capital punishment[1] imposed by private citizens and the systemic failure of every branch of state and federal government to provide any forum—judicial, executive, or legislative—in which to determine whether the underlying judgment is void. Through repeated refusals to adjudicate jurisdiction, enforce constitutional limits, or halt enforcement upon notice of constitutional defect, the ordinary checks and balances and self-executing safeguards of constitutional government have collapsed in at least this instance, permitting the continued imposition of punishment and deprivation of property without lawful authority.

A single $930,000 penalty, entered in a proceeding that imposed what is in substance criminal punishment without any criminal-process safeguard, stripped Adam Bereki of his contractor's license, his profession, his earnings, and his home under the cloak of an "equitable remedy" labeled "disgorgement" for allegedly unlicensed contracting even though he was the "qualifying individual" and "licensee" of a general contractor license. Business and Professions Code § 7031, subdivisions (a) and (b).The judgment triggered automatic, suspension/revocation of his license—the one the Court purportedly determined he didn't have—under Business and Professions Code section 7071.17—with no hearing, no culpability finding, and no consideration of ability to pay. That suspension/revocation—lasting nearly six years—caused more than $3 million in

[1] "Civil capital punishment" refers to criminal punishment imposed for a public offense through a civil proceeding, resulting in permanent civil death—namely, total forfeiture of livelihood, fines beyond one's net–worth and ability to pay, forced bankruptcy, professional extinction, and cascading property deprivation—without an adjudicated judicial remedy, criminal jurisdiction, or the procedural safeguards required for criminal punishment.

lost earnings, impaired the obligations of his private contracts, forced bankruptcy (U.S. Bankruptcy Ct., C.D. Cal., No. 22-12076), and ended in non-judicial foreclosure of his Costa Mesa home for approximately $1.2 million below comparable value.

The judgment rested solely on a contract-identity theory: the court deemed Petitioner to be “the general contractor on the contract” (RJN Ex. 1, p. 6) and personally unlicensed based on his authorship of email and contractual communications with Real Parties that did not expressly name his solely owned and operated construction company–-The Spartan Associates, Inc. (“Spartan”)—while treating Spartan’s licensed role and the use of licensed subcontractors as legally irrelevant. The court did not find that Petitioner personally performed any construction work, nor did it identify any construction services performed by an unlicensed contractor. Petitioner’s communications with Real Parties were made in his capacity as Spartan’s responsible managing officer and qualifying individual, both of which constitute a “licensee” under Business and Professions Code section 7096, and the judgment rested on that characterization of contract identity rather than on any adjudication of unlicensed performance.

On these facts, liability was imposed without any finding that unlicensed construction was performed at all, and on that basis alone the court ordered total forfeiture without offsets, authorizing restitution of compensation attributable to licensed work even though section 7031 authorizes forfeiture only for unlicensed contracting. California courts have cautioned that section 7031 does not permit courts to disregard actual performance or causation in favor of rigid formalism; liability must rest on substance rather than labels,

and forfeiture untethered to who performed the work exceeds the statute's proper application. *Ranchwood Communities Ltd. Partnership v. Jim Beat Construction Co*., 49 Cal.App.4th 1397, 1408–1410 (1996).

Critically, the subsequent destruction of Petitioner's livelihood was not a discretionary consequence of the judgment. Business and Professions Code section 7071.17 mandates *automatic* suspension or revocation of a contractor's license upon nonpayment of a judgment or inability to post a bond, without hearing, culpability finding, or consideration of ability to pay. The Legislature has thus hard-wired professional death directly to the entry of a section 7031 judgment. The judgment itself functions as the triggering mechanism for punishment imposed by operation of law, confirming its penal character and rendering the resulting deprivation inseparable from the underlying void judgment.

Petitioner Adam Bereki is far from alone. California courts routinely uphold six- and seven-figure penal forfeiture awards without excessive punishment protections under section 7031(a) and (b) followed by automatic license destruction in cases such as:

- *Twenty-Nine Palms Enterprises Corp. v. Bardos*, 210 Cal.App.4th 1435 (2012), review denied (~$917,000 → bankruptcy and loss of home),
- *MW Erectors, Inc. v. Niederhauser*, 36 Cal.4th 412 (2005) (~$1.2 million+),
- *Pacific Carpets, LLC v. 2525 Main Apartment, LP* (G064438 (unpub.), 4th Dist. Nov. 2025) (~$2.34 million), and
- *American Building Innovation, LP v. Balfour Beatty Construction, LLC*, 104 Cal.App.5th 954 (2024), review denied ($700,000 + ongoing multi-license suspension + $10 million in consequential damages).

Yet the identical conduct prosecuted criminally under § 7028—the public offense the Legislature claims to deter—results in an average fine of only $750 and/or informal probation in Orange County. [Ex. 7– OCDA Public Records Act Response] (cases cited in table on p.49 prepared by Petitioner may require further study). The ~$930,000 penalty is 1,240 times this amount, 186 times the $5,000 maximum allowed by § 7028, and more than thirty times Petitioner's qualifying net-worth.

Most critically, the Court of Appeal below has placed itself in direct and acknowledged conflict with decisions of this Court and the United States Supreme Court and has created a lopsided split with recent published California decisions addressing the penal character of awards under section 7031.

This Court has repeatedly held that section 7031 imposes a "stiff all-or-nothing penalty" to which no equitable considerations apply. *MW Erectors, Inc. v. Niederhauser*, 36 Cal.4th 412, 426 (2005); *Lewis & Queen v. N.M. Ball Sons*, 48 Cal.2d 141, 152 (1957).

Two recent published Court of Appeal decisions have acknowledged that section 7031 creates a penalty, not the *true* equitable remedy of disgorgement even though the courts continue to use the word "disgorgement" to characterize the penal forfeiture. *Eisenberg Village v. Suffolk Construction Co.*, 53 Cal.App.5th 1201, 1212 (2020); *San Francisco CDC, LLC v. Webcor Construction L.P.*, 62 Cal.App.5th 266, 280 (2021).

The United States Supreme Court has held that *true* disgorgement is an equitable remedy limited to net profits after deduction of legitimate expenses and that a total forfeiture without such deductions or other equitable considerations is punitive rather than

remedial. *Liu v. SEC*, 591 U.S. 71 (2020). In every known 7031 case, however, no evidence of net profits is required or introduced, no offsets or deductions are permitted, and total penal forfeiture is ordered.

The Fourth District Court of Appeal continues to characterize awards under section 7031 as “disgorgement” and, having done so, has declined to apply the mandatory constitutional analysis required by this Court whenever a civil sanction is penal in nature. *Hale v. Morgan*, 22 Cal.3d 388, 398–401 (1978). That analysis is not discretionary, nor is it a matter of policy or equity; it is a constitutional constraint that must be applied once a sanction is acknowledged to be punitive, and it leads to a determination whether the sanction violates the Excessive Fines Clause.

Despite this Court and multiple Courts of Appeal repeatedly acknowledging that section 7031 imposes a harsh, all-or-nothing penalty, no known published California decision has ever undertaken the *Hale* analysis in a section 7031 case. Instead, courts acknowledge the punitive character of the statute while stopping short of applying the constitutional test that necessarily follows. This pattern reflects not adjudication, but containment.

More than 150 years ago, the Supreme Court of New Hampshire condemned the doctrine that lets one private Citizen, in a civil suit, impose and pocket criminal punishment that belongs only to the State (also historically known as a “bounty”)– calling it a “monstrous heresy” that obliterates the boundary between civil remedy and criminal sanction. *Fay v. Parker*, 53 N.H. 342, 382–397 (1872). California’s statutory scheme has gone further: it has taken the inalienable private right to contract for one’s own labor and

converted it into a revocable public privilege. Any litigant may now criminally prosecute the Citizen for breaching that privilege, collect virtually unlimited fines in his or her own name, and trigger permanent, automatic exclusion from a profession—all without indictment, jury, reasonable doubt, or any criminal-process safeguard.

The Fourth District has repeatedly stated that courts are not permitted to second-guess the Legislature and lack authority to review legislative policy choices even when the Legislature has acknowledged that the result may be harsh and unfair, produce unjust enrichment for the prevailing party, and is challenged as violating constitutional protections. *Alatriste v. Cesar's Exterior Designs, Inc.*, 183 Cal.App.4th 656, 673 (2010); *American Building Innovation, LP v. Balfour Beatty Construction, LLC*, 104 Cal.App.5th 954 (2024).

This position constitutes an open refusal to perform the judiciary's constitutional duty of independent review and checks and balances, resulting in the enforcement of legislative enactments that violate inalienable rights, authorize excessive punishment without criminal process, and permit the private prosecution of public offenses.

The United States Supreme Court has reaffirmed that judicial power cannot be exercised through deference that displaces a court's own judgment on questions of law. As the Court explained, "the final 'interpretation of the laws' would be 'the proper and peculiar province of the courts,'" and "[i]t is emphatically the province and duty of the judicial department to say what the law is." *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). The Court emphasized that although the views of other branches "could inform the judgment of the Judiciary," they "did not supersede it," and that where a court's

"own judgment" differs, it is "not at liberty to surrender, or to waive it." *Id.* The Court further reaffirmed that "[t]he interpretation of the meaning of statutes, as applied to justiciable controversies, remained 'exclusively a judicial function,'" and that "[t]he supremacy of law demands that there shall be opportunity to have some court decide whether an erroneous rule of law was applied." *Id.* A doctrine of deference that "prevent[s] judges from judging" is incompatible with the judicial function. *Id.*

Here, the Fourth District expressly acknowledged that res judicata, collateral estoppel, and law-of-the-case doctrines do not preclude relief from a void judgment (RJN Ex. 15, p. 192), yet dismissed the appeal without ever determining whether the ~$930,000 judgment is in fact void**.** That dismissal was not an exercise of judicial restraint; it was a refusal to exercise independent judicial judgment over a conceded, dispositive question of constitutional jurisdiction.

This case does not arise from an adjudication on the merits followed by unsuccessful appeals. It arises from a record in which judicial power was never exercised over the constitutional questions presented. From the outset, Petitioner challenged the State's imposition of punitive sanctions. At every stage, courts declined to adjudicate those challenges, dismissing them on procedural grounds, characterizing them as "frivolous," or enforcing statutes without determining their constitutional validity. In doing so, the courts did not merely err within jurisdiction; they refused to perform the judicial function itself.

As the U.S. Supreme Court has long held, when courts enforce statutes while declining to adjudicate their constitutionality, they cease to act judicially. *Windsor v.*

McVeigh, 93. U.S. 274, 277 (1876) ("[a] sentence of a court pronounced against a party without hearing him …is not a judicial determination of his rights and is not entitled to respect in any other tribunal."); *Ex parte Siebold*, 100 U.S. 371 (1880); *Marbury v. Madison*, 5 U.S. 137 (1803). The resulting record reflects not adjudication, but containment: a closed institutional circuit in which advocacy is deterred, counsel is functionally unavailable in a punitive proceeding, no branch checks the others, and executive enforcement proceeds notwithstanding repeated notice of constitutional defect. Such a system is incompatible with constitutional governance and reflects the very concentration of unchecked power the Framers identified as the definition of tyranny. *Northern Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 57–58 (1982) (quoting *The Federalist No. 47*).

Every state and federal court to which Petitioner has applied has refused to fully and fairly examine whether these judgments are void. Every legislative and executive office of California and the United States has refused its check and balance duty to investigate and/or intervene to stop the ongoing deprivation of rights to Petitioner and all like-situated People. "To deprive a Citizen of his only effective remedy would not only be contrary to the 'rudimentary demands of justice' but destructive of a Constitutional guaranty specifically designed to prevent injustice." *Johnson v. Zerbst*, 304 U.S. 458, 467 (1938).

Chief Justice Marshall explained that the first duty of government is to provide the protection of the laws, and that where the law affords no remedy for the violation of a vested legal right, the government "will certainly cease to deserve" the name "a

government of laws, and not of men." *Marbury v. Madison*, 5 U.S. 137, 163 (1803). That is precisely what has occurred here: the systematic denial of any forum to adjudicate whether the challenged judgments are void has left Petitioner—and hundreds, potentially thousands, of similarly situated contractors—without the protection of the laws.

Finally, the Court of Appeal branded the appeal as "frivolous." Under this Court's own standard, an appeal is frivolous only if it indisputably has no merit, or if it is prosecuted solely to harass or delay. *In re Marriage of Flaherty*, 31 Cal.3d 637, 649–650 (1982). This characterization itself illustrates the depth of the constitutional crisis this Petition presents: when a court may dismiss as wholly devoid of merit a properly raised challenge to mandatory and prohibitory clauses of the Constitution that render "everything done in violation of [them] void", the judicial branch has ceased to function as a check on unconstitutional power. *Elliott v. Lessee Piersol*, 26 U.S. 328, 340 (1828) ("if a [Court] act[s] without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a remedy sought in opposition to them, even prior to a reversal."); *Oakland Paving Co. v. Hilton*, 69 Cal. 479, 484 (1886).

NOTICE REGARDING EXHIBITS

All Exhibits are incorporated as if fully set forth herein.

All references to Exhibits ("Ex.___") and Requests for Judicial Notice ("RJN Ex. ___") are hyperlinked to the identical documents filed herewith or the Request for Judicial Notice. 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.

Digital versions of all Petitions and Exhibits can also be viewed or downloaded from www.thespiritoflaw.com.

NOTICE OF RELATED BANKRUPTCY PROCEEDING, DISCHARGE, & ABANDONMENT OF CLAIMS

As a direct result of the circumstances occurring herein, Petitioner was forced to file a "voluntary" Chapter 7 petition in the United States Bankruptcy Court for the Central District of California (Case No. 8:22-BK-12076-SC) on December 8, 2022. On March 27, 2023, the bankruptcy court entered an Order of Discharge under 11 U.S.C. § 727, discharging Petitioner from all dischargeable debts, including the ~$930,000 judgment that is the subject of this Petition. RJN Ex. 9, pp. 61-62.

The discharge operates as a permanent injunction under 11 U.S.C. § 524 against any act to collect, recover, or enforce that discharged debt as a personal liability of the debtor. The discharge injunction therefore independently bars the continued enforcement of the 2017 judgement.

Prior to the reopening of the bankruptcy case to address ongoing violations of the discharge injunction arising from attempts to enforce the void 2017 judgment, the Trustee previously abandoned all claims related to the judgment back to Petitioner, confirming that no estate interest remains and that this Court may exercise jurisdiction over the present Petition RJN Ex. 9, p. 63.

Reliance on the discharged 2017 judgment to obtain relief from the automatic stay and to justify foreclosure constitutes an act to enforce and give effect to that judgment notwithstanding its discharge. Enforcement is not limited to direct collection efforts; it includes any use of a judgment as legal leverage to obtain property, alter rights, or defeat statutory protections. Because the underlying judgment is void ab initio and discharged as a matter of federal law, any act that relies upon it—directly or indirectly—constitutes unlawful enforcement in violation of the discharge injunction and the Supremacy Clause, independent of any error by the bankruptcy court.

This notice is further provided to alert this Court that any continued enforcement of the 2017 judgment—including indirectly—by affirming the judgment's validity and failure to award restitution and damages, violates both the discharge injunction and the Supremacy Clause. U.S. Const., Art. VI, cl. 2.

NOTICE OF RELATED CASE

Concurrently with this Petition, Petitioner has filed an Emergency Petition for Writ of Mandate/Prohibition (S294339) seeking immediate restoration of possession of his Costa Mesa home, which this Court may grant and consolidate on its own motion to prevent the permanent deprivation of real property by a court lacking jurisdiction. The Emergency Petition and all documents filed in that case are incorporated as if fully set forth herein.

I. FACTUAL BACKGROUND & PROCEDURAL OVERVIEW

In 2009 the Contractors State License Board determined that Petitioner satisfied the experience and examination requirements to serve as a "qualifying individual" and issued general contractor license No. 927244 in his name (as the qualifying individual, a "licensee" under Business and Professions Code § 7096) and that of his solely-owned company, The Spartan Associates Inc. ("Spartan"). A "qualifying individual" "is the person who meets the experience and examination requirements for the license and who is responsible for exercising supervision and control of their employer's or principal's construction operations to secure compliance with CSLB's laws, rules, and regulations. (§ 7068.1(a))." Application for Original Contractor License.

In 2012 Spartan contracted to perform a custom remodel of Real Parties' condominium and performed approximately $930,000 in work pursuant to that agreement.

In mid 2013, a disagreement arose and Real Parties refused to pay approximately $82,000 in labor and materials charges. Spartan sued. Real Parties filed a cross-complaint for claims including damages. Immediately prior to trial, Real Parties filed an amended cross-complaint alleging as their first cause of action a claim for "disgorgement of all funds paid" pursuant to Business and Professions Code § 7031(b) solely against Petitioner. They then severed the first-amended claim from all other claims. Trial proceeded on the § 7031(b) claim *only*.

In 2017, following a bench trial, the Superior Court for the County of Orange (No. 30-2015-00805807) entered judgment awarding Real Parties $848,000 under section 7031(b) and denying Spartan and/or Petitioner approximately $82,000 under subdivision

(a)—a total of approximately $930,000—on the sole ground that Petitioner was an unlicensed contractor. No evidence of harm, profit, or personal performance of unlicensed work by Petitioner was ever offered, and no offsets were allowed for the ~$930,000 in value conferred. Ex. 27– Reporters Transcript of Trial. The Minute Order labeled the award "discouragement," (sic "disgorgement") while the formal judgment called it "damages." RJN Ex. 1–Minute Order, pp.5-7 and Judgment, p.9.

The Fourth District Court of Appeal affirmed in an unpublished opinion (G055075, Oct. 30, 2018; RJN Ex. 2– Opinion), describing the award as an "equitable remedy" and "disgorgement" despite this Court's repeated holdings that section 7031 imposes a *penalty* to which no equitable considerations apply. *MW Erectors, Inc. v. Niederhauser*, 36 Cal.4th 412, 426 (2005); *Lewis & Queen v. N.M. Ball Sons*, 48 Cal.2d 141, 152 (1957).

The Court of Appeal refused to apply the Excessive Fines Clause or to address the structural constitutional defect created by imposing criminal punishment in a civil case without any required heightened protections. RJN Ex. 2– Opinion; RJN Ex. 30– Opening Brief on Appeal. Because the Superior Court Judgment was void for lack of subject-matter jurisdiction, extrinsic fraud, and fraud upon the court, the Court of Appeal likewise lacked subject matter jurisdiction to affirm it, rendering its own judgment void as well.

In 2019, Petitioner filed a Motion to Vacate Void Judgment in the Superior Court. Citing *People v. Dutra*, 145 Cal.App.4th 1359 (2006), the Court held that the arguments presented had already been raised and rejected, that the Court of Appeal's decision affirming the underlying judgment on the merits was final, and that, upon remittitur, the trial court was revested with jurisdiction solely to carry out the judgment as ordered by the

appellate court and could not entertain renewed challenges to the merits. RJN Ex. 3– Minute Order; RJN Ex. 28– Certified Reporters Transcript of Hearing; Ex. E1– Audio Recording of Hearing. The challenges involved were to fundamental jurisdiction (not the merits), which could be made at any time as "[a]n appeal will not prevent the court from at any time lopping off what has been termed a dead limb on the judicial tree—a void order." *MacMillan Petroleum Corp. v. Griffin*, 99 Cal. App. 2d 523, 533 (1950); Code of Civil Procedure § 1916. The Superior Court's reliance on ordinary finality and appellate-mandate principles was itself void. A judgment that grants relief which the court, under no circumstances and by force of mandatory or prohibitory constitutional or statutory provisions, has authority to grant is void ab initio. *Grannis v. Superior Court*, 146 Cal. 245, 255 (1905). The parties cannot confer such power by consent, waiver, acquiescence [or fraud]. *Id.* at 254. When presented with a colorable claim that its own judgment is constitutionally void, the Superior Court has a mandatory, non-discretionary duty to examine the claim and vacate the judgment if meritorious. By refusing to perform that duty and treating the judgment as final under ordinary appellate-mandate rules, the Superior Court acted without subject matter jurisdiction in affirming a void judgment.

Petitions for rehearing in the Court of Appeal (RJN Ex. 2, pp. 27-8), for review in this Court (No. S252954; RJN Ex. 4), and for certiorari in the United States Supreme Court (No. 18-1416; RJN Ex. 5) were all denied. Based on the facts stated herein known at the time of each filing, Petitioner contends that the self-executing and mandatory requirements of due process required the jurisdictional challenges within those petitions to be adjudicated on the merits, and not dismissed as matters of judicial discretion.

Petitioner thereafter commenced an independent equitable action in the United States District Court for the Central District of California (No. 8:19-CV-02050-CBM-ADS(x)) seeking to set aside the 2017 judgment as void ab initio. Without reaching the merits, that Court dismissed on Rooker-Feldman grounds (RJN Ex. 6), and the Ninth Circuit affirmed the appeal as “frivolous” (No. 20-55665; RJN Ex. 7). Both Courts breached the mandatory duty to exercise jurisdiction to vacate the void judgment: the Rooker-Feldman doctrine does not bar federal review of a state judgment that is void for lack of subject matter jurisdiction, and a state judgment that falls within federal jurisdiction is subject to collateral attack in the federal courts. U.S. Const. Art. VI, §2; Code of Civil. Procedure § 1916; *Gonzales v. Parks*, 830 F.2d 1033, 1036 & n.6 (9th Cir. 1987) (citing *Kalb v. Feuerstein*, 308 U.S. 433 (1940). This is especially true such as in this case, when no state forum is available.

The federal courts’ refusal to exercise the judicial power of the United States—which Article III, § 2 expressly declares “shall” extend to “all” cases arising under the Constitution—has denied Petitioner any forum, state or federal, in which the substantive Constitutional defects in the 2017 judgment and in Business and Professions Code §§ 7028, 7031(a)–(b), and 7071.17 have ever been heard and adjudicated on the merits. That refusal leaves California free to sit as judge in a cause that: 1) violates the U.S. Constitution; 2) permits the continued enforcement of a judgment that operates as a legislative bill of pains and penalties and impairs the obligation of private contracts in contravention of Article I, § 10 (U.S. Const.); and, 3) defeats the indispensable federal check on unlawful state action that Federalist Nos. 28, 78, and 80 declare essential to the preservation of the federal system.

While Petitioner's appeal was pending in the Ninth Circuit (the appeal it dismissed as "frivolous"), the United States Supreme Court reversed the Ninth Circuit in *Liu v. SEC*, 591 U.S. 71 (2020)– a case directly addressing the nature of "disgorgement". *Liu* sharply limited equitable disgorgement (true disgorgement) to a defendant's net profits, required the deduction of legitimate expenses, and held that total forfeiture of an entire transaction or gross receipts—without regard to value conferred—constitutes an impermissible penalty. *Id.* at 87–91.

In the 2018 Fourth District appeal, no profits were proven and no deductions were allowed for the ~$930,000 in value conferred—yet the Fourth District upheld the constructive trust requiring forfeiture of funds never received or already returned in the form of completed remodel work by Spartan and licensed sub-contractors. Even though the sanction was labeled an "equitable remedy", no equity was done. The Court stated: "[O]ffsets and reductions for labor and materials received are not permitted". Humphreys v. Bereki, No. G055075; RJN Ex. 2.

The judgment and denial of judicial remedy triggered summary suspension/revocation of Petitioner's contractor license under section 7071.17 for over six years and resulted in the loss of more than $3 million in earnings, impaired the obligations of his private contracts, forced bankruptcy, and foreclosure of his Costa Mesa home, which sold for approximately $1.2 million below comparable market value resulting in an unlawful taking.

On November 15, 2022—as a last attempt prior to being forced into bankruptcy––Petitioner filed An Application for Emergency Stay pending the filing of a Petition for

Original Writs of Quo Warranto, Mandamus, and Habeas Corpus in the United States Supreme Court (22A426– U.S. Supreme Court Docket). Justice Kagan summarily denied the Petition (Docket). The Petition was refiled and resubmitted to Justice Thomas stating: "Despite all appearances to the contrary, I have never been afforded a full, fair, or impartial trial or appeal in California and all Federal Courts have refused to hear my case. The result is that I have been completely denied a judicial determination of rights in both State and Federal Courts and thereby denied all applicable rights secured by the California and U.S. Constitutions." Justice Thomas referred the Application to the Court, which denied it on January 9, 2023. RJN Ex.8.

On December 8, 2022, after every California and federal court had refused to adjudicate the validity of the 2017 judgment and every legislative and executive agency refused to investigate and/or intervene to stop its enforcement (section V, infra), Petitioner was forced to file a "voluntary" Chapter 7 petition in the U.S. Bankruptcy Court, Central District of California. Case No. 8:22–BK-12076-SC. He scheduled the ~$930,000 judgment as disputed and expressly declared his intent to challenge its validity through adversary proceedings.

On February 3, 2023, purported second-mortgage creditor Citizens Bank NA moved for relief from the automatic stay to foreclose on Petitioner's home for non-payment, relying on the disputed 2017 judgment lien (~$848,000 plus accrued interest) to argue there was "no equity" in Petitioner's Costa Mesa property under 11 U.S.C. § 362(d)(2) to secure its interest. Petitioner opposed, pointing out that: (1) the judgment was void ab initio and would be discharged as a personal liability on March 27, 2023: (2)

reliance on the lien to justify foreclosure would result in enforcement of a void and discharged judgment; and (3) foreclosure would impair California's mandatory $600,000 homestead exemption and violate the Bankruptcy Code's core "fresh start" protections. RJN Ex. 26– Appellants Verified Opening Brief on Appeal in UD Case, pp. 501-515.

On April 12, 2023—one day after Petitioner formally stated his intent to file adversary proceedings challenging the lien—the bankruptcy court granted stay relief without resolving the lien's validity. See e.g., *In re Ahn*, 804 Fed. Appx. 541, 543 (9th Cir. 2020) and published cases cited therein requiring adjudication of underlying lien's validity before inclusion; *In re Thomas*, 102 B.R. 199, 201 (E.D. Cal. 1989) holding that "California Courts have long recognized the maxim that a lien cannot survive (much less be created in the first place) absent the existence of an enforceable underlying obligation." (Citations omitted). That order directly enabled Citizens Bank to conduct a non-judicial foreclosure sale on November 18, 2024. RJN Ex. 26, pp.501–510 (fully presenting these issues). The property, then worth approximately $1.5 million, was sold in a foreclosure for about $371,688 yielding proceeds below the $600,000 homestead exemption, stripping Petitioner of protected equity and indirectly enforcing a judgment that was not only void, but that had been discharged under federal law.

Following the November 18, 2024 foreclosure sale, the purported purchaser, Canjian Hou, was given written and oral notice that the sale was invalid for the reasons set forth above, including that it rested on enforcement of a judgment challenged as void for lack of subject-matter jurisdiction and discharged under federal law. RJN Ex. 26– Verified Opening Brief, pp. 515-519. Petitioner offered to resolve the dispute equitably

by returning all surplus sale proceeds to mitigate harm pending adjudication. Hou's attorney declined stating "No. There is no way that is ever going to happen" and thereafter commenced summary unlawful-detainer ("UD") proceedings in the limited civil division of the Superior Court, despite admitting the Court lacked subject matter jurisdiction over complex title disputes. *Id.* at p.516.

Petitioner immediately sought an emergency stay in the "unlimited division" and again challenged the 2017 judgment through a Motion to Vacate, expressly raising the lack of jurisdiction, the disputed nature of title, and the constitutional defects underlying the foreclosure. RJN Ex. 10– Minute Order; Ex. E44– Audio Recording of Hearing. The Motion and Request for Stay were *unopposed.* No other party appeared. The Superior Court denied a stay without any evidentiary hearing or adjudication of jurisdiction, notwithstanding undisputed notice that the foreclosure and ensuing possession proceedings depended on the validity of the challenged judgment and that title was materially disputed**.** RJN Ex. 26, pp. 527-531.

Court clerks subsequently declined to file Petitioner's timely answers in the unlawful-detainer action, which raised jurisdictional defects and the absence of valid title. RJN Ex. 26, pp. 531- 533. In the absence of any full, fair, and impartial hearing, appearance, or judicial determination of jurisdiction or title**,** a default was entered, followed by issuance of a writ of possession. *Id.*

At each stage of the unlawful-detainer proceedings, jurisdiction was raised but not adjudicated. Enforcement measures proceeded in reliance on the assumed validity of the 2017 judgment**,** without any court determining whether lawful authority existed to

authorize possession. Executive enforcement followed, resulting in Petitioner's dispossession from his home pursuant to the writ under threat of forcible removal. RJN Ex. 26, pp. 533–540.

Because the foreclosure sale depended on enforcement of a judgment alleged to be void under California law and discharged under federal law, the sale itself is void, the trustee's deed (RJN Ex. 17) conveys no valid title, and all subsequent proceedings—including the unlawful-detainer action—rest on an unadjudicated and constitutionally defective predicate both by the 2017 judgment and the UD proceedings themselves. RJN Ex. 26, pp. 492-514.

Following entry of the unlawful-detainer judgment and issuance of the writ of possession, Petitioner timely sought appellate review and repeatedly moved to transfer the appeal out of the Appellate Division pursuant to Code of Civil Procedure section 396(b), on the ground that the limited-civil division lacked subject-matter jurisdiction ab initio because the action necessarily required adjudication of title to real property far without the jurisdictional limits of the limited-civil court. The Appellate Division of the Superior Court nevertheless refused to transfer jurisdiction, issued orders striking Petitioner's opening brief and imposing limited-civil word-count restrictions notwithstanding the constitutional and jurisdictional nature of the issues presented, and continued to assert appellate authority without ever determining whether it possessed subject-matter jurisdiction to proceed. RJN Ex. 23–Appellate Division Minute Orders dated October 9, October 17, and November 17, 2025.

In response to the Appellate Division's refusal to transfer jurisdiction, Petitioner filed a Petition for Writ of Mandate in the Fourth District, seeking to compel transfer of the appeal pursuant to Code of Civil Procedure section 396(b) and to halt further proceedings undertaken without fundamental jurisdiction. On October 29, 2025, the Fourth District summarily denied the petition without opinion or statement of reasons, thereby declining to exercise its supervisory authority to correct the Appellate Division's ongoing exercise of jurisdiction without adjudication of its constitutional power to act. RJN Ex.24– Order Denying Petition for Writ of Mandate, Case No. G066117.

Thereafter, and notwithstanding the unresolved jurisdictional defects, the Appellate Division dismissed Petitioner's appeal by Minute Order dated December 18, 2025, citing an alleged failure to comply with briefing rules applicable to limited-civil appeals and again without adjudicating whether it possessed subject-matter jurisdiction in the first instance. Supplemental RJN Ex. 1 (hereafter "SRJN Ex. ___"). The dismissal left in place the unlawful-detainer judgment and writ of possession without any court ever determining whether lawful authority existed to adjudicate title, issue possession, or enforce the foreclosure-based claim.

At every stage of the unlawful-detainer proceedings and subsequent appellate review, subject-matter jurisdiction was expressly raised, repeatedly invoked, and never adjudicated. Each court apparently proceeded on the assumed validity of the 2017 judgment and the foreclosure derived from it while declining to decide whether constitutional authority existed to act at all. Enforcement nonetheless continued by administrative and executive action, resulting in Petitioner's dispossession from his home.

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Shortly after *Liu*, two California Courts of Appeal published opinions confirming that section 7031 imposes a penalty, not true disgorgement or damages, even though the courts continued to call the relief "disgorgement" to characterize the penal forfeiture. *Eisenberg Village v. Suffolk Construction Co.*, 53 Cal.App.5th 1201, 1212 (2020); San *Francisco CDC, LLC v. Webcor Construction L.P.*, 62 Cal.App.5th 266, 280 (2021).

Relying on *Liu* and this new authority, Petitioner filed an independent action in equity in the Superior Court in May 2025 alleging the judgment is void for lack of subject-matter jurisdiction, extrinsic fraud, and fraud on the court. The Superior Court denied equitable jurisdiction, applied res judicata, and declared the judgment "final." RJN Ex. 12. A judgment lacking the sanction of law, however, is never final and is subject to attack at any time, directly or collaterally. Cal. Const. Art. I, § 26; U.S. Const. Art. VI, §2; *Andrews v. Superior Court*, 29 Cal.2d 208, 214–215 (1946); Code of Civil Procedure § 1916.

Immediately after the appellate record was transmitted to the Fourth District, Real Parties filed a Motion to Dismiss the appeal on the grounds of res judicata, collateral estoppel, and law of case. RJN. Ex. 13. Petitioner opposed on the grounds those doctrines don't bar a void judgment and that there were additional grounds for the appeal beyond vacating the judgment itself. RJN Ex. 14.

On October 30, 2025, the Court of Appeal expressly conceded that "doctrines of res judicata, collateral estoppel, and law of the case do not preclude relief from a void

judgment" (RJN Ex. 15, p. 192), yet dismissed the appeal without ever determining whether the judgment is in fact void.

Petitioner continues to be denied a judicial determination of his rights in any forum– state or federal and denied the protection of applicable laws under the California and United States Constitutions.

II. QUESTIONS THIS COURT MUST DECIDE IN EXERCISING ITS ORIGINAL JURISDICTION

Where applicable, all questions are intended to apply to both Business and Professions Code sections 7028 and 7031 subdivisions (a) and (b):

A. JUDICIAL POWER, VOID JUDGMENTS, AND MANDATORY VACATUR

1. **Mandatory Adjudication of Voidness**: When a trial or appellate court expressly acknowledges that doctrines of res judicata, collateral estoppel, and law of the case do not preclude relief from a void judgment, yet nevertheless refuses to decide whether the judgment is void and dismisses without adjudication, does that refusal violate this Court's settled rule—unchanged since its first term—that every self-executing constitutional provision renders void anything done in violation of it, thereby depriving the court of subject-matter jurisdiction and triggering a mandatory, non-discretionary duty to vacate the judgment once a colorable claim of voidness is properly raised?
2. **Truth-Seeking Function and the Existence of Judicial Power:** Is the core constitutional function of a court to adjudicate facts and law through a fair and impartial process capable of determining the truth of jurisdictional and

constitutional claims; and if so, does a court violate due process and cease to exercise judicial power when it disables that truth-seeking function by refusing to examine, weigh, or decide properly raised and dispositive constitutional questions, while nevertheless permitting enforcement to proceed?

3. **Judicial Authority, Jurisdiction, and the Meaning of "Honorable"**: Does the designation "honorable," as applied to judicial officers, carry constitutional or legal significance beyond ceremonial address, such that it presupposes the lawful exercise of judicial power within subject-matter jurisdiction; and if so, may a court that enforces or affirms a judgment entered without constitutional authority be deemed to be acting in an honorable judicial capacity, or does it instead act outside the judicial power altogether?

4. **Collapse of Judicial Review and Mandatory Supreme Court Intervention**: When the judiciary has refused to vacate a judgment that is void on its face for violating one or more self-executing provisions of the California Constitution, and executive officers with actual notice nevertheless continue to enforce that judgment, has the separation-of-powers structure of the California Constitution collapsed to the point that this Court must itself vacate the judgment without remand and order full restitution to prevent the permanent nullification of constitutional limitations on both judicial and executive power?

5. **Adequacy of Remand Where Jurisdictional Failure Is Judicial in Origin**: When a constitutional violation arises from a court's own refusal to exercise mandatory jurisdiction, does remand to the same court—or to another court that relied upon

or enforced the void judgment—satisfy due process, or must relief issue from a court not implicated in the original jurisdictional failure?

6. **Judicial Non-Exercise as a Separation-of-Powers Violation**: Under the California Constitution's mandatory separation of powers, may a court that has accepted jurisdiction over a properly presented constitutional challenge decline to adjudicate jurisdiction and voidness, while nevertheless permitting enforcement to proceed, without thereby ceasing to exercise the judicial power of the State as a matter of constitutional structure?
7. **Consequences of Judicial Non-Exercise**: When the judicial branch declines to exercise its non-discretionary duty to adjudicate jurisdiction and voidness after that duty has been properly invoked, and legislative and executive officers thereafter continue to enforce the resulting judgment with actual notice of its constitutional defects, does the combined operation of all three branches result in the functional absence of a judiciary and the collapse of the separation-of-powers structure, such that continued deprivation of life, liberty, or property proceeds without the sanction of law and no longer constitutes government under the Constitution, but instead reflects the condition the Framers themselves described as a monarchical innovation or the exercise of power without lawful authority?
8. Are duties imposed directly by the Constitution ministerial rather than discretionary in nature, such that no executive or judicial officer may lawfully invoke discretion, uncertainty, or good-faith judgment to justify noncompliance with mandatory or prohibitory constitutional provisions?

B. CRIMINAL PUNISHMENT IMPOSED WITHOUT CRIMINAL PROCESS

9. **Private Prosecution and Subject-Matter Jurisdiction:** In proceedings under section 7031, private litigants determine whether punishment will be sought, whether forfeiture will be pursued, the magnitude of the sanction demanded, and whether the alleged offense will be pursued at all—functions constituting core prosecutorial discretion reserved to the executive branch. Does a Superior Court therefore lack subject-matter jurisdiction to enter a monetary judgment imposing punishment for the public offense of unlicensed contracting when no pleading has been filed by the executive branch in the name of the People of the State of California and the proceeding is conducted without indictment, jury trial, proof beyond a reasonable doubt, or any criminal-process safeguard, in violation of the separation of powers and Cal. Const. art. V, § 1?

10. **Non-Existence of "Quasi-Criminal" or Hybrid Punitive Proceedings**: Does the California Constitution—which vests all governmental power in three, and only three, co-equal branches and recognizes only civil actions and criminal prosecutions (Code of Civil Procedure §§ 22, 24)—permit the existence of so-called "quasi-criminal," "quasi-judicial," or "quasi-legislative" proceedings that impose fines, forfeitures, license revocations, or other punitive sanctions without indictment, jury trial, proof beyond a reasonable doubt, or prosecution by the executive branch in the name of the People, independent of who initiates the proceeding?

    Cal. Const. Art. III, § 3; *Ex parte Clark*, 24 Cal.App. 389 (1914); *Seila Law LLC v.*

CFPB, 591 U.S. 197, 242–43 (2020) (Thomas, J., concurring in part and dissenting in part).

11. **The Jury as a Structural Constitutional Check**: Was the jury intended as the constitutional institution through which the People themselves participate directly in the exercise of judicial power, retaining through the general verdict the authority to judge the application of law to facts; and if so, by what constitutional authority may courts categorically deny juries that checking function—particularly by recharacterizing punitive proceedings as "civil"—thereby removing the People from the constitutional system of checks and balances in proceedings under sections 7031 and 7071.17?

12. **Threshold Review of Adjudicatory Authority**: When the asserted constitutional injury consists of being subjected to an adjudicatory process that lacks constitutional authority to exist, is a litigant entitled to threshold judicial review of that authority before any enforcement or reliance interests may attach; and does a court violate due process and cease to exercise judicial power when it refuses to decide properly raised jurisdictional and constitutional challenges while nevertheless permitting coercive enforcement to proceed?

C. BILLS OF PAINS AND PENALTIES / LICENSE DESTRUCTION—CONSTITUTIONAL PROHIBITION ON PUNISHMENT WITHOUT LAWFUL ADJUDICATION

The United States and California Constitutions prohibit bills of attainder and bills of pains and penalties. Although these prohibitions are commonly described as restraints on legislative power, they embody a deeper structural principle fundamental to constitutional government: the State may not impose punishment, or otherwise deprive a

person of life, liberty, or property, by declaration, automatic operation, or enforcement of predetermined sanctions, rather than through a lawful judicial determination of rights in the first instance.

Historically, bills of attainder and bills of pains and penalties were condemned not merely because the Legislature acted, but because punishment was imposed without adjudication — that is, without a judicial process capable of determining rights, authority, and constitutional limits before deprivation occurred. The Clauses therefore stand for the rule that no branch of government may accomplish indirectly what the Constitution forbids directly: the imposition of punishment or coercive deprivation without lawful judicial authority.

For purposes of these questions, punishment includes any deprivation of life, liberty, or property imposed for deterrent, retributive, or coercive purposes, or untethered to the remediation of actual, proven harm, regardless of whether such punishment is labeled civil or criminal. A judicial determination of rights exists only where a court acts within constitutionally conferred authority to adjudicate the deprivation. An order entered without such authority is void and cannot satisfy the constitutional requirement of adjudication.

13. Do the Bill of Attainder and Bill of Pains and Penalties Clauses of the United States and California Constitutions embody a structural prohibition against the State imposing punishment or coercive deprivation of life, liberty, or property without a lawful judicial determination of rights in the first instance, regardless of whether the deprivation is characterized as civil or criminal?

14. Is the constitutional prohibition on bills of attainder and bills of pains and penalties violated where a statutory scheme predetermines sanctions and authorizes deprivation by automatic operation or private enforcement, rather than by adjudication of constitutional authority and rights before punishment is imposed?
15. Can a purported judgment entered by a court acting without constitutional authority to impose the deprivation constitute a judicial determination of rights sufficient to satisfy the Bill of Attainder and Due Process Clauses, or is such an order void and constitutionally indistinguishable from punishment imposed without adjudication?
16. Where the Legislature designs a regime of predetermined sanctions, the judiciary enforces those sanctions without first determining constitutional authority, and the executive executes the resulting deprivations, does the combined operation of all three branches effectuate a bill of pains and penalties in substance, even if no single branch formally declares guilt?
17. **Judicial Bills of Pains and Penalties**: Do the original 2017 trial and 2018 appellate affirmance themselves constitute a bill of pains and penalties prohibited by U.S. Const. Art. I, § 10 and Cal. Const. art. I, §§ 7 and 9 when a state court, acting without indictment, jury trial, proof beyond a reasonable doubt, or any criminal-process safeguard, imposes a ~$930,000 penal forfeiture for the public offense of unlicensed contracting and thereby destroys a citizen's vested profession and property without any lawful judicial determination of individual culpability?
18. **Automatic License Suspension as Punishment:** Does section 7071.17 inflict a bill of pains and penalties and violate due process by mandating automatic

suspension or revocation of a contractor's license—without hearing, culpability finding, or consideration of ability to pay—solely for non-payment of a civil judgment or inability to obtain a judgment bond?

19. **License Revocation as an Uncompensated Taking**: Does Business and Professions Code section 7071.17 effect an uncompensated taking of a vested property interest in a professional license by mandating automatic and permanent revocation solely for non-payment of a civil judgment, without any individualized assessment of culpability or value? *Tyler v. Hennepin County*, 598 U.S. 631 (2023); *Sheetz v. County of El Dorado*, 601 U.S. 267 (2024); Cal. Const. Art. I, § 1.

D. EXECUTIVE DUTY, ENFORCEMENT OF VOID JUDGMENTS, AND SEPARATION OF POWERS

20. **Independent Executive Duty Regarding Void Judgments**: When a judgment is void ab initio for violating even a single mandatory or prohibitory constitutional provision, do executive officers sworn to support the Constitution retain an independent, co-equal duty to refuse enforcement, or must they treat a judicial declaration as binding notwithstanding facial unconstitutionality? *Elliott v. Lessee of Piersol*, 26 U.S. 328, 340 (1828); *County of Ventura v. Tillett*, 133 Cal.App.3d 105, 111 (1982).

21. **Executive Duty to Investigate Constitutional Violations**: The Constitution prohibits certain acts absolutely, including punishment, forfeiture, or deprivation of rights without constitutionally adequate process, and renders void any judgment entered in violation of mandatory or prohibitory constitutional provisions, including

the Bill of Attainder Clause (U.S. Const., art. I, § 10). When a court in the first instance enters a civil judgment that violates such provisions—thereby exceeding its constitutional authority—do executive officers sworn to support the Constitution have an independent duty to investigate, acknowledge, and take appropriate corrective or protective action notwithstanding the absence of any request for enforcement? Or may the Executive treat such unconstitutional judicial acts as legally operative unless and until coercive enforcement is sought?

a. **Limits of Executive Discretion in the Face of Constitutional Violations:** Where the Constitution imposes mandatory or prohibitory limits on governmental action, may the Executive invoke "discretion" to decline investigation, acknowledgment, or corrective response to a judicial act that is void ab initio for violating those limits? Or does executive discretion extend only to the manner of enforcing lawful authority, such that it cannot lawfully be exercised to insulate unconstitutional acts from constitutional scrutiny or remedy—including where the constitutional violation originates in a judicial act rather than in the executive or legislative branch?

b. **Institutional Responsibility and the Burden of Constitutional Enforcement:** When a court violates the Constitution by entering an act or judgment that is void *ab initio*, and no executive officer investigates, refuses reliance upon, or seeks judicial resolution of that violation, does the constitutional structure permit all responsibility for enforcing constitutional limits to fall solely on the injured individual? Under the prevailing model, the State takes no action, and the affected person is told to appeal, file

additional lawsuits, seek extraordinary relief, or otherwise bear the burden alone. Under such a system, constitutional rights are effectively protected only if the individual has sufficient resources, stamina, legal sophistication, and access to receptive courts; if the individual is poor, exhausted, proceeding without counsel, or faces institutional resistance, the constitutional violation persists unchecked. Does such a regime comport with a Constitution that declares its limitations self-executing and binding on all branches of government, or does it instead reduce constitutional rights to privileges enforceable only by those able to endure the process?

c. **Misuse of "No Duty to Act" Doctrine to Excuse State-Created Constitutional Violations:** Courts and executive officials frequently invoke doctrines derived from cases such as *DeShaney v. Winnebago County Department of Social Services,* 489 U.S. 189 (1989) to assert that the State has "no duty to act" unless a specific custodial relationship or enforcement obligation exists. But *DeShaney* addressed only the State's failure to protect individuals from harm caused by private actors. May that doctrine be extended to excuse executive inaction where the constitutional violation is committed by the State itself—through a court or other government actor acting without constitutional authority? Or does reliance on *DeShaney* in such circumstances improperly transform a rule about private harm into a license for institutional nonresponse to known, state-created constitutional violations?

d. The California Constitution presupposes a government that monopolizes the lawful use of force and the execution of the criminal law, and this Court has long recognized that "the protection of the laws" is among the first duties of government and that civil liberty consists in the right of every person to claim that protection when injured. *Cohen v. Wright*, 22 Cal. 293, 294–295 (1863); *Marbury v. Madison*, 5 U.S. 137, 162 (1803). California courts have further held that executive officers are amenable to constitutional limits and may not, through inaction, permit unlawful conduct to persist. *O'Brien v. Olson*, 42 Cal.App.2d 449, 456–457 (1941).

Courts and executive officials nevertheless frequently invoke doctrines derived from federal cases such as *DeShaney v. Winnebago County Department of Social Services*, 489 U.S. 189 (1989), to assert that the State has "no duty to act" unless a custodial relationship exists, even when an individual seeks immediate executive assistance to stop an ongoing or imminent act that the law itself forbids. Does California constitutional law permit that rationale to be used to justify executive nonresponse where the State monopolizes lawful force, forbids private self-help beyond narrow limits, and yet declines to execute its own laws upon request? Or does denial of access to the protection of the laws place the individual outside the practical reach of civil liberty in violation of the California Constitution, regardless of whether such a doctrine may exist under federal due-process jurisprudence?

e. Although the law permits limited forms of private initiation, such as a private person's arrest, the State retains exclusive authority over prosecution, adjudication, punishment, and enforcement, and the protection of the laws cannot be fully realized without affirmative executive action. Where the Executive refuses to act, private initiation becomes futile, and constitutional protections are rendered illusory.

In light of these principles, may executive officers decline to investigate, receive, or act upon an apparent deprivation of property or liberty without lawful authority on the ground that they lacked advance notice that the Constitution imposed a specific duty to act in that precise situation, or that personal liability was not clearly established? Or does the Constitution impose an affirmative executive duty to respond whenever a constitutional violation is apparent in substance, such that uncertainty about the precise contours of statutory authority or potential liability cannot lawfully be used to justify inaction that renders constitutional protections meaningless?

f. **Ministerial Supremacy of Constitutional Duties Over Statutory Process:** When a sheriff's deputy or other executive officer serves or executes judicial process—such as eviction notices, writs of possession, or warrants—are the officer's duties under the Constitution ministerial and controlling, such that no statutory or court-directed process may be executed if it would effectuate a deprivation of property or liberty pursuant to a judgment or order that is void ab initio for violating mandatory or

prohibitory constitutional provisions? Or may an officer treat statutory process obligations as overriding constitutional commands, notwithstanding the officer's oath to support the Constitution?

22. **State Action Through Joint Enforcement of Void Judgments**: When private parties invoke state-created judicial, bankruptcy, foreclosure, and unlawful-detainer mechanisms and obtain the active aid of courts, trustees, and law-enforcement officers to deprive a person of property pursuant to a judgment void for want of jurisdiction, does that joint participation constitute state action requiring all participants—public and private alike—to refrain from reliance upon or enforcement of the judgment notwithstanding its judicial form? *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 937 (1982); *Ex parte Siebold*, 100 U.S. 371, 376–77 (1880).

23. **Non-Judicial Acts Resulting from Jurisdictional Refusal:** When a court refuses to adjudicate a properly raised challenge that a statute or judgment violates mandatory or prohibitory constitutional provisions, does that refusal constitute a failure to exercise judicial power such that subsequent affirmance, enforcement, or ministerial acts are non-judicial and void for want of subject-matter jurisdiction?

24. Does the Constitution permit the State to employ non-judicial foreclosure procedures to effectuate the permanent transfer of a citizen's home and equity based on a judgment that is void ab initio and discharged, in the absence of any judicial determination of authority, validity, or proportionality?

25. **Immunity and Acts Taken Without Jurisdiction**: Assuming the acts described in Question 19 are non-judicial, may judicial or executive officers invoke immunity,

good-faith reliance, or ministerial obedience to justify enforcement, or are all such acts void because immunity cannot attach to action taken without jurisdiction?

26. **Historical Limits of Judicial Immunity:** Was judicial immunity derived from monarchical doctrines of sovereign personal immunity (ie the divine right of kings), and if so, did any such doctrine survive the American Revolution except to the extent sovereign power was reconstituted and limited by written constitutions such that immunity may attach only to acts taken within constitutionally conferred authority?

27. **Discharge, Reliance, and Enforcement**: Does use of a judgment that is void ab initio and/or discharged in bankruptcy as the basis for relief from the automatic stay under 11 U.S.C. § 362(d)(2) constitute enforcement or reliance prohibited by 11 U.S.C. § 524, rendering all downstream foreclosure and possession proceedings void under the Supremacy Clause?

28. **Restitution After Discharge**: Where a void judgment has been discharged, does denial of restitution or restoration of property obtained through its enforcement constitute a continuing act to collect or give effect to a discharged debt in violation of federal law?

29. **Bankruptcy Court Jurisdiction Predicated on a Nullity**: Does a bankruptcy court lack subject-matter jurisdiction to grant relief from stay predicated solely on a judgment that is void ab initio, because such relief necessarily gives legal effect to a nullity?

30. **Collapse of In Rem / In Personam Distinction**: When a lien or lack of equity exists solely by operation of a void judgment, does the distinction between in rem

and in personam liability collapse such that foreclosure predicated on that judgment constitutes enforcement of a nullity in violation of the Supremacy Clause?

E. COMMON LAW, JURISDICTION, AND THE ILLEGITIMACY OF ROMAN–CIVIL-LAW REGULATION

31. **Authority to Displace the Common Law**: By what authority did the Legislature repeal the constitutional guarantee of judicial proceedings according to the course of the common law (Cal. Const. 1849, Art. I § 3, Art. VI § 6; see also Northwest Ordinance of 1787, Art. 2) and resurrect the Roman–civil-law system rejected by the People in 1849?

    a. By what authority can the People be regulated (ie §§ 7028, 7031 by Roman civil law presumptions of incompetence and dishonesty other than by proceedings according to the course of the common law? Cf. *In re Buchman's Estate*, 123 Cal.App.2d 546 (1954).

    b. Does an act by a public official presuming any member of the sovereign body of politic of California incompetent or dishonest without a judicial determination of their rights violate due process and constitute a bill of pains and penalties?

32. **Absence of a Justiciable Controversy**: Article VI, § 2 of the United States Constitution binds all state judges to the supreme authority of that Constitution. Although the California Constitution does not contain an explicit "case or controversy" clause and California courts have stated they are not bound by Article

III standing doctrine, the federal Constitution and the common law define the outer limits of what constitutes an exercise of judicial power, particularly when courts impose coercive sanctions. When a court is asked to impose forfeitures or other penalties under sections 7028, 7031, and 7071.17 in the absence of any concrete injury in fact, causation, or redressable harm—as those elements were required at common law—does the proceeding fall outside all Constitutionally cognizable exercises of judicial power and thus lack jurisdiction ab initio? Or may the State, by labeling the action "civil," authorize courts to adjudicate and punish in the complete absence of a justiciable dispute?

F. INALIENABLE RIGHTS, ECONOMIC LIBERTY, AND ORIGINAL PUBLIC MEANING

33. **Original Meaning of Inalienable Economic Liberty:** Does the inalienable right "of acquiring, possessing, and protecting property" and "pursuing and obtaining … happiness and privacy" declared in California Constitution Article I, section 1 protect the private economic liberty to choose and pursue any ordinary calling, to contract for one's labor, and to retain its fruits as absolute private property free from legislative conversion into a revocable public privilege? This is not a request to resurrect Lochner-era federal substantive due process. It is an original-public-meaning inquiry: In 1849–1850 the People of California unanimously adopted Article I, section 1 in the precise language of the Declaration of Independence and the Northwest Ordinance of 1787. The First Legislature and the earliest decisions of this Court uniformly interpreted that clause as a direct, self-executing, judicially enforceable limitation on legislative power over private economic activity. What did

those words actually mean to the ratifiers? If that meaning has since been altered without voter approval, by what legitimate Constitutional process was it altered?

a. What is the original Constitutional boundary between public rights (which belong to the People collectively and may be vindicated only by the executive in the name of the People) and private rights (which belong exclusively to the individual and may not be impaired absent individualized proof of public harm)? By what authority was that boundary eroded or dissolved during and after the New Deal era, transforming private inalienable economic liberties into regulable public privileges? No California decision has ever identified a textual or voter-ratified basis for reducing the inalienable rights clause from a strict limitation on legislative power to a mere rational-basis test. *Billings v. Hall*, 7 Cal. 1 (1857); *Ex parte Quarg*, 149 Cal. 79 (1906).

b. When the Attorney General of California declared in 1947 that a professional license is "a mere statutory privilege [not an inalienable right]—a creature of statute — … at all times subject to legislative control, including destruction or termination by the legislative process" (10 Ops.Cal.Atty.Gen. 175, 177 (1947)), did that opinion silently overrule the self-executing, mandatory, and prohibitory declaration of inalienable rights in Article I, section 1—a declaration this Court has repeatedly held is a limitation upon the law-making power that cannot be impaired by statute and is self-executing … mandatory and prohibitory. *Ex parte Quarg*, 149 Cal. 79, 81

(1906); *Billings v. Hall*, 7 Cal. 1, 11 (1857); *Katzberg v. Regents of University of California*, 29 Cal.4th 300, 306–307 (2002).

c. When this Court held in 1857 that "the legislative or supreme authority cannot assume to itself a power to rule by temporary arbitrary decrees" and that the Legislature, "being but the joint power of every member of society given up to [it], … can be no more than those persons had in a state of nature"—for "nobody can transfer to another more power than he has in himself" (*Billings v. Hall*, 7 Cal. 1, 11–12 (1857))—did Billings establish that the collective Legislature can never possess greater power over life, liberty, or property than a single individual possesses in the state of nature? By what subsequent voter-approved authority was that foundational limitation on legislative power repealed? If so, identify the specific voter-approved constitutional amendment, delegation, or historical act by which the People conferred such additional power, or explain why no such authority exists.

d. Was the relationship established by the 1849 Constitution one of principal and agent, or of a public trust imposing fiduciary responsibilities upon the government officials, such that they may not exercise a power the People themselves did not possess in the state of nature and never delegated?

f. Absent a textual amendment to Article I, section 1, by what Constitutional authority may courts hold that these self-executing, mandatory, and prohibitory inalienable rights do not mean what they plainly say and must yield whenever the Legislature invokes "police power," thereby rendering

the Constitution subordinate to legislation? This Court has never identified the voter-approved amendment that converted "inalienable" into "regulable upon a conceivable rational basis." If this Court believes Article I, section 1 was amended sub silentio by judicial fiat rather than by the People, it should say so openly and explain by what authority it possesses amendment power the People reserved to themselves.

34. **Misuse of "Disgorgement" to Punish Labor**: What is "disgorgement" under California law, and may a statutory remedy so labeled be used to punish lawful labor absent criminal process without violating Article I, section 1?

35. **Compelled Arbitration and Executive Sanctioning**: Does Business and Professions Code section 7085, by requiring every licensed contractor to submit to mandatory private arbitration as a condition of licensure and continued participation in the profession, authorize unelected private arbitrators to conclusively adjudicate civil disputes whose resulting awards are treated as binding predicates for automatic executive enforcement under section 7071.17—thereby effectuating license-destroying sanctions without any judicial proceeding, jury trial, or criminal process safeguard—and does this compelled combination of private adjudication and executive sanctioning violate the separation of powers and the non-delegation doctrine?

36. The California Constitution declares that "all political power is inherent in the people" (Cal. Const., Art. II, § 1), establishing government officials as agents exercising only delegated authority. Under settled principles of agency and fiduciary law, an agent may not enlarge its own powers, alter the terms of its

delegation, or exercise the principal's sovereign authority absent express authorization. When courts or executive officials reinterpret self-executing, mandatory, and prohibitory constitutional provisions so that they no longer operate according to their original public meaning—without voter approval or constitutional amendment—by what authority do those officials claim the sovereign power to alter the Constitution itself rather than merely to apply it? If such authority exists, identify its source; if it does not, do such acts exceed all delegated power and lack constitutional validity ab initio?

G. MANDATORY ORIGINAL JURISDICTION AND REMEDY

37. **Duty of This Court to Decide Voidness**: When every lower court has refused to adjudicate a properly raised claim that a judgment is void ab initio for violation of mandatory or prohibitory constitutional provisions, does a petition for review—ordinarily discretionary—invoke this Court's original mandamus jurisdiction as a matter of constitutional duty, such that this Court must exercise original jurisdiction and order vacatur rather than decline review?
38. **Due Process Necessity of a Competent Forum**: When no inferior court is constitutionally competent to adjudicate voidness, does due process require this Court to do so as a matter of constitutional necessity?

INCORPORATION OF ALL QUESTIONS PRESENTED AS OPERATIVE ISSUES

Each of the foregoing Questions Presented is raised on the facts and record of this case and is intended to be treated by this Court as a distinct, independently dispositive ground for relief. To the extent any question is not separately briefed in the Legal

Discussion that follows, Petitioner relies on the question itself, the incorporated record, and the reasoning necessarily implied by the question's framing as fully preserving the issue for decision. No question is abandoned, waived, or conceded. All are tendered for plenary resolution in this original proceeding, and Petitioner reserves the right to elaborate upon any question in supplemental briefing or oral argument.

REQUEST FOR COMPLETE RELIEF

Each Question Presented and each issue raised in the Legal Argument presents a pure question of state or federal constitutional law. These issues are not alternative theories leading to the same result, but distinct structural defects arising at different stages of governmental action, including legislative authorization, prosecutorial authority, adjudicative power, and enforcement.

Because any one constitutional violation independently requires vacatur of the judgment, selective adjudication is not neutral. Declining to decide any dispositive issue necessarily affirms the constitutionality of that issue by default and perpetuates the same constitutional violations in future cases. Where multiple independent jurisdictional defects are properly raised, complete relief requires express resolution of each.

Jurisdictional defects are not dependent on procedural posture. A judgment void for lack of constitutional authority is a nullity regardless of the procedural vehicle by which review is sought, and harmless-error or prejudice analysis has no application where the court lacked power to act at all. Nor may such defects be resolved by assumption rather than decision; where the validity of a judgment depends on constitutional authority to act, the issue must be decided, not presumed.

Because the defects identified are structural and recur by design, relief limited to the particular facts of this case would be inadequate to remedy the constitutional violations presented or to prevent their repetition. Accordingly, should this Court grant the petition and reach the merits, full relief cannot be achieved through partial adjudication. A decision resolving all Questions Presented is necessary to remedy the ongoing deprivation of Petitioner's rights and to prevent repetition of the same constitutional errors. Cal. Const. Art. I, § 3 (right to petition for redress of grievance includes substantive response/adjudication thereof).

III. LEGAL DISCUSSION

California law recognizes only two categories of judicial proceedings: civil actions and criminal prosecutions. Civil actions exist to declare rights, redress private injury, or enforce regulatory obligations; criminal prosecutions exist to punish public offenses. Code of Civil Procedure, §§ 22–23; Penal Code, § 15. Aside from contempt and juvenile proceedings, California has never recognized a third category authorizing the imposition of punishment through nominally civil proceedings untethered from criminal constitutional safeguards. To the contrary, when a proceeding labeled "civil" operates in substance to punish—through forfeiture, penalties, or other punitive sanctions—courts look beyond form to function, treating such actions as criminal in nature or invalidating them altogether. *Boyd v. United States*, 116 U.S. 616, 637–638 (1886); *United States v. Shapleigh*, 54 F. 126, 129–130 (1893).

This principle is no less settled in California. Jurisdiction to impose punishment depends not on legislative labels, but on the nature of the offense and the sanction

imposed. *People v. Vasilyan*, 174 Cal.App.4th 443, 448–449 (2009). Monetary penalties imposed for punitive purposes constitute punishment, not regulation, and are therefore subject to constitutional limitation. *Tull v. United States*, 481 U.S. 412, 422 (1987); *United States v. Bajakajian*, 524 U.S. 321, 328 (1998); *Kilburn v. Law*, 111 Cal. 237 (1896); *City of Santa Barbara v. Sherman*, 5 Cal.2d 196 (1936).

Critically, the United States Supreme Court has held that the imposition of punishment without the constitutional protections governing criminal adjudication is not a mere procedural error, but a jurisdictional defect. Where criminal constitutional safeguards are absent, "the court no longer has jurisdiction to proceed," and any resulting judgment "is void." *Johnson v. Zerbst*, 304 U.S. 458, 467–468 (1938). Jurisdiction to punish does not exist independently of the constitutional conditions that authorize its exercise.

Most recently, the Supreme Court reaffirmed that punitive sanctions may not be imposed through civil or administrative form as a means of evading criminal constitutional protections. When the government seeks monetary sanctions designed to punish or deter, the action is criminal in nature for constitutional purposes, regardless of legislative labeling or forum selection. *SEC v. Jarkesy*, 603 U.S. 109 (2024). Where such punishment is imposed without the protections required in criminal proceedings, the defect is structural.

Outside the historically narrow contexts of contempt and juvenile proceedings—each accompanied by enhanced procedural protections—California law does not permit punishment to be imposed through a quasi-civil mechanism that evades both criminal

process and constitutional restraint. Where punishment is imposed without jurisdiction to do so, the resulting judgment is void. *Ex parte Clark*, 24 Cal.App. 389 (1914).

A. THE 1849 CONSTITUTION'S REJECTION OF CIVIL-LAW GUARDIANSHIP, THE IRREBUTTABLE PRESUMPTION OF INCOMPETENCE, AND THE STRUCTURAL DUE-PROCESS, SEPARATION-OF-POWERS, AND EXCESSIVE-FINES LIMITS ON LEGISLATIVE POWER: WHY BUSINESS & PROFESSIONS CODE §§ 7028, 7031, AND 7071.17 ARE VOID AB INITIO

"The power to create presumptions is not a means of escape from constitutional restrictions."

–*Bailey v. Alabama*, 219 U.S. 219, 239 (1911)

Because the power to punish is among the most severe exercises of sovereignty, the California Constitution deliberately cabins that power within strict structural and procedural limits—limits that the Legislature may not evade by recharacterization.

The provisions of the current California Constitution at issue—the inalienable-rights clause (Art. I, § 1), the due-process and bill-of-attainder clauses (Art. I, §§ 7, 9), the jury-trial guarantee (Art. I, § 16), the separation-of-powers clause (Art. III, § 3), and the vesting of judicial power (Art. VI, § 1)—are, in all material respects, identical to their 1849 counterparts. Provisions carried forward without lawful material change retain their original 1849–1850 public meaning. *Strauss v. Horton*, 46 Cal.4th 364, 411–412 (2009); *Katzberg v. Regents of Univ. of Cal.*, 29 Cal.4th 300, 306–307 (2002).

In 1849–1850 the People of California deliberately and permanently rejected the Roman civil-law system under which the State presumes citizens "incapable of judging for [themselves]," assumes guardianship over their private labor and contracts, and interpolates obligations the parties never agreed to. The Senate Judiciary Committee's

Report on Civil and Common Law (Report on Civil and Common Law, Appendix O to 1850 Senate Journal at 459-480; incorporated as if fully set forth herein) ordered printed and circulated by the First Legislature, condemned that very premise:

> "On the other hand, the Common Law more wisely says, that if B wished to guard against the contingency of a possible defect, he should have made it a part of the contract of sale, that A give his express warranty of the merchantable quality of the goods. Its doctrine is caveat emptor; and when a trade is fairly consummated, without fraud or undue advantage, or untrue statements, the rights of the parties are fixed, and it becomes too late for retraction. In other words, the Common Law allows parties to make their own bargains, and when they are made, holds them to a strict compliance; whilst the Civil Law looks upon man as incapable of judging for himself, assumes the guardianship over him, and interpolates into a contract that which the parties never agreed to. The one is protective of trade, and a free and rapid interchange of commodities—the other is restrictive of both."

This Court gave immediate and repeated effect to that rejection. *Fowler v. Smith*, 2 Cal. 568, 568–569 (1852)(recognizing rejection of Roman law and adoption of common law); *Billings v. Hall*, 7 Cal. 1, 11–12 (1857); *Ex parte Newman*, 9 Cal. 502, 506–507 (1858); *Ex parte Kubach*, 85 Cal. 274, 285 (1890); *Ex parte Quarg*, 149 Cal. 79, 81–82 (1906); *Ex parte Drexel*, 147 Cal. 763, 766–767 (1905); *Ganley v. Claeys*, 2 Cal.2d 266, 269 (1935). Together these cases confirm that the right to labor, to contract, and to pursue

an ordinary, harmless occupation is inalienable and cannot be converted into a revocable legislative privilege by presuming Citizen incompetence.

The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 638 (1943). The right to earn a living through private contract is among those rights withdrawn from legislative power of annihilation or conversion into a revocable privilege.

Yet Business & Professions Code §§ 7028, 7031(a)–(b), and 7071.17 do precisely what the 1849 Constitution and the First Legislature deliberately repudiated as incompatible with liberty, private contract, and common-law adjudication. They resurrect the civil-law guardianship model by presuming every person incompetent and dishonest in construction unless first licensed by the State and continuously compliant with its regulatory apparatus. In doing so, they reverse the Constitutional principal–agent structure—in which the People are principals and government their agent—into a guardian–ward regime in which the State dictates who is competent to labor, when value exists, and whether one may keep one's own earnings. *Ex parte Jentzsch*, 112 Cal. 468, 472, 804 (1896) ("our government was not designed to be paternal in form."). The statutes interpolate into every private construction contract hundreds of legislative terms in Business & Professions Code Chapter 9 that the parties never agreed to, including the total-forfeiture mandate of § 7031.

Construction between consenting adults on private property is the paradigmatic harmless occupation that has nothing to do with the public.

This civil-law presumption framework simultaneously triggers three distinct Constitutional violations. First, it violates substantive due process by converting an inalienable right into a revocable privilege. Second, it violates procedural due process by declaring incompetence and dishonesty without notice, hearing, and proof. California law is explicit that even suspected incompetence cannot be established by fiat. In *Estate of Buchman*, 123 Cal.App.2d 546, 560–561 (1954), the court held that removal based on alleged mental incompetence is constitutionally forbidden absent notice, evidentiary hearing, and proof. Incompetence is a judicial determination, not a legislative assumption. Third, it violates evidentiary due process and the Excessive Fines Clause by mandating confiscation through irrebuttable value destruction rather than adjudicated harm, a practice forbidden because "the power to create presumptions is not a means of escape from constitutional restrictions." *Bailey v. Alabama*, 219 U.S. 219, 239 (1911). Once that threshold premise is accepted, the total-forfeiture remedy of § 7031(a) and (b) and the automatic professional death of § 7071.17 are not mere abuses of a legitimate licensing power—they are the inevitable fruits of an unconstitutional root. They brand the contractor incompetent and dishonest, strip him of every dollar ever paid, and destroy his livelihood solely because he exercised the inalienable right to contract without State permission. Even where the Contractors State License Board has examined and certified the identical human being as competent, the statutes override that individualized determination by irrebuttable legislative command as happened in this case.

By design, the irrebuttable presumption operates by declaring that all work performed by an unlicensed contractor has no legal value whatsoever—even when competently performed, even when no harm occurs, even when the work measurably enhances the property. That legislative annihilation of value is the direct mechanism by which the statutes effectuate confiscation. 7031(a) and (b) prescribe a legislatively pre-calibrated punitive forfeiture untethered to actual damages, proportionality, or fault.

This statutory architecture also defies the foundational purpose of the Contractors' State License Law itself, which this Court has repeatedly described as providing minimal assurance of skill and character and protecting the public from actual incompetence or dishonesty. Sections 7028 and 7031(a)–(b), as enforced here, sever forfeiture from that protective purpose and deploy it against concededly competent contractors who cause no harm, converting a regulatory regime into a mandatory wealth-destruction engine.

The operation of this scheme further displaces the judicial function itself. In § 7031 cases, courts do not act as Constitutional finders of fact to determine actual liability, actual harm, actual damages, or unjust enrichment. They instead function as legislative compliance tribunals whose sole inquiry is whether a technical licensing violation occurred. Once that predicate is met, forfeiture is compulsory and total.

That displacement is openly illustrated in *Alatriste v. Cesar's Exterior Designs, Inc.*, 183 Cal.App.4th 656 (2010), where a total forfeiture was treated as legally compelled once unlicensed status at project inception was shown. Evidence of actual performance, materials incorporated into the property, lack of consumer harm, homeowner misconduct, or proportionality was held categorically irrelevant as a matter of law. Courts expressly

disclaimed authority to weigh equity, fairness, or value, stating that such considerations were foreclosed by legislative mandate.

Thus, in § 7031 proceedings, courts are not exercising independent judicial power under Article VI. They are executing pre-calibrated legislative punishment. The outcome is foreordained by statute. The "hearing" does not adjudicate competence, value, or harm. It serves only as the ceremonial trigger for confiscation.

Courts themselves regularly acknowledge that they believe they are powerless to depart from this statutory mandate, even when the result is concededly harsh and untethered to wrongdoing. *Alatriste v. Cesar's Exterior Designs, Inc.*, 183 Cal.App.4th 656 (2010). This structural displacement of adjudicative power violates both procedural due process and the separation of powers by collapsing lawmaking and judging into a single legislative will.

The question in the instant case is unavoidable: Petitioner delivered approximately $930,000 in value that Real Parties accepted and continue to reap the benefits of. Where did that value go? The statute declares it never existed.

Section 7031(b) authorizes only the "recover[y of] all compensation paid." Where the compensation paid has already been returned through completed construction work that the owner accepted and continues to enjoy, the statutory condition has been satisfied as a matter of law. Once the value of the compensation has been fully conferred and retained, no unpaid compensation remains to be "recovered" within the meaning of the statute. A court that nevertheless orders repayment a second time does not merely

misapply the statute; it grants relief the statute does not authorize. Such an order is ultra vires. A judgment that awards relief not authorized by statute is void ab initio, not merely erroneous because the jurisdiction to do so never attaches. *Cohen v. Barrett*, 5 Cal. 195, 211 (1855) ("[Superior] Court, acting as a court of limited … [statutory] jurisdiction, must first ascertain, that … the subject matter, and the relief sought, are within the statute [and Constitution], before its jurisdiction will attach.").

Ordering repayment after the value has already been conferred does not effect "recovery"; it effects duplication. The statute's plain language does not authorize double recovery or permit courts to treat conferred value as both fully returned and legally nonexistent at the same time.

Other jurisdictions that have directly examined a total-forfeiture without credit for value conferred has condemned it as punitive rather than remedial. *Town of Gilbert Prosecutor's Office v. Downie*, 218 Ariz. 466, 470 (2008) (loss is a concept rooted in value not solely in the exchange of money); *United States v. Shepard*, 269 F.3d 884, 888 (7th Cir. 2001).

A permanent irrebuttable presumption has long been disfavored under the Due Process Clauses where it is not universally true and reasonable alternative means of determining the fact exist. *Vlandis v. Kline*, 412 U.S. 441, 452 (1973). Section 7031 thus operates through an irrebuttable legislative presumption: that someone performing construction work without state permission is incompetent and/or dishonest; that their work has no value, that culpability is irrelevant, and that forfeiture is mandatory regardless of actual facts—precisely the type of conclusive presumption long condemned as

incompatible with due process where reasonable alternative means of determining the truth exist.

Business and Professions Code sections 7028, 7031, and 7071.17 rest on a civil-law premise of citizen incompetence and guardianship expressly repudiated by the 1849 Constitution. By irrebuttable legislative presumption, these statutes extinguish professional competency, annihilate earned value, mandate confiscation without adjudication, displace the judicial function, and invert the constitutional principal–agent relationship into one of guardian and ward. Because construction and contracting are paradigmatic ordinary and harmless occupations, the Legislature never possessed constitutional power to condition their exercise on licensure in a manner that presumes Citizen incompetence, displaces judicial adjudication, or inflicts punishment without criminal process—much less to impose automatic forfeiture, compulsory confiscation, or professional death for technical noncompliance. Statutes enacted without constitutional power are void *ab initio*, and any judgment entered pursuant to them is *coram non judice* and a nullity from the moment pronounced. *Oakland Paving Co. v. Hilton*, 69 Cal. 479, 484 (1886); *Fowler v. Smith*, 2 Cal. 568, 569–570 (1852). The April 20, 2017 judgment and every subsequent order enforcing or refusing to vacate it therefore issued without subject-matter jurisdiction.

The remaining sections of this petition demonstrate additional, independent grounds establishing the same conclusion.

B. MISCLASSIFICATION OF PUNITIVE PROCEEDINGS AS "CIVIL" CONSTITUTES STRUCTURAL CONSTITUTIONAL ERROR REQUIRING VACATUR PER SE

California law recognizes only two categories of judicial proceedings: civil actions and criminal prosecutions. Where a proceeding imposes punishment for violation of public duty, it is criminal in substance regardless of the form in which it is cast. More than a century ago, this Court made that principle explicit in *Board of Harbor Commissioners of Port of Eureka v. Excelsior Redwood Co.*, holding that the imposition of a "penalty" is not damages or regulation, but punishment imposed for breach of duty enjoined by law. 88 Cal. 491, 493–494 (1891). Because punishment is an exercise of sovereign criminal power, the Court held that neither executive bodies nor courts acting outside criminal jurisdiction may impose it. *Id.* Any attempt to impose punishment through civil form therefore does not create a third category of adjudication—it results in action taken without judicial power at all.

Structural constitutional error arises when a defect affects the framework within which adjudication occurs, rather than merely an error in the presentation of evidence or conduct of a proceeding. Such defects render the proceeding constitutionally unreliable as a vehicle for the exercise of sovereign power and are not subject to harmless-error analysis. Where the adjudicatory framework itself is invalid, reversal or vacatur is required without regard to prejudice, outcome, or evidentiary sufficiency.

More than a century ago, the United States Supreme Court articulated a controlling constitutional rule governing forfeitures and penalties imposed for offenses against the law. In *Boyd v. United States*, the Court held:

> “We are also clearly of opinion that proceedings instituted for the purpose of declaring the forfeiture of a man’s property by reason of offenses committed by him, though they may be civil in form, are in their nature criminal.” *Boyd v. United States*, 116 U.S. 616, 633–634 (1886).

The Court thus made clear that where forfeiture is imposed “by reason of offenses committed,” it constitutes punishment for the offense itself, and that the constitutional character of the proceeding turns on its substance rather than its civil label or procedural form.

The 2017 judgment imposed a ~$930,000 forfeiture for the public offense of unlicensed contracting—conduct the Legislature itself has defined as criminal (§ 7028)—yet did so in a proceeding prosecuted by private parties, without indictment, jury trial, proof beyond a reasonable doubt, or any criminal-process safeguard. Under *Boyd*, such a proceeding is criminal in nature notwithstanding its civil label. A civil court therefore lacks constitutional jurisdiction to impose such punishment absent criminal process.

This Court has already rejected the fiction that punishment becomes “civil” merely because it includes a monetary component or because the proceeds are paid to a private party. In *Wheeler v. Donnell*, the Court held that a proceeding authorizing removal from office and a monetary award to the accuser was criminal in nature, notwithstanding that the statute directed payment of the fine to a private informer. The Court explained that the money judgment was “nothing more nor less than a fine,” and that the destination of the funds was “wholly immaterial” to the proceeding’s criminal character. 110 Cal. 655, 657 (1896). Where the object of the proceeding is punishment for a public offense, the

action is criminal in substance, regardless of legislative labels, procedural shortcuts, or private participation in enforcement. That principle governs here: a total forfeiture imposed for the public offense of unlicensed contracting does not become civil "disgorgement" simply because the Legislature authorizes a private litigant to collect it. A court that lacks constitutional authority to impose criminal punishment without criminal process lacks subject-matter jurisdiction to enter such a judgment at all. The resulting judgment is void ab initio.

The United States Supreme Court has drawn a clear distinction between trial error and structural defect. Trial error occurs during the presentation of the case and may be quantitatively assessed for harmlessness. Structural error, by contrast, infects the entire adjudicatory mechanism from beginning to end and defies harmless-error review. *Arizona v. Fulminante*, 499 U.S. 279, 309–310 (1991).

Structural error doctrine is not limited to defects that affect verdict accuracy. Rather, it protects foundational constitutional interests—including the proper allocation of sovereign power, public participation in adjudication, and the legitimacy of the court itself—where harm is inherently unmeasurable. *Weaver v. Massachusetts*, 582 U.S. 286, 295–296 (2017).

California courts apply the same framework. Structural error arises when a defect undermines the constitution of the court or denies a party the procedural architecture required for lawful adjudication. Such errors require reversal without regard to prejudice or the strength of the evidence. *People v. Bush*, 7 Cal.App.5th 457, 471–472 (2017).

Importantly, structural error doctrine applies in civil and hybrid proceedings where fundamental rights or adjudicatory legitimacy are at stake. When a proceeding substantially impacts fundamental rights and the court employs an invalid adjudicatory framework, California courts do not apply harmless-error review. *Conservatorship of Maria B.*, 218 Cal.App.4th 514, 532–533 (2013).

Likewise, when a trial court excludes a party from meaningful participation yet proceeds to adjudicate rights or impose consequences against that party, the defect is structural and requires automatic reversal. The constitutional injury lies not in the outcome, but in the court's lack of authority to adjudicate under those conditions. *Aulisio v. Bancroft*, 230 Cal.App.4th 1516, 1528–1530 (2014).

Here, the defect is structural in precisely this sense. The proceedings below imposed punitive sanctions for conduct classified by statute as a public offense, yet did so through a civil forum lacking criminal jurisdiction and without the constitutional architecture required for the exercise of punitive power. That misclassification did not merely affect the manner of adjudication; it invalidated the adjudicatory framework itself.

Because the court was not constitutionally constituted to impose punishment in this manner, the defect is structural. It is not subject to harmless-error analysis, waiver, forfeiture, or proportionality balancing. Vacatur is therefore required as a matter of constitutional law.

C. NO COURT POSSESSES SUBJECT-MATTER JURISDICTION TO VIOLATE THE CONSTITUTION AT ANY STAGE OF A PROCEEDING

"[A Court] must act judicially in all things and cannot transcend the power conferred by law."

–*Ex parte Giamboni*, 117 Cal. 573, 576 (1872)

In a Constitutional government of defined and limited powers, subject-matter jurisdiction is not a one-time ticket granted simply because a civil complaint is filed in a court, including one of general jurisdiction. It is the Constitutional power to hear the particular cause presented *and* to grant the specific relief sought, and that power must exist as to every issue in the case, not merely the initial classification of the action. "[Superior] Court, acting as a court of limited … [statutory] jurisdiction, must first ascertain, that … the subject matter, and the relief sought, are within the statute [and Constitution], before its jurisdiction will attach." *Cohen v. Barrett*, 5 Cal. 195, 211 (1855); ("[J]urisdiction of all justiciable matters can only be exercised by the …court through the filing of pleadings which are sufficient to invoke the power of the court to act.") *Buis v. State*, 792 P.2d 427, 429 (1990); *Ex parte Giambonini*, 117 Cal. 573, 576 (1872); *Windsor v. McVeigh,* 93 U.S. 274 (1876); *Drink Tank Ventures LLC v. Real Soda in Real Bottles, Ltd.*, 71 Cal.App.5th 528, 542–543 (2021); *County of Ventura v. Tillett*, 133 Cal.App.3d 105, 110 (1982) ("a court of this state does not have jurisdiction to render a judgment that violates the California Constitution or the Constitution of the United States").

Jurisdiction does not fail merely because relief is denied as long as that denial is within constitutional bounds. Courts deny motions, arguments, and remedies within jurisdiction as a matter of course. Jurisdiction fails where courts refuse to adjudicate issues they are constitutionally required to decide, while nevertheless permitting

punishment or enforcement to proceed. As this Court and the United States Supreme Court have long held, jurisdiction is "the right to hear and determine," not the power to refuse determination while allowing coercive consequences to attach. *Windsor v. McVeigh*, 93 U.S. 274 (1876). Here, the defect is not that Petitioner sought relief and was denied it; the defect is that multiple courts, though fully authorized and obligated to act, declined to determine whether the exercise of punitive power was constitutionally permissible, notwithstanding mandatory and prohibitory constitutional provisions that admit of no discretion. Where adjudication of constitutional limits is withheld in the face of such violations, jurisdiction fails as a matter of law, because judicial power cannot attach to proceedings that transgress the Constitution itself and/or whose lawful authority has not been heard and determined.

The Constitution and lawfully enacted statutes operate continuously as checks on judicial action. Those limits define subject-matter jurisdiction in its most basic sense: the authority to decide a particular issue or to grant particular relief at each stage of a proceeding. Where the Constitution withholds power to decide a question or to impose a remedy, no court ever acquires authority over that issue or that relief—regardless of how the case is labeled, and even if the court otherwise has jurisdiction over the general class of cases.

Finality itself depends on Constitutional sanction. A judgment entered without lawful authority is not final in any meaningful sense, because it lacks the constitutional power necessary to support it. Stripped of its technical terminology, subject-matter

jurisdiction reduces to a single inquiry: authority. The controlling question in every exercise of official power is therefore simple—by what authority?

That principle has not disappeared from California law. Even after *Abelleira*, courts continue to recognize that subject-matter jurisdiction includes constitutional authority to grant the specific relief awarded, and that a judgment is void where such authority is lacking. In *Plaza Hollister Ltd. Partnership v. County of San Benito*, the Court of Appeal held that a stipulated judgment was void because it invaded authority the California Constitution vested exclusively in another tribunal. 72 Cal.App.4th 1, 18–19 (1999). The court explained that a judgment is void where it grants relief the court "under no circumstances had the power to grant in the exercise of its subject-matter jurisdiction," notwithstanding the court's general jurisdiction and notwithstanding the parties' consent. *Id.*

Plaza Hollister thus confirms the foundational rule applied in this Court's pre-1941 decisions: subject-matter jurisdiction does not attach merely because a case is properly filed, but only to the extent the Constitution authorizes the court to adjudicate the issue and impose the relief awarded. Where the Constitution withholds that authority, the defect is jurisdictional, the judgment is void ab initio, and no doctrine of finality, waiver, or "excess of jurisdiction" can supply power the Constitution denies.

As this Court has held for more than 135 years:

> "Every Constitutional provision is self-executing to this extent, that everything done in violation of it is void." *Oakland Paving Co. v. Hilton*, 69

> Cal. 479 (1886); *Katzberg v. Regents of University of California*, 29 Cal.4th 300, 306–307 (2002).

The United States Constitution declares the same principle and makes it binding on every judge in every state:

> "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof … shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. Const., Art. VI, cl. 2.

Chief Justice Marshall expressed the principle most forcefully: "the exceptions from a power mark its extent." *Gibbons v. Ogden*, 22 U.S. 1, 191 (1824).

In *Ex parte Young*, 209 U.S. 123, 159-160 (1908), the U.S. Supreme Court held:

> "If the act which the [official] seeks to enforce be a violation of the Federal Constitution, the officer, in proceeding under such enactment, comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The state has no power to impart to him any immunity from responsibility to the supreme authority of the United States."

Acts in violation of Constitutional limitations are not judicial acts at all; they are nullities from the moment they are attempted. *Ex parte Giambonini*, 117 Cal. 573, 576 (1872); *Windsor v. McVeigh*, 93 U.S. 274 (1876); *Drink Tank Ventures LLC v. Real Soda in Real Bottles, Ltd.*, 71 Cal.App.5th 528, 542–543 (2021); *Elliott v. Lessee Piersol*, 26 U.S. 328, 340 (1828). *Katzberg v. Regents of University of California*, 29 Cal.4th 300, 306–307 (2002).

Constitutional provisions are mandatory and prohibitory, and their observance is a ministerial duty from which no court has discretion to depart. Cal. Const., Art. I, § 26; U.S. Const. Art. VI, § 2.

Although this Court has, in the context of extraordinary writ practice, described certain acts taken in violation of legal limits as occurring “in excess of jurisdiction” rather than in the absence of fundamental jurisdiction (*Abelleira v. District Court of Appeal*, 17 Cal.2d 280, 288–291 (1941)), that formulation addressed the availability and timing of writ relief, not the antecedent constitutional question whether authority to adjudicate or to impose a particular form of punishment ever attached in the first instance.

Pre-1941 California law drew a categorical distinction between acts taken without constitutional authority and mere errors committed within jurisdiction. Where constitutional power to act was absent at the outset, jurisdiction never attached, and the resulting judgment was void—not merely voidable, and not subject to reclassification through remedial doctrine.

In *Gray v. Hawes*, this Court explained that subject-matter jurisdiction is "jurisdiction of the subject-matter, which, having been limited by constitutional or legislative action, can never be waived, or increased or diminished, by agreement or laches of parties," and that such jurisdiction "can always be determined by inspection of the record of the judgment." 8 Cal. 562, 564–565 (1857). Gray thus defines subject-matter jurisdiction as a constitutional predicate, not a procedural attribute, and confirms that where constitutional authority is lacking, no act of the parties or the court can supply it.

Pryor v. Downey makes the same principle explicit in the context of void judgments. There, this Court held that where a court acted without jurisdiction, "no subsequent law can confer it," distinguishing jurisdictional nullities from mere irregularities that may be cured or disregarded. 50 Cal. 388, 395–396 (1875). Pryor rejected the notion that constitutional absence of power can be retroactively validated, emphasizing that acts taken without jurisdiction are void ab initio and remain so regardless of later procedural posture.

Together, *Gray* and *Pryor* establish the pre-1941 rule that jurisdiction either exists or does not exist, depending on whether constitutional authority has been conferred. They leave no room for an intermediate category in which courts may impose relief the Constitution forbids while treating the violation as a correctable "excess" rather than a nullity.

Properly understood, *Abelleira* did not repudiate this rule, nor did it hold that courts possess jurisdiction to violate mandatory and prohibitory constitutional provisions. *Abelleira* addressed the timing and availability of extraordinary writ relief where a court

otherwise possessed constitutional authority over the subject matter but allegedly acted beyond statutory limits. It did not reconsider—much less overrule—this Court's prior holdings that where the Constitution withholds authority to adjudicate or to impose a particular form of punishment, jurisdiction never attaches in the first instance.

Under the original understanding of the 1849 California Constitution, subject-matter jurisdiction is not conferred by the mere filing of an action or by a court's general jurisdiction over a class of cases; it exists only to the extent constitutional authority permits the court to adjudicate, to impose the relief sought, and to proceed in the manner employed. Through Article I, sections 1, 7, 9, and 16—together with the First Legislature's express rejection of the civil-law system of presumed incompetence and state guardianship—the People affirmatively withheld from all branches the power to impose the penalties and disabilities enforced here. As this Court held long before *Abelleira*, a court "must first ascertain, that … the subject matter, and the relief sought, are within the statute [and Constitution], before its jurisdiction will attach." *Cohen v. Barrett*, 5 Cal. 195, 211 (1855).

Properly understood, *Abelleira* does not hold that courts possess jurisdiction to violate the Constitution. Rather, it reclassified certain constitutional violations as acts "in excess of jurisdiction" for purposes of writ procedure and remedial timing, without reexamining this Court's pre-1941 precedent holding that acts forbidden by mandatory and prohibitory constitutional provisions are void and non-judicial. A court may err while acting within constitutionally conferred jurisdiction, but it cannot acquire jurisdiction to impose relief or to proceed in a manner the Constitution forbids, including by adjudicating

or enforcing a judgment entered in violation of due process. Because due process operates as a constitutional limitation on adjudicatory power itself, a judgment entered in violation of fundamental due process is void for want of jurisdiction, not merely erroneous. See *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291–292 (1980); *Windsor v. McVeigh*, 93 U.S. 274 (1876). Acts taken in violation of mandatory and prohibitory constitutional provisions are therefore not judicial acts at all, but nullities from the moment they are attempted. *Ex parte Giambonini*, 117 Cal. 573, 576 (1872); *Windsor v. McVeigh*, 93 U.S. 274 (1876); *Elliott v. Lessee Piersol*, 26 U.S. 328, 340 (1828). The judiciary is but the creature of the Constitution and "cannot rise above the source of its own existence"; if it could do so, "it could annul the Constitution, instead of simply declaring what it means." *Ex parte Newman*, 9 Cal. 502, 510 (1858).

Put differently to avoid any ambiguity: Subject-matter jurisdiction requires: (1) authority over the class of cases, (2) authority to impose the type of relief, *and* (3) authority to proceed in the manner used; fundamental due-process violations defeat jurisdiction, not merely correctness.

The principal-agent relationship inherent in the Constitution demands that the People retain the ultimate power to hold their agents accountable when those agents act outside of Constitutional bounds. As Blackstone explained, the bills of rights accompanying American Constitutions "are intended to declare and set forth the restrictions which the people in their sovereign capacity have imposed upon their agents." 1 William Blackstone, Commentaries on the Laws of England 124 (George Sharswood ed., Philadelphia: J.B. Lippincott Co. 1893).

Under the pre-1941 California rule and under binding federal law, a judgment violating a mandatory and prohibitory Constitutional provision is a nullity, and the officer who renders or enforces it acts as a private wrongdoer, stripped of official character and judicial immunity. *Oakland Paving Co. v. Hilton*, 69 Cal. 479, 484 (1886); *Ex parte Giambonini*, 117 Cal. 573, 576 (1897); *Ex parte Young*, 209 U.S. 123, 159–160 (1908) By treating such violations as mere "excess of jurisdiction," the modern rule has severely limited—and in many cases eliminated—this historic check on governmental power. To treat mandatory and prohibitory Constitutional prohibitions as mere "excesses" of an otherwise valid jurisdiction is to manufacture fictional authority where the framers and the People deliberately denied it.

The provisions in Article I act as a direct check and balance on the grant of judicial power in Article VI. A party seeking judicial relief must have standing for each type of relief requested. *Associated Builders & Contractors, Inc. v. San Francisco Airports Com*., 21 Cal.4th 352 (1999); *Summers v. Earth Island Institute*, 555 U.S. 488, 493 (2009). A lack of standing constitutes a jurisdictional defect. *People ex rel. Becerra v. Superior Court*, 29 Cal.App.5th 486, 496 (2018). The same principle applies when the Constitution itself withholds the power to grant the relief sought: jurisdiction never attaches.

Petitioner recognizes that certain post-*Abelleira* decisions have treated constitutional violations as acts in "excess of jurisdiction," but urges this Court to clarify that *Abelleira* did not authorize courts to impose relief or punishment the Constitution forbids, and to reaffirm—consistent with the 1849 Constitution's original meaning, this Court's pre-1941 precedent, and controlling federal authority under the Supremacy

Clause—that acts violating mandatory and prohibitory constitutional provisions are void and non-judicial.

The California and United States Constitutions expressly withhold from any court the power to impose the ~$930,000 penal forfeiture awarded in this case at any stage of the proceeding:

1. No pleading was ever filed by or on behalf of the People of the State of California —the only party with Constitutional authority (the capacity) to prosecute the public offense of unlicensed contracting—and private parties may not be delegated that executive power. Cal. Const., Art. V, § 1; Gov. Code § 100(b); *Ex parte Clark*, 24 Cal.App. 389 (1914); e.g. *Buis v. State*, 792 P.2d 427, 429 (1990); *City of Santa Barbara v. Sherman*, 61 Cal. 57 (1882). The Superior Court therefore never acquired subject-matter jurisdiction over a criminal cause.
2. Article I, section 17 prohibits excessive fines in any punitive proceeding, civil or criminal. *People ex rel. Lockyer v. R.J. Reynolds Tobacco Co.*, 37 Cal.4th 707, 728 (2005).
3. When punishment for a public offense is imposed in a civil proceeding without indictment or presentment, trial by jury, proof beyond a reasonable doubt, confrontation of witnesses, compulsory process, or assistance of counsel, the absence of these structural criminal-process safeguards results in a structural defect in the trial mechanism that deprives the court of fundamental jurisdiction to hear the case and to impose punishment. Cal. Const., Art. I, §§ 7, 9, 15, 16; *SEC v. Jarkesy*, 603 U.S. 109 (2024); *Johnson v. Zerbst*, 304 U.S. 458, 467–468 (1938).

4. Article I, sections 1 and 9 protect the inalienable rights to contract freely, pursue a lawful calling, and possess the fruits of one's labor, rendering void any forfeiture that impairs those rights without individualized proof of public harm and actual (not hypothetical) relation to a legitimate police-power objective, curtailing the right only to the least extent necessary to achieve the object. Cal. Const., Art. I, §§ 1, 9; U.S. Const. Art. I, § 10; *Billings v. Hall*, 7 Cal. 1, 11 (1857); *Ex parte Quarg*, 149 Cal. 79, 81 (1906).

If the Superior Court possessed subject-matter jurisdiction to impose the challenged sanction, then the Constitution permits criminal punishment without indictment, jury trial, or proof beyond a reasonable doubt; if it did not, the judgment is void ab initio and must be vacated. There is no constitutionally cognizable intermediate category.

Because the Constitution affirmatively withholds the power to hear and determine the case and to grant the specific relief awarded—a ~$930,000 forfeiture that violates all four of the foregoing prohibitions—the Superior Court never possessed subject-matter jurisdiction at any stage, and the Fourth District Court of Appeal lacked subject matter jurisdiction to affirm. The 2017 judgment and 2018 affirmance are void ab initio and in legal effect, no judgment.

The Court of Appeal's October 30, 2025 dismissal, refusing to adjudicate voidness is itself void as it suffers from the same fatal defect. No court possesses Constitutional authority to declare a void judgment final when the issue has been properly raised and controlling authority demonstrates that voidness. The Court's refusal is void for the same

reasons the underlying judgment is void and independently requires reversal. *County of Ventura v. Tillett*, 133 Cal.App.3d 105, 111 (1982) (enforcement of void judgment is also void).

D. THE 2017 JUDGMENT IS VOID AB INITIO ON MULTIPLE INDEPENDENT CONSTITUTIONAL GROUNDS

Punitive Regulation and the Structural Conversion of Civil Process into Criminal Punishment

Modern regulatory schemes in California—including Chapter 9. Contractors, Business and Professions Code §§ 7000 et seq.—operate through a predictable and repeatable sequence:

First, the Legislature usurps authority by converting an inalienable right into a public privilege by summarily declaring an ordinary and historically lawful activity such as construction to be "regulated."

Second, it conditions the legality of that activity on prior governmental permission, requiring licensure, registration, bonding, or compliance as a prerequisite to lawful work.

Third, it attaches severe economic consequences to noncompliance, including forfeiture of earned compensation, six- and seven-figure "civil penalties," daily accrual fines untethered to actual harm or culpability, and professional death by exclusion from the profession in the capacity as a contractor.

Fourth, these sanctions are enforced outside the criminal system, without a jury, without a mens rea requirement, without proportionality review, and without constitutional sentencing limits.

At that point, regulation has functionally become punishment, but without any of the safeguards the Constitution has always required when the State exercises its punitive power. California's early constitutional law recognized this conversion as impermissible.

The Original Police Power and the Judicial Duty to Enforce Constitutional Structure

Under the classical understanding reflected in *Ex parte Newman*, 9 Cal. 502 (1858), the police power was not a general license to control economic life, nor a field of legislative discretion insulated from judicial review.

Regulation existed solely to prevent concrete harm to public safety, health, or property. Punishment existed solely to respond to wrongdoing, and therefore required criminal process. The two were constitutionally distinct.

Crucially, *Newman* did not treat legislative assertions of necessity as conclusive. It required that the harm sought to be prevented be real, identifiable, and subject to judicial examination. Lawful, productive labor could not be restrained based on presumptions, abstractions, or legislative convenience. Courts bore an affirmative duty to police the boundary between regulation and punishment.

That original understanding left no room for presumptions of incompetence, dishonesty, or harm, no room for status-based punishment, and no room for legislative relabeling. Deference was not part of the constitutional design; judgment was.

California's Original Categorical Rule: Punitive Effect Controls

California courts repeatedly enforced this structure and rejected attempts to blur it.

In *City of Santa Barbara v. Sherman*, 61 Cal. 57 (1882), the Court held that where an ordinance imposed fines and imprisonment, the proceeding was criminal in substance, regardless of municipal form. Punishment could not be imposed through civil process simply because the Legislature or a municipality chose that label.

In *Kilburn v. Law*, 111 Cal. 237 (1896), the Court made the rule explicit: when the object of a proceeding is to punish a public offense, and the public rather than a private party is the real party in interest, the action is criminal, even if styled as summary, statutory, or civil.

The same principle governed in *Ex parte Gould*, 99 Cal. 360 (1893), where the Court held that contempt proceedings arising from civil actions become criminal when they impose punishment, and therefore trigger constitutional protections.

Together, these cases establish a categorical original rule: classification turns on substance and effect, not form or label. Punitive effect controls.

Ex parte Clark and the Rejection of "Quasi-Criminal" Power

That rule was stated with particular clarity in *Ex parte Clark*, 24 Cal.App. 389 (1914).

There, the court rejected outright the notion that punishment could occupy a middle ground between civil and criminal law. It held that there is no such thing as a "quasi-criminal" act under California law; proceedings are either civil or criminal, with no

intermediate category; and when the purpose and effect of a proceeding is to punish a public offense, it is criminal in nature regardless of form.

Clark explained that the constitutional requirement that criminal prosecutions be brought in the name of the People exists to preserve essential safeguards, including the right to a jury, the presumption of innocence, proof beyond a reasonable doubt, and protection against imprisonment or punitive sanctions without due process.

Clark thus confirms that legislative labeling cannot transform punishment into regulation. To permit such a transformation would not be interpretation; it would be constitutional revision.

Presumptions Cannot Evade Constitutional Limits

The same structural principle is confirmed at the federal level in *Bailey v. Alabama*, 219 U.S. 219 (1911).

Bailey holds that constitutional prohibitions cannot be transgressed indirectly by statutory presumption, and that the power to create presumptions is not a means of escape from constitutional restrictions. The Legislature may not accomplish indirectly—through evidentiary shortcuts, legal fictions, or presumptions of wrongdoing—what the Constitution forbids it to do directly.

Applied here, where the Constitution requires proof of harm, culpability, or wrongdoing before punishment may be imposed, the Legislature may not substitute

presumptions of harm, status-based liability, or regulatory labels to achieve the same result.

Substance Over Form and the Prohibition on Indirection

This rule against constitutional evasion by form predates modern doctrine. In *United States v. Shapleigh*, 54 U.S. 156 (1854), the Supreme Court held that constitutional analysis turns on substance and operation, not the procedural or statutory form chosen by the government. Courts must look to what a law does, not how it is described.

Shapleigh and *Bailey* thus reinforce the same foundational principle recognized in *Newman* and *Clark*: the Constitution cannot be altered by indirection. What cannot be done directly cannot be done indirectly through labels, presumptions, or procedural redesign.

The Structural Consequence: Constitutional Change by Doctrine, Not Amendment

No constitutional amendment has ever authorized punishment through civil process, dissolved the civil–criminal binary, transferred the judicial duty of classification to the Legislature, or permitted punitive power to be exercised without criminal safeguards.

Yet modern doctrine—and specifically 7028/7031 enforcement—tolerates all of those results. That change did not occur through amendment. It occurred through judicial

doctrine that defers where the Constitution requires judgment and accepts legislative fictions where the Constitution requires proof.

Such deference is not interpretation; it is abdication of fundamental judicial duty. Courts do not possess authority to revise constitutional structure by doctrine. When punishment is imposed outside criminal process, subject-matter jurisdiction fails. Judgments produced under such a regime are not merely erroneous; they are void ab initio.

Because the proceeding below exercised punitive power without the constitutionally required criminal process, the trial court lacked authority to enter judgment at any stage of the case. The 2017 judgment, the 2018 affirmance, and the 2025 orders refusing to vacate it are therefore void for the independent constitutional violations set forth below.

1. The $930,000 Award Is an Excessive Fine Under Article I, Section 17 of the California Constitution

A court lacks subject-matter jurisdiction to impose a sanction that violates the Excessive Fines Clause. *People ex rel. Lockyer v. R.J. Reynolds Tobacco Co*., 37 Cal.4th 707, 728 (2005); Cal. Const. Art. I, §§ 7, 9, 17, 26.

The ~$930,000 award is such a sanction, and no known California court has ever applied the mandatory proportionality test of Article I, section 17 to a section 7031 award despite its acknowledged penal character.

The constitutional violation is not merely the size of the sanction, but the complete failure to perform the proportionality analysis that Article I, section 17 mandates whenever a civil sanction is punitive in character. Where a court imposes or affirms a penal forfeiture without undertaking the required constitutional inquiry, it acts without subject matter jurisdiction. A judgment entered without applying a mandatory constitutional limitation is void ab initio, regardless of the outcome the analysis might have produced.

Comparable penalties imposed in similar statutes favor Petitioner. The criminal counterpart to the conduct at issue (§ 7028) is a misdemeanor punishable by a maximum $5,000 fine and without any forfeiture of compensation paid to the unlicensed contractor. A Public Records Act response from the Orange County District Attorney reveals that the ten most recent criminal convictions under § 7028 resulted in an average fine of approximately $750 and/or informal probation—a penalty roughly 1,240 times smaller than the ~$930,000 civil forfeiture imposed here for identical conduct. Ex. 7. No rational relationship exists between the gravity of the offense and the magnitude of the civil sanction.

a. Section 7031(b) Imposes a Penalty Subject to the Excessive Fines Clause

Article I, section 17 prohibits excessive fines imposed in any punitive proceeding, civil or criminal. *People ex rel. Lockyer v. R.J. Reynolds Tobacco Co.*, 37 Cal.4th 707, 728 (2005). This Court in *Hale v. Morgan* devised a three-part test to distinguish remedial civil sanctions from punitive fines: a sanction is punitive—and therefore a fine—when it (1) serves a punitive rather than a purely remedial purpose, (2) requires no proof of actual

harm, and (3) is grossly disproportionate to any legitimate remedial goal. *Hale v. Morgan*, 22 Cal.3d 388, 398–401 (1978).

Section 7031(b) satisfies all three *Hale* criteria.

As the Congressional Research Service confirms, forfeiture is triggered by crime, and criminal forfeiture is punishment that may be imposed only upon conviction, while civil forfeiture avoids criminal process solely by narrow historical in rem fictions that courts themselves recognize become constitutionally suspect when forfeiture operates punitively. Congressional Research Service, Crime and Forfeiture (Jan. 10, 2023) CRS Rep. No. 97-139, available at: https://www.congress.gov/crs-product/97-139.

This Court has repeatedly called 7031's result a "stiff all-or-nothing penalty" designed to deter unlicensed contracting, not to compensate and held that equitable considerations are not allowed. *MW Erectors, Inc. v. Niederhauser*, 36 Cal.4th 412, 426 (2005); *Lewis & Queen v. N.M. Ball Sons*, 48 Cal.2d 141, 152 (1957).

7031 actions require no proof of harm or profit, and results in unjust enrichment. *Eisenberg Village v. Suffolk Construction Co*., 53 Cal.App.5th 1201, 1212 (2020); *San Francisco CDC, LLC v. Webcor Construction L.P*., 62 Cal.App.5th 266, 280 (2021); see also *Grand Prospect Partners, L.P. v. Ross Dress for Less, Inc.,* 232 Cal.App.4th 1332, 1362-65 (2015) regarding unenforceable penalties.

Section 7031(b) mandates total forfeiture of all compensation paid—without any offset for the value of materials or labor actually received—even when the customer obtains perfect, fully conforming work and suffers zero economic loss. This produces

precisely the kind of grossly disproportionate and arbitrary penalty condemned in *Hale v. Morgan* (1978) 22 Cal.3d 388, 398–401. The Arizona Supreme Court reached this same conclusion when analyzing an analogous contractor-licensing forfeiture statute, holding that restitution must be measured by the value retained by the owner, not by blind forfeiture of gross payments when the owner has received the full benefit of the bargain. *Town of Gilbert Prosecutors Office v. Downie*, 218 Ariz. 466, 470–471 (2008).

In short, § 7031(b) authorizes the customer to keep both the completed work and 100% of the money paid for it—an effective double recovery that no court has ever justified as remedial. The Fourth District itself recognized this principle in the unlicensed-sales context: when a consumer receives exactly what was bargained for, ordering return of the full price produces an unjustified windfall and cannot be sustained as equitable restitution. *Peterson v. Cellco Partnership*, 164 Cal.App.4th 1583, 1591–1594 (2008) ("[t]here is no equitable reason for invoking restitution when the plaintiff gets the exchange which he expected"). The same logic applies to § 7031(a) where the customer receives the benefit of the work but never pays yet the courts order total forfeiture to the contractor.

The courts below refused to apply Article I, section 17, treating the award as non-punitive "equitable remedy" and "disgorgement" even though no equitable consideration was given for value returned and "damages" even though no claim therefore was made and none were evidenced at trial.

That conflicts with this Court's own description of section 7031 as a penalty to which no equitable considerations apply.

Legislative history confirms the punitive purpose beyond any doubt. The Legislature deliberately authorized recovery even if the contractor has fully performed and the consumer has not been harmed in any way, thereby creating unjust enrichment solely to punish (RJN Ex. 16, p.329):

> "Under the bill, individuals may bring such an action even if the contractor has fully performed. In that case, those using the unlicensed contractor have not been harmed in any way, but are nevertheless authorized to sue to recover compensation paid. As a result, those using unlicensed contractors are arguably unjustly enriched because they are able to reap the benefits of the work done by the unlicensed contractor and are then authorized by statute to sue to recover from the contractor all compensation paid."

Even if relief under § 7031 were construed in its most charitable form as true equitable disgorgement limited solely to net profits—here, approximately $75,000 after deduction of all labor and material costs—it would still operate as punishment in this case. Equity permits disgorgement only to prevent unjust enrichment, and only where the defendant has obtained a gain that, in fairness, never rightfully belonged to him. That rationale applies in cases of theft or fraud, where the wrongdoer acquires another's property by force or deception. It does not apply where a contractor has fully performed, and the plaintiff has permanently retained the benefit of that performance. Stripping profits from lawful labor while the client keeps the completed work is not restitutionary; it imposes an additional financial sanction untethered to restoration or equity. As the Supreme Court has cautioned, a remedy that goes beyond preventing unjust enrichment and instead imposes a financial penalty "crosses the line from restitution to punishment." *Liu v. SEC*, 591 U.S. 71, 79–80 (2020). Because punishment may be imposed only through criminal process, even a profit-only disgorgement under section 7031, when combined with the

plaintiff's retention of the full benefit of performance, exceeds the bounds of equity and lies beyond the subject-matter jurisdiction of a civil court. The Legislature's declaration that unlicensed construction is unlawful does not alter this analysis, because illegality alone does not transform earned compensation into unjust enrichment or authorize equity to impose punitive profit-stripping where the plaintiff has retained the benefit of performance; to hold otherwise would permit the Legislature to convert ordinary regulatory violations into civil punishment without the constitutional safeguards required for criminal sanctions.

Even assuming arguendo that the underlying construction contract were void or unenforceable, that conclusion does not authorize the imposition of punitive forfeiture or excuse courts from adjudicating constitutional limits on punishment. While courts often recite a general rule that a party to an illegal contract may neither recover damages nor, by rescission, recover the performance rendered or its value (e.g., *Owens v. Haslett*, 98 Cal.App.2d 829, 832–833 (1950)), that rule is constitutionally estopped when the State seeks to impose punishment. By operation of constitutional supremacy, no rule of law—statutory or common-law—may abrogate rights secured by the Constitution. U.S. Const., Art. VI, § 2; Cal. Const., Art. I, § 26; *Miranda v. Arizona*, 384 U.S. 436, 491 (1966) ("where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them"). The Excessive Fines Clause "guards against abuses of government's punitive or criminal-law-enforcement authority" and applies to civil penalties as well as criminal sanctions. *People v. Cowan*, 47 Cal.App.5th 32, 44 (2020). Once forfeiture operates as punishment, constitutional adjudication is mandatory regardless of any antecedent defect in contract enforceability. Contract invalidity is a private-law

doctrine; punishment is an exercise of sovereign power. The State may not invoke illegality doctrine to evade constitutional limits on punitive authority.

b. The Award Is Grossly Disproportionate Under the Article I, Section 17 Test

A fine is excessive if it is grossly disproportional to the gravity of the offense, considering (1) the defendant's culpability; (2) the relationship between the harm and the penalty; (3) penalties imposed in similar statutes; and (4) the defendant's ability to pay. *People ex rel. Lockyer v. R.J. Reynolds Tobacco Co.*, 37 Cal.4th 707, 728 (2005).

No court below ever performed this mandatory analysis. Had any court done so, the award would fail on every factor. cf. *People v. Estes*, 218 Cal.App.4th Supp. 14 (2013).

Culpability is minimal or nonexistent. No evidence of defective work, harm, or profit was offered. RJN Ex. 27– Reporters Transcript of Trial. Petitioner was a licensed qualifying individual– a "licensee" per § 7096; any violation was purely technical.

The harm-penalty relationship shows zero harm. Real Parties received ~$930,000 value in remodel work—creating a windfall, not compensation. RJN Ex. 27– Reporters Transcript of Trial, p. 815 line 18 – p.816 line 10; RJN Ex. 1: p.6– Minute Order, p.9 Judgment.

Comparable penalties under the criminal counterpart (§ 7028) carry a maximum $5,000 fine—186 times less than the purported civil award.

Ability to pay was nonexistent. The sanction exceeded Petitioner's qualifying net worth by more than 30 times.

The punitive and coercive character of the sanction is further confirmed by Petitioner's documented attempt to mitigate its effects and regain the ability to work. While his license remained suspended under Business and Professions Code section 7071.17, Petitioner affirmatively reached out to the Real Parties through counsel seeking any reasonable accord—monetary or non-monetary—that would permit reinstatement of his license so he could earn a living. Petitioner expressly advised that he did not possess the demanded funds and asked whether any alternative arrangement would be acceptable. *Id.* Real parties offered a $300k payment, which Petitioner could not afford.

No hearing was afforded at any stage on harm, impact on the public, licensure fitness, proportionality, or ability to pay, and no such findings were ever made. In operation, the suspension therefore functioned as coercive punishment: Petitioner was barred from working as a contractor unless and until private parties agreed to release him at a price they alone set or he filed bankruptcy. A sanction that disables the ability to work and conditions relief on private refusal or acquiescence is punitive in substance and effect, not regulatory.

c. Federal and Sister-State Authority Confirms the Punitive Character

Total-forfeiture remedies that serve deterrence rather than restitution are punitive. *Liu v SEC*, 591 U.S. 71 (2020); *Tull v. United States*, 481 U.S. 412, 422–423 (1987). Arizona courts hold that total forfeiture regardless of benefit conferred is punitive and Constitutionally infirm. *Town of Gilbert Prosecutors Office v. Downie*, 218 Ariz. 466, 470–471 (2008).

d. Conclusion

The $930,000 award is grossly disproportionate under every Article I, section 17 factor. Because the Superior Court lacked Constitutional power to impose it—and no court below ever applied the mandatory test—the judgment is void ab initio. *Oakland Paving Co. v. Hilton*, 69 Cal. 479, 484 (1886). The Fourth District's refusal to vacate it is likewise void.

2. Section 7031(a) and (b) Violates Separation of Powers by Delegating the Sovereign Power of Criminal Prosecution to Private Parties

"A private citizen lacks a judicially cognizable interest in the [criminal] prosecution […] of another."
Linda R.S. v. Richard D., 410 U.S. 614, 619 (1973)

The constitutional prohibition against imposing punishment through proceedings mislabeled as "civil" has now been definitively reaffirmed by the U.S. Supreme Court. In *Securities and Exchange Commission v. Jarkesy*, the Court confirmed that civil penalties imposed to punish or deter are legal in nature, not equitable, and therefore concern private rights that may be adjudicated only by courts exercising the judicial power with full constitutional safeguards. 603 U.S. 109, 129–134 (2024). The Court explained that actions seeking monetary penalties are historically analogous to common-law actions in debt and fraud—proceedings that "savor of a criminal nature"—and that such punitive claims cannot be removed from Article III adjudication by statutory labeling, regulatory framing, forum selection, or invocation of the public-rights doctrine. *Id.* at 130–137. Substance, not form, controls; where punishment is imposed without the forum and process the Constitution requires, the court lacks authority to act at all. *Id.* at 136–137.

Business & Professions Code § 7031(b) authorizes any person who has utilized the services of an unlicensed contractor to sue in a civil action and recover all compensation paid for the work performed, without proof of harm, culpability, or net profit, solely because the contractor lacked the required license. Another obvious indication of § 7031's purely penal nature is that the identical conduct is made criminal by Business & Professions Code § 7028, yet the maximum fine for a first-offense misdemeanor violation of that section is only $5,000—not the ~$930,000 awarded here (7031(a) and (b)) or the six-and-seven-figure forfeitures routinely upheld in other cases.

Moreover, § 7031(b) as intended and applied falls squarely within the statutory definition of a "crime or public offense" under Penal Code § 15 because it annexes to the act of unlicensed contracting two of the five enumerated punishments: a massive monetary fine and, via § 7071.17, automatic disqualification from holding a license—an office of profit within the meaning of the statute. This Court and the Courts of Appeal have repeatedly described the remedies under subdivisions (a) and (b) as "forfeiture" and a "stiff all-or-nothing penalty" whose severity "necessarily entails" ruinous consequences. *Asdourian v. Araj,* 38 Cal.3d 276 (1985); *Judicial Council of California v. Jacobs Facilities*, Inc. 239 Cal.App.4th 882 (2015); Humphreys v. Bereki (G055075; RJN Ex. 2). The United States Supreme Court has long recognized that the First Congress itself used the word "forfeit" as a synonym for a criminal fine. *Austin v. United States,* 509 U.S. 602, 614 (1993).

In their First Amended Trial Brief, Real Parties explicitly declared their intent to criminally prosecute and punish Petitioner for the public offense of unlicensed contracting

under § 7028 by seeking a total forfeiture of all compensation paid under § 7031. They wrote:

> "Adam Bereki, both at the time the contract with the Humphreys was entered into, and at all times during his performance on the Project, was unlicensed as a contractor in violation of California Business & Professions Code § 7028. As a consequence of Mr. Bereki's unlicensed status and under the provisions of California Business & Professions Code § 7031(b), the Humphreys are entitled to recover from cross-defendant Bereki all sums paid by [them] to Mr. Bereki, which sums total $848,000."

Thus, Real Parties openly acknowledged that they were using a private civil action and § 7031(b) as the mechanism to impose what was, in substance and by their own description, a criminal penalty for a public offense—precisely the delegation of executive prosecutorial power that the California Constitution forbids.

Because punishment is an exercise of sovereign executive power, it may be invoked only by an officer constitutionally authorized to wield that power. Private parties lack *capacity* to initiate punishment or to invoke the court's jurisdiction for that purpose, and proceedings commenced without such authority do not confer judicial power on the court at all.

This Court has held that the Contractors State License Law is designed to deter unlicensed persons from engaging in the contracting business even when the result is harsh between the parties. *Lewis & Queen v. N.M. Ball Sons*, 48 Cal.2d 141 (1957). In

2001 the Legislature deliberately added subdivision (b) as a “sword” to complement the pre-existing shield in subdivision (a). *White v. Cridlebaugh,* 178 Cal.App.4th 506, 519 (2009) (“b. The sword—disgorgement of pay for unlicensed work”). The Fourth District, expressly adopted that characterization in the very judgment at issue here, describing § 7031(b) as the sword remedy the Legislature created to further the policy of deterring violations of licensing requirements. RJN Ex. 2.

The sword of criminal prosecution, however, is an exclusively executive power vested in public officers who act in the name and on behalf of the sovereign (the People). Cal. Const., Art. V, § 1; Gov. Code § 100. A court acquires subject-matter jurisdiction over a criminal cause only when the action is commenced in the name of the People by a public prosecutor. *Ex parte Clark*, 24 Cal.App. 389 (1914); *City of Santa Barbara v. Sherman*, 61 Cal. 57 (1882); *Buis v. State*, 792 P.2d 427, 429 (1990) (“jurisdiction of all justiciable matters can only be exercised by the …court through the filing of pleadings which are sufficient to invoke the power of the court to act.”); *Albrecht v. United States*, 273 U.S. 1 (1927); *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973)(“[a] private citizen lacks a judicially cognizable interest in the [criminal] prosecution […] of another.”).

Section 7031(a) and (b) inverts this Constitutional structure. It empowers a purely private litigant, acting in her own name and for her own financial benefit, to initiate and conduct what is, in substance, a criminal prosecution for the public offense of unlicensed contracting and to pocket a potentially ruinous monetary sanction, all while bypassing every criminal-process safeguard the Constitution requires when the State imposes punishment.

The United States Supreme Court has squarely held that general deterrence is not a legitimate non-punitive governmental objective when a sanction is imposed on an individual who has not been convicted of any crime. *Bell v. Wolfish,* 441 U.S. 520 (1979). Because § 7031(a) and (b) rest on the expressly punitive goal of deterring others by making an example of the unlicensed contractor, it cannot be reconciled with the Due Process Clause.

The four-Justice dissent in *Robertson v. United States ex rel. Watson* condemned an analogous scheme in terms that apply with even greater force here:

> "The terrifying force of the criminal justice system may only be brought to bear against an individual by society as a whole, through a prosecution brought on behalf of the government. A basic step in organizing a civilized society is to take that sword out of private hands and turn it over to an organized government, acting on behalf of all the people." *Robertson v. United States ex rel. Watson,* 560 U.S. 272 (2010) (Roberts, C.J., joined by Scalia, Kennedy & Sotomayor, JJ., dissenting from dismissal of certiorari).

Section 7031(b) goes further than the statute condemned in Robertson: it does not merely permit a private party to trigger punishment; it allows that party to collect virtually unlimited monetary sanctions for a public wrong without indictment, jury trial, proof beyond a reasonable doubt, or any involvement of the executive branch. Such private bounties—historically denounced as a "monstrous heresy" that obliterates the boundary between civil remedy and criminal sanction—are precisely what the separation of powers forbids. *Fay v. Parker*, 53 N.H. 342 (1872).

By delegating the executive's exclusive power to prosecute public offenses to private Citizens who act for private gain, and by relying solely on the illegitimate non-punitive objective of general deterrence, § 7031(a) and (b) violate the California

Constitution's separation of powers. Cal. Const., Art. III, § 3; Art. V, § 1. Because the Superior Court never acquired jurisdiction to entertain a criminal prosecution commenced by private parties in their own names, the 2017 judgment and 2018 affirmance are void ab initio. See also Penal Code § 1382.

3. Section 7031 Contains No Substantive Criminal Elements—It Is a Pure Penalty Provision That Cannot Support a Judgment Without Criminal Process

California courts have long recognized that sanctions imposed under the contractor-licensing provisions of the Business and Professions Code are penal in nature rather than remedial or regulatory. In *Sautter v. Contractors' State License Board*, 124 Cal.App.2d 149, 155–156 (1954), the Court of Appeal held that statutory provisions authorizing disciplinary action and license forfeiture under the Business and Professions Code are "penal in nature and must therefore be strictly construed." Because such provisions operate as punishment, they may not be extended by implication, administrative convenience, or post hoc relabeling. The court further treated these sanctions as analogous to criminal statutes for purposes of construction and limitations, confirming that their enforcement is constrained by the same strict interpretive rules applicable to penal laws.

California law also admits no criminal common law and confers no authority on courts to impose punishment unless the Legislature has defined a public offense with sufficient clarity and specificity. In *Ex parte Harder*, 9 Cal.App.2d 153, 155–156 (1935), the Court of Appeal held unequivocally that "there is no criminal common law in California. All public offenses or crimes are statutory, and unless there is in force at the time of the commission or omission of a particular act a statute making it a crime or a public offense,

no one can be adjudged to suffer punishment for its commission or omission." The court further explained that an enactment authorizing punishment must define the prohibited conduct with sufficient precision so that the court's role is limited to determining whether the defined acts occurred, not to supplying missing elements by judicial construction.

Taken together, *Sautter* and *Harder* establish that where a statute authorizes forfeiture or other punitive consequences without defining any substantive criminal elements or offense conduct, a court may not sustain enforcement by recharacterizing the sanction as civil, equitable, or damages. The defect is not merely procedural. Where no offense is defined, the court lacks authority to identify elements, assess culpability, or impose punishment.

A statute imposing punishment without defining a prohibited act is a penalty provision, not a substantive crime. Such provisions cannot support a judgment absent an underlying offense prosecuted with full criminal safeguards. A judgment resting solely on a penalty provision is void ab initio. *People v. Vasilyan*, 174 Cal.App.4th 443, 448–451 (2009).

Neither section 7031(a) nor (b) defines a crime or prohibited act. Section 7031(a) does not criminalize unlicensed contracting; it denies compensation for work performed. Section 7031(b) does not prohibit conduct; it mandates total forfeiture of all payments received.

The only statute defining the prohibited act is section 7028– a misdemeanor punishable by a maximum $5,000 fine.

Like the enhancement in *Vasilyan,* sections 7031(a) and (b) are derivative penalty provisions. They presuppose a section 7028 violation but contain no independent criminal elements. Legislative history confirms the punitive purpose: the statute deliberately authorizes recovery even if the contractor has fully performed and the consumer has not been harmed in any way, creating unjust enrichment solely to punish.

A court has no power to impose criminal punishment under civil rules for a public offense defined elsewhere. The 2017 judgment and 2018 affirmance—resting entirely on pure penalty provisions—is void ab initio.

4. A Judgment Is Void Where the Court Makes No Findings of Fact or Conclusions of Law Resolving the Elements Necessary to Justify Its Entry

Code of Civil Procedure § 632 cannot constitutionally be applied to permit entry of judgment without findings resolving the requisite issues that make the judgment lawful. A judgment is not judicial unless it resolves the issues necessary to justify itself. Proceedings that culminate in orders without such findings are not adjudicative in character; they are administrative in nature, and administrative process cannot substitute for judicial decision-making where the Constitution requires adjudication.

This principle applies to every judgment, civil or criminal. Without findings of fact and conclusions of law, there is no means by which to determine whether judicial power attached at all. The Constitution does not recognize a category of valid “judgment” untethered from adjudication.

California law has long recognized that findings of fact and conclusions of law constitute the judicial decision itself—the final, deliberate expression of the court. The judgment does not replace that decision; it presupposes it. Where findings are absent, adjudication has not occurred and judicial power has not attached.

Here, no findings of fact and no conclusions of law were ever made. The trial court issued only a minute order containing a conclusory assertion that Petitioner "is the contractor" and "does not possess a contractor's license." RJN Ex. 1, p.6. Those assertions resolved none of the elements necessary to impose liability or to justify the deprivation of rights or property effected by the judgment. cf. California Civil Jury Instructions § 4560.

No findings were made as to who actually performed the work, whether a licensed entity performed or supervised the work, whether the statutory elements of the claim were satisfied, or what constitutional framework governed the proceeding. No conclusions of law explain the construction of the statute, identify the elements required to impose liability, or articulate why the relief imposed was constitutionally permissible. The absence of such determinations is not a defect in form; it is the absence of adjudication itself.

The procedural posture compounds the constitutional failure. Petitioner was never formally informed that findings of fact and conclusions of law were purportedly required to be requested within ten days under Code of Civil Procedure section 632. When Petitioner later requested findings after the ten-day period, the findings were not provided. Section 632 was thus applied not as a neutral procedural regulation, but as a mechanism

to foreclose adjudication altogether—allowing judgment to be entered while preventing the court from deciding the issues necessary to justify its own exercise of judicial power.

A statute may regulate the manner in which findings are prepared or requested, but it cannot constitutionally be applied to excuse a court from making the determinations that render its judgment judicial. Where findings are requisite to jurisdiction, liability, or relief, their absence renders the resulting judgment void.

This Court has made clear that a "hearing" is not satisfied by the mere taking of testimony or the issuance of an order. A hearing requires consideration of evidence, the finding of facts, the application of law to those facts, and the rendering of judgment accordingly. The power vested in a judge is to hear and determine—not to determine without hearing. Where a court issues a judgment without findings resolving the elements of the claim or the predicates for relief, the party has not been heard in the constitutional sense.

What occurred here was not adjudication. Because no findings of fact or conclusions of law were made resolving the issues necessary to justify the judgment, judicial power never attached. The resulting judgment therefore is not entitled to finality, deference, or enforcement.

5. The Judgment Is Separately Void for Extrinsic Fraud and Fraud on the Court—Systematic Concealment of the Penal Character of the Proceeding and Denial of All Criminal-Process Safeguards

A judgment procured by extrinsic fraud is not merely voidable; it is void ab initio for want of personal jurisdiction over the deceived party and, where the fraud conceals the

true penal character of the proceeding, for want of subject-matter jurisdiction as well. *Westphal v. Westphal*, 20 Cal.2d 393, 397 (1942). This Court has explained that fraud or mistake is "extrinsic" when it deprives the unsuccessful party of an opportunity to present his case to the court and thereby destroys the adversary character of the proceeding. *In re Marriage of Modnick*, 33 Cal.3d 897, 904–905 (1983). Where the adversary character of a proceeding is destroyed, the court is no longer exercising judicial power in its constitutional sense, and the resulting judgment lacks the integrity required of an adjudication entitled to enforcement.

Extrinsic fraud encompasses any conduct external to the adversary issues that prevents a party from having a fair opportunity to be heard on the true nature of the controversy. *In re Marriage of Park*, 27 Cal.3d 337, 342 (1980). This principle is reaffirmed in *Westphal*, 20 Cal.2d at 397. When fraud strikes at the threshold character of the proceeding itself rather than at the merits, it destroys jurisdiction from the outset.

Here, the fraud went to the very nature and structure of the action itself and deprived Petitioner of any meaningful opportunity to defend against what was, in substance, a criminal prosecution disguised as a civil case.

In addition to the concealment of the penal character of the proceeding, the record reflects a repeated pattern of affirmative misrepresentation that operated to foreclose any forum for adjudicating jurisdictional voidness. In both 2019 (RJN Ex. 3) and again in 2025 (RJN Ex. 12) the Superior Court denied Petitioner's motions to vacate by asserting that the Court of Appeal had already "raised and rejected" Petitioner's jurisdictional

challenges, and that res judicata and the appellate mandate therefore barred further review.

That assertion is demonstrably false. The Court of Appeal never adjudicated whether the 2017 judgment was void for lack of constitutional authority. The premise on which the Superior Court denied relief—that jurisdictional issues had already been heard and determined on appeal—was therefore untrue. By misrepresenting the appellate record and treating that misrepresentation as dispositive, the Superior Court repeatedly insulated the judgment from the very jurisdictional scrutiny that California law makes mandatory. This was not a discretionary legal conclusion, but a false factual predicate used to deny any adjudication of jurisdiction.

Such conduct constitutes fraud on the court. A judgment procured or preserved through false representations concerning what issues were previously adjudicated is void, particularly where the misrepresentation is used to prevent a court from performing a non-discretionary duty to determine its own jurisdiction. Courts do not possess authority to declare that jurisdictional questions were decided when the record shows they were not. The resulting denial of any forum to test constitutional authority is extrinsic fraud that vitiates the judgment and all subsequent enforcement proceedings.

In the 2025 proceedings, the court compounded that error by denying evidentiary development on fraud and jurisdiction while simultaneously ruling that no fraud existed and that the judgment could not be disturbed. Fraud on the court cannot be adjudicated in the abstract. Where a party alleges extrinsic fraud and seeks to establish that the court lacked jurisdiction to impose punishment, the denial of any opportunity to present

evidence is itself a denial of due process and an independent act of extrinsic fraud. A court may not decide fraud claims while preventing their proof.

The 2025 Minute Order also substituted procedural finality for jurisdiction. Rather than determining whether the court possessed constitutional authority to impose a punitive forfeiture through civil process, the court enforced the judgment while disclaiming responsibility to decide that question at all. Finality doctrines were treated as superior to jurisdiction, and enforcement was permitted to proceed without any adjudication of constitutional authority. That inversion of judicial function is not error within jurisdiction; it is action without jurisdiction.

The repetition of these acts by the same court—misstating the appellate record, recharacterizing jurisdictional challenges as relitigation, denying evidentiary development on fraud, and enforcing finality without adjudicating jurisdiction—demonstrates institutional containment rather than adjudication. When a court knowingly enforces a judgment while refusing to decide whether it has jurisdiction to impose it, the court ceases to exercise judicial power in the constitutional sense. The resulting judgment and all orders enforcing it are void.

a. Concealment of the Penal Character of the Proceeding Destroyed the Adversary Process at Its Inception

This proceeding imposed a ~$930,000 forfeiture untethered to harm, fault, compensation, or unjust enrichment. The sanction is penal in both design and effect. Yet throughout the proceeding, from trial through appeal, Real Parties, their counsel, and the courts repeatedly and knowingly mislabeled the sanction as "damages," "disgorgement,"

or an “equitable remedy.” This mislabeling served to evade the mandatory criminal-process safeguards required whenever the State imposes punishment. Real Parties sought “disgorgement”. ROA 144 Case No. 30-2015-00805807. The trial court’s Minute Order after trial awarded “discouragement” (RJN Ex. 1, p. 6) while the judgment labeled the award as “damages.” RJN Ex. 1, p.9. The Court of Appeal characterized the sanction as an “equitable remedy” and “disgorgement” RJN Ex. 2, p.19. The trial judge acknowledged that *MW Erectors*, supra (finding 7031 imposed a penalty) was the “bellwether case on the issue of contractor responsibility” and that the remedy was “draconian.” RJN Ex. 27 pp. 814–815– Reporter’s Transcript. According to Oxofrd Languages, “draconian” means “excessively harsh and severe”– the exact consequence our constitution’s excessive fines clause was established to prevent.

The mischaracterization of 7031 as an “equitably remedy” or “damages”—when 7031 neither mentions nor authorizes either—deprived Petitioner of an indictment or charging instrument. It deprived him of proof beyond a reasonable doubt. It deprived him of a jury trial on guilt. It deprived him of confrontation of witnesses. It deprived him of appointed counsel. It deprived him of notice of the penal nature and cause of the accusation.

Concealing the penal character of a proceeding while imposing punishment is the archetype of extrinsic fraud. *Westphal v. Westphal*, 20 Cal.2d 393 (1942); *In re Marriage of Modnick*, 33 Cal.3d 897 (1983). Such concealment is indistinguishable from keeping a party in ignorance of the action itself and thereby denying any opportunity for a fair adversary hearing on the true nature of the case.

b. The Forfeiture Was Knowingly and Falsely Labeled "Equitable" and "Damages"

Where subsection (a) above addresses how concealment of the penal character of the proceeding deprived Petitioner of a fair adversary hearing, this subsection addresses why that concealment cannot plausibly be attributed to mistake, ambiguity, or good-faith legal disagreement.

This Court has repeatedly and unequivocally held that Business and Professions Code section 7031 imposes a "stiff all-or-nothing penalty" and that no equitable considerations apply. *MW Erectors, Inc. v. Niederhauser*, 36 Cal.4th 412, 426 (2005); *Lewis & Queen v. N.M. Ball Sons*, 48 Cal.2d 141, 152 (1957).

Neither section 7031(a) nor section 7031(b) authorizes damages. Neither authorizes disgorgement– a term that, based on Petitioner's research, appears to remain totally undefined by statute or cohesively defined by case law in California.

Nonetheless, the trial court entered a judgment expressly labeled "damages." RJN Ex. 1, p.9. The Court of Appeal labeled the sanction an "equitable remedy" and "disgorgement". RJN Ex. 2, p.19. The trial judge admitted the remedy was "draconian." RJN Ex. 27 pp. 814–815– Reporter's Transcript. The Court of Appeal conceded that the sanction "often produces harsh results" and "may be perceived as unfair." *Humphreys v. Bereki*, G055075; RJN Ex. 2.

This mislabeling was not inadvertent. It was undertaken against a settled legal backdrop and in the face of a proceeding whose purely penal character made the punitive nature of section 7031 unavoidable. The trial court judge was the same judge involved in

MW Erectors, which held that section 7031 imposes a penalty. The appellate justice who authored the 2018 affirmance had previously held that equity does not permit restitution where the plaintiff retains the full benefit of the bargain. *Peterson v. Cellco Partnership*, 164 Cal.App.4th 1583, 1591–1594 (2008). The windfall condemned in *Peterson* was approved here under a false equitable label. The presiding justice who concurred in the 2018 affirmance also participated in *MW Erectors*. Moreover, even assuming arguendo that section 7031 imposed an equitable remedy, neither court did equity. No offsets were allowed, and although the trial court purported to impose a constructive trust, it refused to apply strict tracing to determine whether the funds were ever in Petitioner's possession or whether he retained possession of them at any time to "disgorge."

Petitioner did not acquiesce in the civil labeling of the forfeiture on appeal. He expressly argued in his opening brief that the award under 7031 is penal in nature, operates as punishment untethered to compensation or restitution, and therefore cannot constitutionally be imposed without criminal-process safeguards. RJN Ex. 30, pp.41-47. He further argued that the punitive character of the sanction deprived the court of authority to proceed as though the matter were purely civil.

The Court of Appeal did not meaningfully address that argument. Although the Opinion recites that Petitioner contended "disgorgement" is "criminal in nature" or "penal," it resolved the issue solely by relabeling the sanction as an "equitable remedy" and citing federal securities cases, without engaging the Constitutional consequences of imposing punishment through civil form. RJN Ex. 2, pp. 19-20. The opinion did not analyze whether the forfeiture constituted punishment, did not address the absence of criminal-process

protections, and did not reconcile its characterization with binding California authority recognizing section 7031 as a penalty to which equitable considerations did not apply.

This was not an oversight. The court acknowledged that the statutory scheme subjects unlicensed contractors to criminal penalties and that section 7031 operates harshly and without regard to injury or equities, yet then asserted it was equitable while declining to apply equitable offsets and to confront whether imposing such a sanction through a civil proceeding exceeded constitutional limits. *Id.*. By resolving the issue through relabeling rather than adjudication, the court perpetuated the same concealment of penal character that occurred at trial.

That omission is central to the extrinsic fraud analysis. Where a party squarely raises the penal nature of a sanction on appeal, and the court avoids the issue by mischaracterization rather than decision, the resulting judgment is not the product of an adversary adjudication on the true nature of the controversy. It is the continuation of punishment imposed under civil disguise.

These facts establish not merely mischaracterization, but concealment of the penal nature of the sanction, confirming that the deprivation described in subsection (a) was the product of fraud rather than innocent error.

c. The Trial-Level Record Establishes Knowing Exploitation and Procedural Evasion

The extrinsic fraud did not originate on appeal. It was constructed at the trial level through a sequence of procedural acts that deprived Petitioner of any meaningful opportunity to contest the penal nature of the proceeding.

Petitioner was self-represented and at the time procedurally unsophisticated. Following the Court's oral judgment, he filed a "Writ of Error (Order to Vacate)" to challenge subject matter jurisdiction, including for violation of the Excessive Fines Clause. ROA 209, Case No. 30-2015-00805807.

Opposing counsel responded with contemptuous dismissal by email rather than engagement: "Mr. Bereki: Thank you for your clarification and the opportunity to avoid the trouble that may befall me as a result of the trial conducted in this matter. As I remain unpersuaded by your position, I suppose I (and I guess Judge Chaffee as well) will just have to take my chances that the court will have the same view of your argument as I do."

It appears that the judge's courtroom clerk rejected the Writ of Error filing through an e-filing rejection notice that was never entered on the record and that stated: "The Court deny the request to vacate the judgment." SRJN Ex. 2.

Petitioner formally invoked the Sixth Amendment again challenging jurisdiction. He served Demands for Bill of Particulars on both opposing counsel and the trial judge demanding to know the true nature and cause of the accusation. SRJN Ex. 4.

All such demands were ignored, further violating due process.

A motion to compel production of the Bill of Particulars was denied with sanctions. The court-imposed sanctions without hearing Petitioner and adjudicating the penal character of the proceeding. ROA 256–264, Case No. 30-2015-00805807.

Real Parties admitted in their First Amended Trial Brief that they were privately prosecuting the public offense under Business and Professions Code section 7028. ROA 170, Case No. 30-2015-00805807.

The section 7031(b) claim was severed and tried alone. Yet the court entered judgment for "damages," a remedy Real Parties had abandoned and never proved. RJN Ex. 1, p.9.

This record establishes procedural engineering designed to impose punishment while preventing any adjudication of the constitutional protections that attach to penal sanctions that Petitioner specifically raised and was sanctioned $1,500, claiming the "bill of particulars appears to be irrelevant". RJN Ex. 31, p. 948.

d. The Appellate Process Disposed of Jurisdictional Challenges Through Relabeling and Procedural Evasion, Converting Non-Adjudication Into Finality

This subsection does not repeat the trial-level concealment and procedural manipulation described in subsections (a)–(c). It addresses a distinct and independent form of extrinsic fraud: the failure of the appellate and post-judgment process to adjudicate threshold jurisdictional questions, coupled with the use of finality doctrines to foreclose such adjudication while continuing to enforce a punitive judgment. The defect here lies not in an erroneous decision, but in the substitution of labels and procedural foreclosure for adjudication itself.

In the 2018 appeal, Petitioner squarely presented a jurisdictional challenge: that the forfeiture imposed under section 7031(b) functioned as punishment and therefore could not constitutionally be imposed through a civil proceeding without criminal-process

safeguards. The Court of Appeal did not weigh competing California authorities on the nature of section 7031(b), nor did it resolve the jurisdictional consequences of imposing a harsh, non-remedial forfeiture untethered to injury or enrichment. Instead, the court disposed of the issue by characterizing the sanction as an "equitable remedy" and by importing federal securities "disgorgement" cases arising under an entirely different statutory and regulatory scheme. RJN Ex. 2, p. 20.

Those federal SEC cases do not arise under California construction law, do not involve section 7031, and do not address the jurisdictional limits on imposing punitive forfeiture through civil process. By relying on that foreign doctrine rather than adjudicating the controlling California jurisdictional question presented, the court avoided deciding whether it possessed authority to impose the sanction at all. That is a classic marker of procedural evasion, not adjudication.

The same pattern repeatedly recurred in 2025. The March 2025 Motion to Vacate was summarily denied. RJN Ex. 10– Minute Order; Ex. E44– Audio Recording of Hearing; RJN Ex. 26, pp. 527-531; ROA's 306-323, Case No. 30-2015-00805807. In May 2025, Petitioner then filed an independent action in equity to vacate the judgment alleging it was void ab initio for lack of subject-matter jurisdiction, extrinsic fraud, and fraud on the court. ROA's 361,369. At the June 26, 2025 hearing, Petitioner again asked the Superior Court to determine the nature of the sanction—penal or civil—and to adjudicate whether jurisdiction existed to impose it. The court declined to answer that threshold question, denied evidentiary development on fraud, adopted its tentative ruling, and relied on finality

principles rather than deciding jurisdiction. Ex. E46– Audio Recording of Hearing; RJN Ex. 32– Certified Transcript; RJN Ex. 12– Minute Order.

On appeal from that denial, the Court of Appeal again refused adjudication. RJN Ex. 15. Real Parties moved to dismiss on grounds of res judicata, collateral estoppel, and law of the case. RJN Ex. 13. Petitioner opposed, emphasizing that void judgments are exempt from preclusion and that no court had ever adjudicated jurisdiction. RJN Ex. 14. The Court of Appeal expressly acknowledged that doctrines of res judicata, collateral estoppel, and law of the case do not preclude relief from a void judgment—yet dismissed the appeal without determining whether the judgment was in fact void. This was an attempt to convert non-adjudication into finality.

By dismissing mischaracterization of a penal proceeding as 'mere legal argument,' the Court of Appeal effectively collapsed the settled doctrine of extrinsic fraud—contrary to *Westphal*, *Modnick*, and *Park*—and used that collapse to insulate jurisdictional non-adjudication from review.

Taken together, these proceedings demonstrate that the appellate process functioned as an enforcement mechanism, not an adjudicatory one. At no stage—trial, initial appeal, post-judgment motion, or subsequent appeal—did any court adjudicate whether the sanction imposed constituted punishment or whether subject-matter jurisdiction existed to impose it without criminal-process safeguards. Instead, courts repeatedly enforced the judgment while declining to decide the jurisdictional questions that Petitioner consistently raised. Such a process destroys the adversary character of

judicial review and the judicial process itself and constitutes extrinsic fraud and fraud on the court, rendering the judgment void.

e. The Refusal to Apply Intervening Controlling Authority—and the Continued Avoidance of Binding Precedent—Confirms Ongoing Institutional Concealment of a Jurisdictional Defect

In 2025, Petitioner's independent action in equity sought adjudication of whether the judgment constituted punishment and therefore could not constitutionally be imposed through a civil proceeding without criminal-process safeguards. That request was not an effort to relitigate settled issues, but an attempt to compel adjudication of jurisdiction in light of binding authority that had never been applied.

Long before the 2017 judgment, this Court had already held—unequivocally—that section 7031 imposes a "stiff all-or-nothing penalty" to which no equitable considerations apply. *MW Erectors, Inc. v. Niederhauser*, 36 Cal.4th 412, 426 (2005); *Lewis & Queen v. N.M. Ball Sons*, 48 Cal.2d 141, 152 (1957). Those decisions are controlling and leave no room for characterizing section 7031 forfeiture as compensatory ("damages"), restorative, or equitable and mention nothing about the undefined principle of "disgorgement".

In 2020, while Petitioner's collateral challenges were pending, the United States Supreme Court issued *Liu v. SEC*, 591 U.S. 71 (2020), which clarified as a matter of Constitutional law that a forfeiture labeled "disgorgement" becomes punitive—and therefore non-equitable—when it is untethered from net profits, allows no deduction of legitimate expenses, and operates as total forfeiture. *Liu* did not announce new law in the abstract; it articulated the constitutional boundary between remedial equity and

punishment. That boundary bears directly on jurisdiction whenever a court imposes forfeiture through civil form.

After *Liu*, California Courts of Appeal acknowledged—consistent with *MW Erectors* and *Lewis & Queen*—that section 7031 operates as a penalty, even while continuing to employ the undefined term "disgorgement." *Eisenberg Village v. Suffolk Construction Co*., 53 Cal.App.5th 1201, 1212 (2020); *San Francisco CDC, LLC v. Webcor Construction L.P.*, 62 Cal.App.5th 266, 280 (2021). These decisions are not cited as controlling authority, but as confirmation that the punitive character of section 7031 is neither novel nor obscure within the judiciary.

In the 2025 proceedings, the Court of Appeal acknowledged the existence of intervening authority yet refused to apply it, dismissing Petitioner's challenge as "relitigation." At the same time, the court expressly conceded that doctrines of res judicata, collateral estoppel, and law of the case do not preclude relief from a void judgment. RJN Ex. 15, p. 192. Nevertheless, the court declined to determine whether the judgment was void.

That refusal cannot be characterized as ordinary legal error. When a court declines to adjudicate subject-matter jurisdiction in the face of controlling authority—while continuing to enforce a punitive judgment through civil form—the result is not adjudication but concealment. Courts may err within jurisdiction; they may not avoid deciding whether jurisdiction exists at all.

The continued enforcement of a forfeiture whose penal character has never been adjudicated—despite controlling California precedent (*MW Erectors, Lewis & Queen*), intervening constitutional authority (*Liu*), and post-*Liu* judicial acknowledgment—confirms that the concealment identified in subsections (a)–(d) was not episodic or inadvertent. It is institutional and ongoing. Such conduct extinguishes jurisdiction and renders the judgment void ab initio.

f. Fraud on the Court: Substitution of Labels and Procedural Finality for Adjudication of Jurisdiction

A judgment procured through a scheme that prevents the court itself from performing its judicial function constitutes fraud on the court and is void. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 245–246 (1944).

Fraud on the court is not limited to falsified evidence or perjured testimony. It includes conduct that corrupts the judicial process itself—by preventing the court from adjudicating the true nature of the controversy, by suppressing controlling law, or by substituting procedural mechanisms for substantive decision-making.

That is precisely what occurred here.

At every stage—trial, initial appeal, post-judgment proceedings, and subsequent appeal—the dispositive jurisdictional question was the same: whether the sanction imposed under section 7031 constituted punishment and therefore could not constitutionally be imposed through a civil proceeding without criminal-process safeguards.

At no stage did any court decide that question.

Instead, the courts repeatedly substituted labels (“damages,” “equitable remedy,” “disgorgement”) for analysis, relied on procedural doctrines to avoid adjudication, and enforced the judgment while disclaiming responsibility to determine whether it was void. This pattern converted non-adjudication into finality and enforcement into adjudication.

Such conduct is incompatible with the exercise of judicial power. A court that enforces a judgment while refusing to decide whether it has jurisdiction to impose it ceases to act judicially. *Ex parte Siebold*, 100 U.S. 371, 376–377 (1880). The resulting judgment lacks the sanction of law and is void. *Elliott v. Lessee of Piersol*, 26 U.S. 328, 340 (1828).

The cumulative record therefore establishes fraud on the court under *Hazel-Atlas*, independently requiring vacatur.

g. Extrinsic Fraud by Denial of a Real Hearing: Jurisdiction Is the Right to Hear and Determine, Not to Determine Without Hearing

Despite the appearance of a trial and multiple appeals—spanning nine separate proceedings before more than twenty-five state and federal judges—Petitioner has never received a constitutionally valid hearing on the dispositive issues in this case. The proceedings afforded the form of adjudication while withholding its substance, as jurisdictional and constitutional objections were repeatedly avoided, deferred, or dismissed without decision while enforcement continued. A proceeding that determines consequences while refusing to adjudicate authority is not judicial in character. Under

controlling Supreme Court authority, such a process cannot confer jurisdiction or legitimacy on the resulting judgment.

6. The Judgment Is Separately Void Ab Initio Because Respondents Never Proved — and No Trier of Fact Ever Found—That Petitioner Personally Performed Any Act or Contract Requiring a License

Section 7031 authorizes forfeiture only against the unlicensed contractor who performed the construction work for which compensation was paid. Its plain language requires proof that the defendant was a *person required to be licensed* and that the defendant personally performed construction services requiring licensure. Liability does not attach based on contract form alone, but on *performance* of licensed activity.

At trial, Respondents never offered evidence that Petitioner Adam Bereki was a "person" required to be licensed within the meaning of the statute or that he personally performed any construction work requiring a license. See *United States v. Bass*, 784 F.2d 1282, 1284 (5th Cir. 1986) (status elements must be proven and cannot be presumed). RJN Ex. 27– Reporter's Transcript. Respondents' counsel expressly acknowledged that their sole theory of liability turned on contract identity, not on performance of work, stating that "the first [and only] cause of action goes to the issue of who the contracting parties were and the licensing status of those parties," and that there were "no issues involving quality of workmanship, negligence, [or] fraud." *Id.* at p. 624.

Consistent with that theory, the trial court made no finding that Petitioner personally performed any construction work, and no finding that any construction services were performed by an unlicensed contractor. The Court's Minute Order contains no such determination. RJN Ex. 1, pp.5-7. The undisputed evidence showed only that The Spartan

Associates, Inc. performed the work, consistent with the building permit (SRJN Ex. 3) and trial testimony. RJN Ex. 27, p. 742 lines 1-8. Petitioner acted solely as Spartan's qualifying individual and responsible managing officer, both of which constitute a "licensee" under Business and Professions Code section 7096.

The Court of Appeal never addressed this issue, despite it being squarely raised on appeal. RJN Ex. 31 pp. 912-919; RJN Ex. 2- Appeal Opinion.

Failure to prove an indispensable statutory element is jurisdictional, not merely evidentiary. Evidence Code § 500 places the burden of proof on the party asserting each essential element of a claim. A court lacks subject-matter jurisdiction to enter judgment on a statutory cause of action where the plaintiff fails to establish every element the Legislature made essential to liability. *Drink Tank Ventures LLC v. Real Soda in Real Bottles, Ltd.*, 71 Cal.App.5th 528, 542–543 (2021); *Louisville & Nashville R.R. Co. v. Thompson*, 220 U.S. 265, 270–271 (1911) ("Just as conviction upon a charge not made would be sheer denial of due process, so is it a violation of due process to convict and punish a man without evidence of his guilt."); *In re Winship*, 397 U.S. 358 (1970).

By entering judgment without proof—and without any finding—that Petitioner was a "person" required to be licensed and personally performed work requiring a license, the Superior Court retroactively altered the quantum and quality of proof necessary to impose punishment. That constitutes an ex post facto application of law prohibited by Article I, Section 10 of the United States Constitution. *Calder v. Bull*, 3 U.S. 386, 390 (1798), defines ex post facto laws to include "[e]very law that alters the legal rules of evidence,

and receives less, or different, testimony, than the law required at the time of the commission of the offence, in order to convict the offender."

Because Respondents never proved—and no trier of fact ever found—that Petitioner was the person who performed construction work requiring a license, the Superior Court lacked subject-matter jurisdiction to enter judgment under sections 7031(a) or (b). The judgment and its affirmance are therefore void ab initio on this independent ground as well**.**

7. The State's Provision of Full Judicial Process to Attorneys—but Not Contractors—Confirms the Punitive Character of the Scheme and the Denial of Equal and Structural Due Process

In California, when members of the State Bar face discipline or the suspension or revocation of a professional license, the State provides a comprehensive, multi-tiered adjudicative system designed to safeguard constitutional rights. Attorney discipline is adjudicated in the State Bar Court, a full-time court composed of trial-level judges, with review by a three-judge appellate department, and with mandatory final review by this Court as the ultimate arbiter of attorney discipline. Business & Professions Code §§ 6078, 6097.1, 6068.5. Discipline may not be imposed without formal charges, adjudication before judicial officers, and ultimate review by this Court.

No such adjudicative protections exist for contractors—or for any other known regulated profession in California—despite the imposition of sanctions that are equally or more punitive in nature. Contractors are subjected to six- and seven-figure monetary forfeitures, automatic suspension or revocation of professional licenses, and permanent exclusion from their chosen occupation through proceedings labeled "civil," prosecuted

by private parties, without indictment, jury trial, proof beyond a reasonable doubt, or review by a specialized court or this Court prior to the imposition of punishment. Supreme Court review is not mandatory, and in practice is routinely denied.

This stark disparity confirms that the sanctions imposed under Business and Professions Code sections 7031 and 7071.17 are not regulatory, but punitive. The State's deliberate choice to provide full judicial process when disciplining attorneys—while denying comparable protections when imposing punishment on contractors—demonstrates that the absence of safeguards here is not incidental or unavoidable, but structural. When punishment is imposed without the adjudicative machinery the State itself recognizes as constitutionally necessary in analogous contexts, the resulting judgment is constitutionally void.

The selective denial of adjudicative process also violates due process and equal protection. The Constitution does not permit the State to impose punishment of this magnitude on one class of persons while affording another class—engaged in a different licensed profession—full judicial process, mandatory appellate review, and final oversight by this Court. The absence of any equivalent procedural protections for contractors confirms that the 2017 judgment was entered without lawful authority and is void ab initio.

8. The Superior Court and Court of Appeal That Enforced Business & Professions Code §§ 7028, 7031, and 7071.17 Ceased to Exercise "The Judicial Power of the State of California" and Acted Without Subject-Matter Jurisdiction

What this record reflects is not isolated error, but a fundamental category shift in the role California courts now assume when enforcing punitive regulatory statutes. Over time, courts have increasingly operated under an administrative enforcement model in

which statutes are treated as self-executing policy choices; enforcement is presumed to be automatic; jurisdiction is assumed rather than adjudicated; constitutional limits are treated as background considerations rather than mandatory constraints; and finality is elevated above legality. In that model, adjudication of constitutional authority becomes discretionary, and the judicial function is reduced to managing outcomes rather than determining whether the exercise of power is lawful at all.

That model is incompatible with the common-law constitutional system the California Constitution adopted. In the constitutional model, courts are not implementation nodes for legislative policy. They are guardians of jurisdiction, established as a check and balance on legislative action. Judicial power exists only where jurisdiction is established, and jurisdiction is conditional on compliance with constitutional limits. When punitive sanctions are imposed, courts bear a non-discretionary duty to adjudicate whether constitutional authority exists to impose them. Enforcement without such adjudication is not error within jurisdiction; it is action without jurisdiction, and therefore void.

When a court enforces Business and Professions Code sections 7028, 7031, and 7071.17 while declining to adjudicate properly raised constitutional challenges to the authority to impose punishment, it does not merely misapply the law. It ceases to exercise “the judicial power of the State of California” as that power is defined by the Constitution. What remains is not judicial adjudication, but administrative execution of legislative policy. Acts taken in that posture are ultra vires and coram non judice, regardless of how long they have gone uncorrected or how settled their consequences may appear.

The Superior Court of Orange County, the Fourth District Court of Appeal, and every court that has enforced or refused to vacate the 2017 judgment ceased to exercise "the judicial power of the State of California," which the California Constitution vests only in constitutional courts, and instead functioned as statutory tribunals administering a legislative enforcement scheme without subject-matter jurisdiction.

From statehood through the nineteenth century, "judicial power" in California had a definite and historically settled meaning. The 1849 Constitution vested judicial power in courts of common-law and equity jurisdiction, proceeding according to known forms and modes of adjudication, with the right to trial by jury and the availability of common-law defenses. The guarantee of the rule of law or English/American common law was referred to as "proceedings according to the course of the common law" in Section 14 Article II of the Northwest Ordinance of 1787, and what the People believed to be inherent and a pre-political "birthright". *Van Ness v. Pacard*, 27 U.S. 137, 144 (1829).

The 1849 Convention and the First Legislature expressly rejected the Roman civil-law system of presumed incompetence, legislative punishment, and adjudication without common-law process. Report on Civil and Common Law, Appendix O to 1850 Senate Journal at 459–480. This Court confirmed that the common law of England was the law of the State and that prior Roman civil law had been repealed. *Fowler v. Smith*, 2 Cal. 568 (1852).

That Constitutional structure was preserved in the 1879 Constitution, which continued to vest judicial power in courts exercising jurisdiction "at law and in equity," while carefully distinguishing between courts of general jurisdiction and inferior tribunals

exercising "special statutory jurisdiction." See *Ex parte Knowles*, 5 Cal. 300, 306 (1855); *Parsons v. Tuolumne County Water Co.*, 5 Cal. 43 (1855); *Cohen v. Barrett*, 5 Cal. 195, 210 (1855). Even when courts of general jurisdiction heard statutory matters, they did so quoad hoc as courts of limited jurisdiction, strictly confined to the statute. *Id.*

That constitutional settlement was fundamentally altered in 1966, when the People repealed the only provisions of Article VI that expressly vested courts with general jurisdiction "at law and in equity." Former Cal. Const. Art. VI, §§ 5–6 (1849); Art. VI, § 5 (1879). The current Article VI contains no equivalent grant; Article VI, § 5 has been entirely removed. Instead, section 10 provides that Superior Courts have original jurisdiction in "all other causes"—a phrase unknown to English or American Constitutional history and undefined anywhere in California law. There is no known court in English or American history vested with unlimited jurisdiction over "all other causes." cf. *Ex parte Guerrero*, 69 Cal. 88 (1886) (distinguishing courts of common-law general jurisdiction from purely statutory proceedings). No act of Congress has ever consented to this alteration of California's form of government. U.S. Const. Art. IV, §§ 3–4; Art. III, § 2.

The historical record confirms that the People were never presented with, never asked to evaluate, and never given an explanation of what jurisdictional authority would replace the abolished law-and-equity jurisdiction. The official materials presented to the electorate in 1966—including the Legislative Counsel's analysis and arguments contained in the Voter Information Guide for the 1966 General Election (Proposition 1-A); incorporated as if fully set forth herein—describe the revision of Article VI as a reorganization and modernization of the courts, but nowhere identify the repeal of law-

and-equity jurisdiction as a substantive change, nor explain what adjudicatory jurisdiction, forms, or principles would thereafter govern the exercise of judicial power.

As a result, modern courts rely not on an identified Constitutional vesting of jurisdiction, but on a presumption of authority—the assumption that Superior Courts remain courts of common law or equity general jurisdiction even though the constitutional source of that jurisdiction has been repealed. That presumption is not jurisdiction. Judicial power must be traced to a Constitutional source; it cannot arise from practice, habit, or repetition. See especially *State ex rel. Wernmark v. Hopkins*, 213 Or. 669 (1958).

That defect is exposed with particular clarity here. The proceeding against Petitioner involved a purely statutory offense (unlicensed contracting), purely statutory liability, purely statutory penalties, and statutory elimination of common-law and equitable defenses, including setoff, proportionality, and adjudication of fault or harm. The courts below themselves acknowledge that the offense and penalties are entirely statutory. In enforcing § 7031, the Superior Court did not adjudicate a common-law or equitable controversy; it administered a legislative forfeiture scheme.

Section 7031(b) confirms this conclusion. It authorizes suit only in "any court of competent jurisdiction." That language does not confer jurisdiction; it presupposes an independent source of subject-matter jurisdiction. *Lightfoot v. Cendant Mortg. Corp.*, 580 U.S. 82 (2017). Where such a source is absent or unidentified, adjudicatory power does not exist. *State ex rel. Wernmark v. Hopkins*, 213 Or. 669 (1958). After 1966, no Constitutional provision identifies what renders a court "competent" to adjudicate a purely statutory penal forfeiture of this kind. "All other causes" supplies no historically cognizable

jurisdiction and no governing principles of adjudication. None are identified in the Constitution. The truth is, there is no court of competent jurisdiction in California vested with subject matter jurisdiction to hear and determine 7031 claims.

By mechanically enforcing irrebuttable statutory presumptions of injury and dishonesty, stripping all common-law defenses, and imposing punitive monetary forfeiture and occupational debarment without adjudication of fault, harm, or value, the Superior Court acted as a statutory enforcement tribunal, not a Constitutional court. A court that applies legislative commands without exercising judicial judgment does not exercise judicial power.

That loss of judicial character was completed when the Fourth District Court of Appeal dismissed Petitioner's 2025 appeal without deciding whether the 2017 judgment was void. Refusal to perform that ministerial duty is not judicial error; it is abdication of judicial power.

By acknowledging the governing rule while refusing to determine voidness or order the mandatory restitution that must follow vacatur—including restoration of Petitioner's profession, earnings, and home—the Court of Appeal did not exercise judgment. It exercised will. An order entered without jurisdiction and without adjudication is coram non judice and void. *Windsor v. McVeigh*, 93 U.S. 274, 277 (1876); *Elliott v. Peirsol's Lessee*, 26 U.S. 328, 340 (1828).

In sum, when courts enforce a statutory scheme that strips adjudication of its judicial character, and then refuse to perform the mandatory act of vacating a void

judgment, they cease to exercise judicial power altogether. Their authority rests not on Constitutional vesting, but on presumption. Such orders are nullities and must be vacated.

9. Business & Professions Code § 7071.17 Operates as an Unconstitutional Bill of Pains and Penalties and Violates Due Process and Equal Protection Rendering Any Judgment That Triggers it Void Ab Initio

a. Business & Professions Code § 7071.17 Imposes Automatic Professional Destruction Without Adjudication

Even assuming arguendo that a license was constitutionally required in this instance—an assumption foreclosed by the original meaning of Article I, section 1 (see subsection 10, infra)—once issued it becomes a vested property right whose destruction demands heightened protection. *Ettinger v. Board of Medical Quality Assurance*, 135 Cal.App.3d 853, 858–859 (1982).

Section 7071.17 obliterates that right without a judicial determination of rights. It mandates immediate, permanent, non-judicial suspension or revocation by operation of statute the moment a section 7031 money judgment remains unpaid for ninety days or a disciplinary bond cannot be posted—with no hearing, no culpability finding, and no ability-to-pay inquiry.

Section 7071.17's unconstitutional structure is laid bare by its operation in this case. The statute left Petitioner with no avenue to regain his license other than satisfaction of the judgment, posting a bond equal to the full judgment amount, or submission of a notarized accord acceptable to the private judgment creditors. § 7071.17, subds. (a), (b)(2)–(4), (d). Because a bond in the full amount of the judgment was unattainable, reinstatement depended entirely on private consent. Petitioner sought that consent in

good faith, requesting any accord that would allow him to work; the Real Parties demanded a $300k payment which Petitioner could not afford.

Based on the mandatory nature of the statute, the Contractors State License Board had no discretion or authority to do anything else: it conducted no hearing and made no determination regarding harm, public safety, licensure fitness, proportionality, or ability to pay. As applied, section 7071.17 thus placed the continuation of a state-imposed occupational disability entirely in private hands, with the State acting solely as the mechanical enforcer of that private veto. This confirms that the statute operates as punitive enforcement and an unconstitutional bill of pains and penalties rather than a neutral licensing provision.

Here, revocation serves no public-protection purpose and is purely punitive:

- The Contractors State License Board itself examined Petitioner, certified him competent, and issued License No. 927244—the very license it later revoked for "non-payment." No evidence contrary to this "competency" has ever been presented denying Petitioner the rights to notice and opportunity to defend.
- The work was performed under a purely private contract on private property; Real Parties received the full benefit– approximately $930,000 in custom remodel work with zero evidence of defect, harm, or danger.
- No member of the public ever complained to the CSLB.
- The underlying 2017 judgment is void ab initio for all reasons stated herein including violating inalienable rights to contract and to the fruits of lawful

labor and for resting on irrebuttable legislative fictions of incompetence and dishonesty in the complete absence of actual harm.

No other known major California profession suffers professional death for mere civil insolvency. This contractor-only regime lacks any rational relation to public protection and violates equal protection and substantive due process. Cal. Const., Art. I, §§ 7, 24.

Because the 2017 judgment was entered with the known and intended effect of triggering this unconstitutional mechanism, the Superior Court lacked subject-matter jurisdiction to enter it. The judgment and the CSLB's revocation of License No. 927244—are void ab initio. *Oakland Paving Co. v. Hilton*, 69 Cal. 479, 484 (1886); *County of Ventura v. Tillett*, 133 Cal.App.3d 105, 111 (1982).

b. Section 7071.17 Operates as Punishment for Nonpayment Untethered to Public Protection and Systematically Denies Any Judicial Forum for Adjudicating Constitutional Limits

The constitutional defect in Business and Professions Code section 7071.17 does not lie merely in severity. It lies in structure. When examined step by step, section 7071.17 operates as a self-executing mechanism that converts private civil liability into automatic professional destruction, without any adjudication that such destruction is justified under the police power and without any forum in which constitutional limits may be decided. See *Verified* Amicus Curiae Briefs of Tin Vo and Pier Pjerin Prenga in support of Petitioner, incorporated as if fully set forth herein.

1. The triggering predicate is private civil liability, not an adjudication of public danger. Section 7071.17 does not require a finding of fraud, incompetence,

danger to the public, or unfitness to practice. Its triggering predicate is financial: nonpayment or inability to bond a civil judgment. In Petitioner's case, the judgment arose from a private civil dispute. Such judgments compensate private parties for private harm; they do not, standing alone, constitute a determination that the contractor poses a risk to the public.

Nevertheless, section 7071.17 treats the existence of an unpaid civil judgment as sufficient to destroy licensure. The statute thus substitutes private debt for public-protection findings, collapsing two constitutionally distinct categories into one.

That collapse is constitutionally impermissible. As a matter of original constitutional structure, the police power was never understood as a general or plenary authority to disable liberty, labor, or property by legislative reclassification. Properly understood, it extends only to prohibiting wrongful conduct—that is, conduct that invades the rights of others—or to regulating otherwise rightful conduct to prevent concrete injury. It does not include authority to impose occupational destruction, total forfeiture, or professional disability for non-wrongful conduct untethered to public protection and actual harm. Any construction of police power that permits automatic forfeiture or irrebuttable presumptions of incompetence based solely on private civil liability is inconsistent with the Ninth Amendment, the original public meaning of liberty, and the Constitution's structural commitment to limited government. See also Randy E. Barnett, The Proper Scope of the Police Power, 79 Notre Dame L. Rev. 429, 433–435, 447–449 (2004).

2. License suspension functions as punishment for failure to pay, not regulation of future conduct. Because suspension under section 7071.17 is triggered

by nonpayment, it operates as punishment for failure to pay a civil judgment. It does not regulate future conduct, ensure competence, or prevent ongoing harm. Indeed, suspension does not facilitate payment; it forecloses the very means by which payment could occur.

The operative fact is not misconduct, but financial incapacity. The consequence is not corrective, but annihilative. Such a mechanism is punitive in both design and effect.

3. No hearing is afforded on the license deprivation itself. Although a contractor may have had a hearing on the underlying civil claim, no hearing is provided on the license deprivation imposed by section 7071.17. No court ever adjudicates whether suspension is necessary to protect the public, whether nonpayment was willful or unavoidable, whether inability to pay was caused by defending against the statutory regime itself (e.g. Amicus Brief of Pier Prenga), or whether suspension is proportionate. The deprivation occurs automatically, by operation of law. Jurisdiction, however, is the right to hear and determine. A regime that determines professional death without hearing does not exercise jurisdiction; it bypasses it.

4. The regime imposes economic punishment before adjudication and forecloses access to counsel. The statute's punitive operation begins before suspension ever occurs. The threat of forfeiture, suspension, and professional annihilation is so extreme that a contractor must expend extraordinary sums merely to survive long enough to be heard. Amicus Brief of Pier Prenga. Those defense costs are not discretionary, recoverable, or proportionate. They are compelled by the statutory design.

In Petitioner's case, the effort to regain licensure and to contest the collateral consequences of the judgment required approximately five million dollars in unreimbursed time, expense, and lost opportunity. The automatic suspension machinery further resulted in the loss of approximately $3 million in work, forced bankruptcy, and ~$1.2 million in home equity property, consequences imposed without any adjudication that such punishment served a regulatory purpose.

A system that conditions access to adjudication on the ability to endure financial ruin is not a system that provides due process. It is a system that eliminates those unable to pay before constitutional questions can be reached.

5. The suspension is untethered to any finding of actual harm to the public. The State invokes "public protection," but section 7071.17 does not require proof of public harm. In a private contract dispute resolved by money damages, the project is completed or taken over, the harm has occurred, and compensation has been awarded. Suspension at that point does not protect the public; it destroys the contractor.

That destruction is retrospective and punitive. It is not prospective regulation.

6. Appellate review does not cure the defect because destruction precedes review. Section 7071.17 operates on a rigid timeline, often triggering suspension within ninety days of judgment, regardless of whether appellate review is pending. Absent a stay—which itself requires resources and relief that is almost certain to be denied—the license is destroyed before the appeal can be decided.

Review that arrives only after professional destruction is not meaningful review. A system that renders appellate rights illusory cannot satisfy constitutional requirements.

7. The cumulative effect is a structural denial of any judicial forum. Taken together, section 7071.17 produces a regime in which private civil liability triggers automatic professional destruction; defense costs exhaust the ability to secure counsel; suspension proceeds without hearings; and review, if any, arrives only after irreversible harm has occurred. See also Amicus Brief of Tin Vo.

This is not the incidental effect of a harsh statute. It is the predictable operation of a system designed to enforce punishment while avoiding adjudication. That is why this Petition asserts voidness: not as rhetoric, but as consequence. When punishment is imposed without jurisdiction—without hearing, without adjudication, and without constitutional safeguards—the resulting deprivation cannot stand.

The continuation of enforcement by executive or administrative actors does not cure this jurisdictional defect. Where sanctions are imposed automatically, by operation of statute, and solely by reference to a civil judgment, such enforcement presupposes the lawful exercise of judicial power and cannot replace it. Executive enforcement may not proceed on the assumption of valid judicial authority where courts have refused to adjudicate whether constitutional limits have been transgressed, or where those limits have in fact been transgressed, because those limits are self-executing and any act taken in violation of them is void. Once the Constitution has been violated, no subsequent statutory mechanism—including Business and Professions Code section 7071.17—can supply authority, revive jurisdiction, or confer legal effect on a judgment or sanction that

the Constitution itself has rendered a nullity. To permit automatic enforcement of a void judgment would invert the separation of powers by allowing punishment to mature into permanent legal consequence without any judicial determination that the exercise of coercive power was lawful.

10. Business & Professions Code § 7031(a) & (b), in Design, Effect, and as Applied, Directly Violates the Inalienable Rights Declared in Article I, Section 1 of the California Constitution Rendering the Judgment Void Ab Initio

The constitutional injury here is not merely statutory overreach, but the enforcement of a comprehensive theory of authority that denies the existence of pre-political rights. Article I, section 1 rejects any system—whether styled as "regulatory," "administrative," or otherwise—in which labor and property exist only by legislative grace. The Constitution does not permit the State to impose such an orthodoxy as the condition of participation in civil life.

Article I, section 1 declares that all people have inalienable rights, including "acquiring, possessing, and protecting property" and "pursuing and obtaining … happiness and privacy." This Court has repeatedly held that the right to contract for one's own labor and to retain its fruits is among the most sacred of these inalienable rights. *Billings v. Hall*, 7 Cal. 1, 11–12 (1857); *Ex parte Jentzsch*, 112 Cal. 468, 471–72 (1896); *Ex parte Kubach*, 85 Cal. 274, 285 (1890); *Ex parte Quarg*, 149 Cal. 79, 81–82 (1906); *Ex parte Drexel*, 147 Cal. 763, 766–67 (1905); *Ganley v. Claeys*, 2 Cal.2d 266, 269 (1935).

Article I, section 1 forces a threshold question that section 7031 never openly confronts: Who owns Adam Bereki's time and labor?

Is it the State, such that it may retroactively confiscate the fruits of his work absent proof of harm?

Is it the public, such that any private party who uses his contractor services may be deputized to seize his earnings?

Or is it the contracting counterparty, such that one Citizen may appropriate the completed labor of another without compensation?

Under Article I, section 1 of the California Constitution, the answer is none of the above. A competent adult owns his own labor and the fruits thereof. That ownership is an inalienable right, not a revocable legislative privilege.

Once ownership is acknowledged, the Constitutional violation becomes unavoidable: the Legislature may not, by statute, take private property from one citizen and give it to another.

That limitation is not a modern invention. In *Calder v. Bull*, Justice Chase explained that even absent an express constitutional prohibition, there are acts no legislature may perform consistent with republican government, including "a law that… takes property from A. and gives it to B." 3 U.S. 386, 388 (1798). Such an act, the Court held, is "against all reason and justice" and "cannot be considered a rightful exercise of legislative authority."

Section 7031 (b) do precisely what *Calder* forbids. It does not regulate future conduct or impose prospective licensing conditions. It retroactively recharacterizes lawfully earned compensation—paid for completed, accepted, and non-defective work—as property of the owner solely because the contractor lacked prior State permission. In substance and effect, it takes property from A (the contractor) and gives it to B (the owner), without any finding of fraud, harm, danger to the public, or unjust enrichment. That is not regulation. It is confiscation. The constitutional defect does not turn on licensure as such, but on the retroactive destruction of vested property rights after labor has been fully performed and value conferred.

Measures that restrain dangerous conduct regulate how an occupation is practiced. Measures that confiscate earned compensation, impose forfeiture untethered to harm, or annihilate the right to labor itself do not regulate conduct—they punish status, which Article I, section 1 forbids.

For the first eighty years of California's statehood (1850–1935), anyone could lawfully contract to perform construction work without a state-issued license—no epidemic of fraud or collapse of public safety occurred.

The controlling California precedent condemning as unconstitutional the precise forfeiture mechanism that section 7031 resurrects—and that therefore strips courts of authority to impose such relief—is *People v. Holder*, 53 Cal.App. 45 (1921):

Holder / Billings / Jentzsch / Kubach Principle	§ 7031(a)–(b) Violation
"No part of the money thus paid to him was the property of another. It was appellant's	§ 7031(b) declares every dollar ever paid—no matter how long ago, no matter

Holder / Billings / Jentzsch / Kubach Principle	§ 7031(a)–(b) Violation
own property, and his only." *Holder*, 53 Cal.App. at 52.	how flawlessly the work was performed, and even when the owner suffered zero harm—subject to total irrevocable forfeiture and treats all compensation as held in constructive trust for the owner.
"A statute that consummates such a result abridges the privileges of citizens of the United States and deprives them of property without due process of law." *Holder*, 53 Cal.App. at 52.	§ 7031(b) imposes total forfeiture without any requirement of proof of harm, defect, fraud, or danger to the public.
"The police power cannot be made a cloak under which to overthrow or disregard constitutional rights. It is only when the general welfare, the interests of the public as distinguished from those of individuals, will be protected that the right of contract may be limited." *Holder*, 53 Cal.App. at 53.	Here the work was fully performed, accepted, and non-defective; no evidence of danger, fraud, or harm to any third party was ever offered. No real and substantial relation to public welfare exists.

A State may not impose a charge for the enjoyment of a right granted by the Constitution. See e.g. *Murdock v. Pennsylvania*, 319 U.S. 105, 113 (1943). Section 7031(a) and (b) imposed a ~$930,000 monetary exaction solely for exercising the inalienable right to contract and labor on private property with consenting adults.

What changed?

For much of California's early constitutional history (1850–1935), this Court treated the right to pursue an ordinary, harmless occupation as a protected liberty under Article I, section 1, subject to restriction only where the Legislature could demonstrate a real and substantial relation to public health, safety, or morals, rather than mere conjecture or legislative assertion. *Ganley v. Claeys*, 2 Cal.2d 266, 269 (1935); *cf. Ex parte Drexel*, 147 Cal. 763, 766–67 (1905).

Abstract or speculative harm is constitutionally insufficient to justify suppression of a lawful occupation or the destruction of an inalienable right. If the mere possibility of harm were enough, no constitutional boundary on legislative power would exist.

That understanding was displaced—without any amendment to the constitutional text—when this Court, during the New Deal era, aligned its analysis with contemporaneous federal doctrine and adopted a deferential “reasonably debatable” standard that presumes legislative economic judgments to be conclusive, mirroring the rational-basis framework articulated in *United States v. Carolene Products Co.*, 304 U.S. 144 (1938). *Wholesale Tobacco Dealers Bureau v. National Candy & Tobacco Co.*, 11 Cal.2d 634, 646–49 (1938).

No voter ever authorized this change.

Provisions carried forward without material change retain their original 1849–1879 public meaning. *Strauss v. Horton*, 46 Cal.4th 364, 411–12 (2009).

The United States Supreme Court has uniformly condemned such legislation:

- “For the very idea that one man may be compelled to hold … the means of living … at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself.” *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

- “The right to make contracts … is part of the liberty of the citizen … To

make that right depend upon the will of another not a party to the contract is little better than slavery." *Coppage v. Kansas*, 236 U.S. 1, 14–15 (1915).

• "The liberty mentioned … is deemed to embrace the right of the citizen … to earn his livelihood by any lawful calling … and to that end to enter into all contracts which may be proper." *Allgeyer v. Louisiana*, 165 U.S. 578, 589 (1897); *Adair v. United States*, 208 U.S. 161, 174–75 (1908).

a. § 7031(b) as a **Per Se** *Monetary Charge on the Exercise of an Inalienable Right (***Murdock***)*

Section 7031(b) does not merely regulate conduct. It imposes a direct monetary exaction on the exercise of an inalienable constitutional right by declaring that, when a competent adult privately contracts for labor without prior State permission, all compensation earned is retroactively converted into forfeitable contraband. This is functionally indistinguishable from the flat license tax invalidated in *Murdock v. Pennsylvania*, 319 U.S. 105 (1943), because it operates as a price imposed on the enjoyment of a constitutional right rather than as a neutral regulation of harmful conduct. The Constitution forbids such a charge.

b. § 7031(b) as a Legislative Punishment and Contract-Impairment Device (U.S. Const., Art. I, § 10)

The United States Constitution forbids legislatures from imposing punitive deprivations by retroactive statute and from impairing the obligation of private contracts. U.S. Const., Art. I, § 10. Section 7031(b) does both: it retroactively recharacterizes lawfully earned compensation as void, annihilates settled contractual expectations, and inflicts a confiscatory sanction untethered to adjudicated harm. It therefore operates as a

modern bill of pains and penalties and as a direct impairment of private contracts in violation of Article I, section 10.

c. Civil-Law Guardianship and Value Nullification

California resurrected the very civil-law guardianship system that the framers of the 1849 Constitution and the First Legislature deliberately repudiated when they adopted the common law as the rule of decision and rejected state guardianship over competent adults. Under that rejected civil-law model, the State presumes individuals incapable of judging for themselves, nullifies the legal value of their private bargains, and substitutes legislative control for personal agency. Section 7031(b) precisely reenacts that system by legislative annihilation of value followed by compulsory constructive-trust confiscation.

Because § 7031(a) and (b) directly impair the self-executing, mandatory, and prohibitory rights declared in Article I, section 1—rights that withdraw from all branches of government the power to convert private labor into a revocable privilege, to impose monetary charges on its exercise, or to confiscate its fruits without proof of public harm—the Superior Court never acquired jurisdiction to enter the April 20, 2017 judgment. That judgment, and the 2018 affirmance, are void *ab initio* on this independent Constitutional ground.

11. The Statutory Scheme Is Irrational and Punitive in Design and Therefore Void on Its Face

The irrational premise of the Contractors State License Law has no counterpart in any other known licensed profession in California. In every other known regulated profession the license is issued to, and follows, the natural person who has been

examined and found competent. An attorney passes the bar and may later form a professional corporation, but the corporation does not receive a separate law license. A physician passes the medical boards and is licensed as an individual; the medical corporation is not separately licensed. The same appears true for accountants, architects, engineers, real-estate brokers, and virtually every other licensed calling.

Construction is the only known major profession in which the Legislature has declared that the human being who has been examined, fingerprinted, background-checked, and certified “competent” by the State is nevertheless “unlicensed” the moment he contracts in his own name rather than in the name of an artificial entity that could not exist without him. The license literally cannot be issued to the corporation unless the qualifying individual first proves his own “competence” (§ 7068, § 7068.1), yet the courts then treat that same competent individual as a complete stranger to the license the moment the contract is signed in his personal capacity (as purportedly determined here). Indeed, § 7068.1(a) expressly declares that the qualifying individual “shall be responsible for exercising supervision and control of their employer’s or principal’s construction operations to secure compliance with this chapter,” confirming that the natural person is the sole source of competence and responsibility—only to be punished as utterly incompetent and stripped of all earnings the instant he signs a contract personally.

The redundancy is laid bare by the fact that Petitioner—already examined, fingerprinted, background-checked, and certified competent as Spartan’s qualifying individual under § 7068—was nevertheless declared wholly “unlicensed” and stripped of ~$930,000 in earnings for the work performed by Spartan and sub-contractors under that

existing license. No other licensed profession in California is subjected to this duplicative regime. The Contractors State License Law alone demands that the identical natural person be licensed once to create the corporate license, then punished as utterly incompetent the moment he signs a contract personally. This is not regulation of competency; it is the imposition of a second, redundant penalty for revenue and punishment, not public protection.

This Court has never explained how such a scheme can survive rational-basis review, let alone the heightened scrutiny that applies when the State strips a Citizen of his chosen lawful occupation and the entire economic fruit of his labor.

The irrationality is compounded by the fact that the Contractors State License Board has never required—and does not require—any known practical skills examination whatsoever. A cabinet maker may obtain a license without ever personally demonstrating to the Board that he can build a simple cabinet, a framer without ever driving a nail under supervision, a plumber without ever soldering a joint. The Board's "examination" is entirely written and in Petitioner's recollection, multiple-choice; it certifies only that the applicant can recognize the correct answer on a test, not that he possesses the actual skills the public is told the license guarantees. *Hydrotech Sys., Ltd. v. Oasis Waterpark*, 52 Cal. 3d 988, 995 (1991) ("[t]he licensing requirements provide minimal assurance that all persons offering such services in California have the requisite skill and character, understand applicable local laws and codes, and know the rudiments of administering a contracting business."). No tools, no workbench, no finished product is ever inspected by the Board. Yet the same statute that dispenses with any real proof of competence then

imposes financial ruin on the very individual whose passing written test score created the license in the first place.

No other known licensed profession in California is subjected to this combination of fictional unlicensed status and non-existent practical testing. The distinction is not merely irrational; it is punitive on its face and serves no legitimate regulatory purpose that could not be achieved by far less draconian means.

When this irrational classification is coupled with the private-sword mechanism of § 7031(b)—allowing one private Citizen to confiscate the lifetime earnings of another solely because of the caption on the contract—the statute ceases on this additional level to be a licensing regulation and becomes a legislatively authorized bill of pains and penalties and private criminal prosecution.

The judgment below therefore rests on a statutory scheme that is unconstitutional in its fundamental premise.

D. SYNTHESIS: CONSTITUTIONAL VIOLATIONS AND FRAUD EXTINGUISH JURISDICTION

Petitioner's position rests on a single, unbroken line of authority spanning 175 years: the Constitution both grants and rigidly limits judicial power. The same instrument that vests courts with jurisdiction simultaneously withdraws that power whenever its mandatory and prohibitory provisions are violated—or whenever jurisdiction is procured or maintained by fraud.

Subject-matter jurisdiction cannot be conferred by consent, waiver, estoppel, or acquiescence, and it is equally destroyed at the outset—or lost the moment it is obtained—by extrinsic fraud or fraud on the court that prevents a real contest or deprives a party of a fair adversary hearing. *Westphal v. Superior Court*, 20 Cal.2d 393, 397 (1942); *In re Marriage of Modnick*, 33 Cal.3d 897, 904–905 (1983); *Sullivan v. Sullivan*, 256 Cal.App.2d 301, 304–305 (1967). The concealment of the penal character of a proceeding that imposes criminal punishment without criminal-process safeguards is the archetype of such fraud—and independently extinguishes jurisdiction ab initio.

Accordingly, constitutional violations and extrinsic fraud are not mere errors within jurisdiction; they prove that jurisdiction never attached or was instantly forfeited. This is why the United States Supreme Court has held for more than a century that when an officer acts contrary to the Constitution, "he is stripped of his official or representative character" and acts only as a private individual. *Ex parte Young*, 209 U.S. 123, 159–160 (1908). A court that proceeds in defiance of constitutional limits or upon a foundation of extrinsic fraud is not exercising judicial power; its orders are void.

The violations presented here—compounded by the extrinsic fraud evidenced throughout this record—independently establish the absence of judicial authority:

1. the adjudication of a penal statute in a civil forum contrary to the constitutional separation of civil and criminal jurisdiction (Cal. Const., Art. VI, § 1; Art. III, § 3) and public and private;
2. the imposition of punitive sanctions in a manner inconsistent with due process and the Excessive Fines Clause (Cal. Const., Art. I, §§ 7, 17);

3. the entry of a penal judgment without the charging instruments, procedures, and protections constitutionally required for criminal adjudication;
4. the State's lack of any judicially cognizable interest in prosecuting a private individual on behalf of another private person (*Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973)); and
5. the procurement and maintenance of jurisdiction by extrinsic fraud consisting of the misrepresentation that a criminal punishment proceeding was an ordinary civil action.

Each of these defects is jurisdictional in the fundamental sense: the Constitution forbids the act performed—or fraud vitiates the adversary process—and the judiciary therefore lacks power to perform it. This is the rule of *Elliott v. Peirsol's Lessee*, 26 U.S. 328, 340 (1828) ("when [courts] act without authority, their judgments and orders are regarded as nullities … simply void"), reaffirmed in California without deviation: where fundamental jurisdiction is absent because constitutional prerequisites were not met or because the proceeding was tainted by extrinsic fraud, the ensuing judgment "is void and susceptible to direct or collateral attack at any time." Art. I, § 26; *County of San Diego v. Gorham*, 186 Cal.App.4th 1215, 1226–1227 (2010); *Rochin v. California*, 342 U.S. 165, 169 (1952); Code of Civil Procedure § 1916.

Thus, every argument in Section IV, reinforced by the extrinsic fraud that permeates this record, converges on one inexorable conclusion: judicial power can never extend to acts the Constitution prohibits or to proceedings obtained or sustained by fraud. Where the Constitution withdraws authority—or fraud destroys the adversary character

of the proceeding—courts have none. Because the 2017 judgment was entered in defiance of multiple constitutional limitations and upon a foundation of extrinsic fraud, it is void in the strictest sense. No doctrine of forfeiture, acquiescence, waiver, estoppel, or passage of time can supply jurisdiction the Constitution and the fraud together withheld.

The judgment must be vacated, and Petitioner restored to the position he occupied before this void proceeding began.

IV. SYSTEMIC ENFORCEMENT OF BUSINESS & PROFESSIONS CODE § 7031 REQUIRES THIS COURT'S IMMEDIATE INTERVENTION

California's court records system provides no known practical means of searching judgments by statute or other authority, making it impossible to determine the full scope of devastation caused by § 7031. A website called tenativerulings.com (currently under construction as of 1/6/25) previously evidenced a plethora of § 7031 judgments throughout the state that never met appeal. The small fraction of cases that reach published or unpublished appellate decisions nevertheless reveals a consistent pattern of ruinous forfeitures imposed without Constitutional scrutiny and often for purely technical or non-culpable licensing irregularities.

Representative examples include:

- *Twenty-Nine Palms Enterprises Corp. v. Bardos*, 210 Cal.App.4th 1435 (2012) (nearly $917,000 forfeiture leading to bankruptcy and loss of home).
- *MW Erectors, Inc. v. Niederhauser*, 36 Cal.4th 412 (2005) (more than $1.2 million; apparently went out of business and left California to work in Arizona).

- *Pacific Carpets, LLC v. 2525 Main Apartment*, LP (Nov. 20, 2025, G064438) ($2,344,868.53 ordered disgorged solely because a corporate conversion caused a temporary licensing gap, despite over $2 million in completed and paid-for work and no consumer harm).[2]
- *American Building Innovation, LP v. Balfour Beatty Construction, LLC*, 104 Cal.App.5th 954 (2024), review denied (Mar. 26, 2025, S287352) (approximately $700,000 denied for a brief insurance lapse later cured; triggered ongoing multi-license suspension and more than $10 million in consequential damages).
- *Banis Restaurant Design, Inc. v. Serrano*, 134 Cal.App.4th 1035 (2005) ($212,821.80 plus interest).
- *White v. Cridlebaugh*, 178 Cal.App.4th 506 (2009) ($84,621.45 despite full performance and zero harm).

The punitive and structurally coercive operation of section 7031 is further illustrated by *Judicial Council of California v. Jacobs Facilities, Inc.*, 239 Cal. App. 4th 882 (2015). There, the Judicial Council of California—the administrative arm of the judicial branch—invoked section 7031 to seek total forfeiture of approximately $18–$22 million in compensation paid under a facilities-maintenance contract for California court buildings, notwithstanding the absence of any allegation of incompetence, fraud, or public harm. The alleged violation arose from a technical lapse in licensure during a complex corporate reorganization, while the same qualified personnel continued performing the same work

[2] Even represented parties are functionally denied constitutional adjudication because counsel, though aware of these arguments, decline to present them for unknown reasons. Petitioner can provide emails with Pacific Carpets, LLC's counsel to support this statement.

under a newly licensed affiliate. The Court of Appeal expressly acknowledged that the contractor entities were neither dishonest nor incompetent, yet held that section 7031 required strict forfeiture "regardless of the equities."

Public records produced by the Judicial Council itself further confirm that, in pursuit of this forfeiture, the State expended $3,307,408.78 million in public funds solely to prosecute the section 7031 claim. That documented expenditure reflects only the government's litigation costs; it excludes the substantial, unrecoverable defense costs necessarily imposed on the contractor merely to avoid likely annihilation under the statute. The *Jacobs* litigation thus demonstrates that section 7031 inflicts punishment by process rather than adjudication: catastrophic financial injury is triggered by accusation, magnified through compelled defense, and imposed independently of culpability, intent, or final merits resolution. The constitutional injury inheres in subjection to the statutory machinery itself, confirming that section 7031 is punitive in design and effect, not remedial. Petitioner believes, based on recollection, that on remand, the Superior Court ultimately entered judgment in favor of the *Jacobs* entities, thereby sparing them the final forfeiture; however, the constitutional injury had already occurred, demonstrating that section 7031 punishes by exposure to its machinery itself, not by any lawful adjudication of guilt.

The Amicus Curiae submission of Pier Pjerin Prenga independently confirms that this constitutional failure is not cured by adjudication. In Mr. Prenga's case, the licensing allegation was examined by the Contractors State License Board, reviewed by the District Attorney, and rejected by the court through summary judgment. No licensing violation was found. Yet the statutory scheme nevertheless imposed catastrophic, unrecoverable

punishment through $450,000 in defense costs incurred solely to avoid forfeiture under section 7031(b), and then permitted automatic license suspension under section 7071.17 based on a separate civil judgment unrelated to licensure competence and still pending on appeal. Mr. Prenga's experience demonstrates that even when courts adjudicate and rule in the contractor's favor, the statutory scheme ensures punishment proceeds and license destruction follows—again confirming that the defect is structural, not remedial.

1. Due Process Requires the State to Clearly Identify the Nature, Source, and Procedural Framework of Its Authority Before Depriving Any Person of Life, Liberty, or Property — A Duty the State Has Systemically Failed to Discharge

The Due Process Clause of the California Constitution does not merely require notice of factual allegations or claims. It requires that, before the State may exercise official power to deprive any person of life, liberty, or property, the State must clearly identify the nature of the authority being exercised, the legal source of that authority, and the procedural framework governing its use**.** This duty applies in civil as well as criminal proceedings and especially whenever coercive governmental power is invoked.

Meaningful notice and a meaningful opportunity to be heard are impossible where the State itself has failed to define whether it is acting pursuant to civil remedial authority, punitive authority, or some hybrid thereof; what rules of procedure apply; and what constitutional provisions are claimed to authorize the deprivation. Due process does not permit the State to proceed first with deprivation and leave the nature, source, and limits of its power to be resolved—if at all—only through post hoc litigation.

Business and Professions Code section 7031 exemplifies this constitutional failure. The statute does not identify whether it authorizes civil remediation or punitive

forfeiture; does not specify whether the relief it authorizes is remedial or penal in character; does not identify the constitutional source of authority for imposing total forfeiture untethered to harm; and does not disclose what procedural safeguards govern its enforcement. Courts have spent decades characterizing section 7031 inconsistently—alternately describing it as equitable disgorgement, restitution, deterrence, or penalty—while simultaneously enforcing it without first resolving those foundational questions. Enforcement has thus proceeded in the absence of any settled articulation of lawful authority.

This opacity is not cured by the formal availability of a judicial forum. A system that conditions protection from deprivation on a person's ability to identify the nature of the State's power, determine the applicable procedural regime, and litigate unresolved constitutional questions—after the deprivation has already occurred—does not satisfy due process. The Constitution does not place the burden on the Citizen to divine the source and limits of governmental authority; that burden rests with the State as a condition precedent to the lawful exercise of power.

The resulting failure is systemic. The Legislature enacted a statute that does not define the character or limits of the authority it purports to confer. The judiciary has declined to definitively identify the nature and constitutional basis of that authority while nonetheless enforcing it. The executive has carried out deprivations of property and liberty pursuant to judgments entered under that opaque regime. No branch has discharged the constitutional obligation to clearly articulate lawful authority before coercive power is exercised.

Where the State deprives a person of property or liberty without clearly identifying the nature of the authority invoked, the constitutional source of that authority, and the procedural rules governing its exercise, due process is denied. When all branches of government participate in or acquiesce to that failure, the result is not merely procedural error but a total denial of a lawful remedy**.** In such circumstances, continued enforcement cannot be reconciled with constitutional government, and judicial intervention is required to restore the rule that power must be defined before it is exercised.

The Fourth Appellate District has for more than fifteen years served as a primary enabler of this regime, repeatedly declaring itself powerless to second-guess legislative policy choices even where the Legislature has acknowledged that those choices may produce harsh and inequitable results, including unjust enrichment, and are challenged as violating constitutional guarantees. *Alatriste v. Cesar's Exterior Designs, Inc.*, 183 Cal.App.4th 656, 673 (2010). That same posture has been repeatedly reaffirmed in subsequent decisions expressly relying on *Alatriste* to reject constitutional, equitable, and proportionality challenges to mandatory disgorgement. *See, e.g., Rambeau v. Barker* 2010 WL 2796873 (unpublished); *Humphreys v. Bereki*, 2018 WL 5639287 (unpublished). Most recently, the same approach has been reaffirmed in both published and unpublished decisions, again enforcing mandatory forfeiture despite acknowledged harshness and rejecting constitutional challenges on the ground that courts may not interfere with legislative policy judgments. *American Building Innovation LP v. Balfour Beatty Construction, LLC*, 104 Cal.App.5th 954 (2024); *Pacific Carpets, LLC v. 2525 Main Apartment, LP*, 2025 WL 3240321 (unpublished).

By steadfastly refusing to apply the Excessive Fines Clause (Cal. Const., Art. I, § 17), the separation-of-powers doctrine, or this Court's own description of § 7031 as a "stiff all-or-nothing penalty" to which no equitable considerations may apply, the Fourth District has abdicated the independent judicial duty imposed by Article VI, § 1 of the California Constitution.

Beyond the pattern of punitive forfeitures themselves, the systemic failure is further confirmed by the judiciary's categorical refusal to permit constitutional adjudication even by non-parties seeking to protect vested rights." The Amicus Curiae submission of Tin Vo confirms this structural failure. Mr. Vo sought to intervene for the express purpose of protecting vested property interests in his personal contractor's license and to obtain adjudication of the constitutional validity and voidness of enforcement under the statutes at issue here. That right to intervene was denied outright. No hearing was afforded, no court adjudicated whether punitive forfeiture and automatic license suspension could lawfully proceed, and no determination was made as to whether the judgment or its collateral consequences were constitutionally void. Enforcement nevertheless continues by automatic operation of law. Mr. Vo's experience therefore does not reflect a discretionary procedural ruling, but a categorical refusal to permit constitutional adjudication while allowing coercive consequences to attach—precisely the jurisdictional failure this Petition asks the Court to address.

The consequences are catastrophic and continuing. At least one other pending case is currently before the Fourth District involving an entered judgment exceeding $280,000 under the same contractor-licensing statutory scheme in *Moorefield*

Construction, Inc. v. Pantelamon (Case. Nos. G064691, G062500). Approximately 300,000 licensed contractors remain subject at all times to financial annihilation and permanent exclusion from their chosen profession, including for infractions—such as a one-day lapse of bond or insurance, or mere inability to pay a civil judgment—that carry criminal fines of only $100 to $15,000. §§ 7028.7, 7028.9, 7114.1, 7118.4.

The same statutory scheme coerces every contractor, as a condition of initial and continued licensure, to surrender the right to judicial proceedings and trial by jury guaranteed by Article I, §§ 9 and 16 in favor of private arbitrators (www.amccenter.com/CSLB.aspx) who take no known oath of office (Cal. Const., Art. XX, § 3) and are unaccountable to the electorate or the Governor. §§ 7085 et seq.; *Grafton Partners v. Superior Court*, 36 Cal.4th 944. 944, 956–961 (2005). According to a public records response from the CSLB, as of March 21 2021, 8,275 mandatory cases were referred to private arbitrators since January 1, 2006. No other licensed profession in California is required to purchase its license with the permanent forfeiture of the judicial power of the State and the right to trial by jury.

Most dangerously, the template is infinitely replicable. Nothing in principle prevents the Legislature from imposing the identical § 7031/§ 7071.17 regime tomorrow on physicians, attorneys, real-estate agents, accountants, or any Californian who earns a living in an ordinary vocation of life. When private Citizens are empowered to prosecute public offenses, collect unlimited monetary bounties, and trigger automatic professional death—all without indictment, jury trial, or executive-branch involvement—the distinction between free Citizen and regulated subject vanishes.

The crisis is not hypothetical; it is occurring now, case after case, district after district. Lower courts have reduced themselves to ministerial enforcers of an unconstitutional statutory scheme. This Court's immediate intervention through exercise of its original jurisdiction and issuance of a peremptory writ in the first instance is the last remaining barrier to the permanent nullification of multiple mandatory and prohibitory provisions of the California and United States Constitutions.

V. TOTAL DENIAL OF REMEDY IN EVERY BRANCH OF STATE AND FEDERAL GOVERNMENT: THE EFFECTIVE SUSPENSION OF CONSTITUTIONAL GOVERNMENT AND THE RIGHT TO PETITION FOR REDRESS OF GRIEVANCES

> *"Basic to the constitutional structure established by the Framers was their recognition that '[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.' The Federalist No. 47, p. 300 (H. Lodge ed. 1888) (J. Madison). To ensure against such tyranny, the Framers provided that the Federal Government would consist of three distinct Branches, each to exercise one of the governmental powers recognized by the Framers as inherently distinct. The Framers regarded the checks and balances that they had built into the tripartite Federal Government as a self-executing safeguard against the encroachment or aggrandizement of one branch at the expense of the other."*
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> – *Northern Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 57–58 (1982) (plurality opinion) (quoting *Buckley v. Valeo*, 424 U.S. 1, 122 (1976) (per curiam))

Petitioner has sought relief in every branch of the California and United States governments—more than twenty-five state and federal judges, at least eight separate courts, the California Attorney General, the Governor of California, the United States Department of Justice (Civil Rights Division – Criminal Section), the Federal Bureau of

Investigation, the California Highway Patrol, the Orange County District Attorney, the Orange County Sheriff's Department, the Newport Beach Police Department, the Costa Mesa Police Department, the Irvine Police Department, the Santa Ana Police Department, the Commission on Judicial Performance, and multiple members of the California Legislature and United States Congress.

Constitutional governance presumes that each branch will perform its assigned *self-executing* function, and that judicial review will supply the primary check on unconstitutional exercises of power. When the judiciary abdicates its duty in this manner, no internal mechanism of self-correction remains, and the responsibility to halt enforcement of unconstitutional or void judgments necessarily shifts to the executive branch. This collapse is structural, not accidental. California Constitution, Article III, section 3.5 expressly prohibits administrative agencies from declaring statutes unconstitutional or refusing to enforce them on constitutional grounds absent a prior appellate determination. That amendment centralized constitutional adjudication exclusively in the judiciary and disabled agencies such as the Contractors State License Board from independently halting statutory enforcement once triggered, even where enforcement rests on a judgment challenged as void for lack of jurisdiction. Executive officers, by contrast, retain an independent constitutional duty to refuse to enforce void judgments, which confer no lawful authority at all. When courts nevertheless decline to adjudicate whether a judgment is void, administrative agencies claim constitutional compulsion under Art. III, § 3.5 to enforce, executive officers disclaim authority to intervene, and coercive enforcement proceeds automatically by operation of law. The combined effect is not merely unlawful enforcement, but tyranny in the precise sense

identified by the Framers: the continued exercise of legislative command and executive force without judicial adjudication of constitutional limits. As James Madison warned, when separation of powers ceases to function as a rule of decision, the system undergoes a monarchical innovation—power persists and acts without lawful accountability, not by the decree of a king, but by the silence and abdication of the institutions charged with restraint.

In response to Petitioner's formal written complaint alleging ongoing constitutional violations, irreparable deprivation of property, and criminal conduct arising from continued enforcement of the 2017 judgment, the Superior Court—acting through its Presiding Judge and Supervising Civil Judge—stated that no judicial officer, including those exercising supervisory authority, possessed authority to intervene in, review, or halt proceedings before another judge, and that the Court was powerless to afford relief. That response rested entirely on ordinary finality and judicial-independence principles, asserting that only the judge involved could alter the ruling and that the judgment was final. But such principles presuppose a valid exercise of jurisdiction and have no application where ongoing enforcement of a judgment is alleged to be constitutionally void. When subject-matter jurisdiction and constitutional authority are properly placed in question, judicial intervention is not discretionary review; it is a mandatory constitutional duty to halt enforcement pending adjudication of authority.

Notably, despite the nature of the allegations—including assertions of criminal conduct under color of law—the Court did not refer the matter to any executive authority charged with investigating crimes or enforcing constitutional limits. No referral was made

to the District Attorney, the Attorney General, or any other executive officer. Nor did the Court exercise its inherent judicial powers to stay enforcement, require jurisdictional adjudication, order briefing, or otherwise act to prevent continued coercive enforcement while authority remained unresolved. None of those actions would have required the Court to act as a litigant or to review the merits of another judge's ruling; each would have constituted an ordinary judicial function triggered by a colorable claim of constitutional voidness.

By treating jurisdictional defects as insulated by finality doctrines, deferring action to the same judge whose authority was challenged, and declining to invoke executive responsibility, the judicial branch converted a structural constitutional question into a closed institutional loop with no forum capable of acting. The assertion that the Court lacked authority to intervene therefore reflects not a limitation of judicial power, but a refusal to exercise it. The resulting posture—continued enforcement coupled with universal institutional disclaimers of authority—left no branch of government willing to determine whether lawful authority existed to continue exercising coercive power, a condition incompatible with constitutional governance.

Every single entity and every officer contacted has refused to conduct a full, fair, impartial, and independent investigation into the plainly void 2017 judgment and licensing suspension or to intervene in any way to stop its ongoing enforcement.

The executive branch—despite actual notice that a void judgment has been used to confiscate Petitioner's profession, earnings, bankruptcy, and home—has uniformly refused even to fully, fairly, and impartially investigate, much less intervene. Officers have

either (1) summarily declared the matter "civil" and outside law-enforcement jurisdiction, or (2) performed sham "investigations" that consist of nothing more than asking other executive agencies whether they "want to look into it," then closing the file when the answer is no. A supervisor at the Newport Beach Police Department told Petitioner he had never received training in investigating constitutional rights violations and therefore didn't know what to do. Ex. E25T– Transcript, p. 32; Ex. E25–Audio Recording.

Petitioner, a retired Southern California law-enforcement officer who served nearly ten years with the Huntington Beach Police Department and thereafter accumulated more than fifteen additional years of professional experience conducting forensic fraud and financial-crime investigations in both public and private sectors, declares under penalty of perjury that the uniform refusal of every contacted agency to perform even minimal threshold investigative steps in the face of documented constitutional violations is wholly inconsistent with the mandatory duty of every peace officer and public official to obey the California Constitution.

As this Court unanimously held in *Katzberg v. Regents of the University of California*, (2002) 29 Cal.4th 300, 306–307, Article I, section 26 declares that the provisions of the California Constitution "are mandatory and prohibitory" and bind "all branches of government" without exception or discretion. Every executive officer presented with credible evidence that a judgment is void for violation of self-executing Constitutional prohibitions has a non-discretionary duty to refuse to lend the aid of his or her office to its enforcement and to investigate and if required intervene to the stop the

State's unlawful deprivation of rights, liberty, or property. *Oakland Paving Co. v. Hilton,* (1886) 69 Cal. 479, 484 ("everything done in violation of [the Constitution] is void").

In Petitioner's training and experience, when a Citizen presents documented evidence that establishes felony theft, fraud, excessive fines, and the enforcement of a facially void court order, standard investigative protocol requires—at a bare minimum—taking a formal crime report, interviewing the complainant, securing and reviewing the proffered evidence, and initiating a preliminary inquiry to determine whether probable cause exists and/or a constitutional rights violation has occurred. The systematic refusal to perform even these threshold duties is not a legitimate exercise of discretion; it is the deliberate abdication of the executive's co-equal constitutional obligation to ensure that the constitution and laws of California are faithfully executed.

Representative examples:

- FBI– During a complaint call, the call taker, without performing an investigation, told Petitioner his rights weren't be violated and then hung up. It is unknown if this official was even a sworn officer. Ex. E3T– Certified Transcript.
- Costa Mesa Police Department– Supervisor told Petitioner it was "an unreasonable request" to report his Constitutional rights violations to the Police Department. He subsequently refused to take a report, investigate, or intervene. Ex. E29T– Certified Transcript; Ex. E29– Audio; Upon complaint to the Chief of Police, internal affairs refused to investigate or intervene. Ex. E30; Ex. E30T.

- Orange County Sheriff's Department– Refused to investigate or intervene. Ex. E18– Audio Recording; Ex E17T– Certified Transcript; Exhibit 4. Ex. E39– Bodycam Footage: Refusal To Investigate Before Eviction.
- U.S. Department of Justice, Civil Rights Division – Criminal Section (Exhibit 1): "We will review your letter … We do not have the resources to follow-up on or reply to every letter." No further contact was received.
- California Attorney General's Office (Exhibit 2): Refused assistance and referred complaints about judges to the Commission on Judicial Performance, which is not vested with executive power thereby abdicating its executive duty.
- Santa Ana Police Department (Exhibit 3): Refused to investigate and intervene. On complaint for dereliction of duty, internal investigators found no misconduct when supervisors refused to take a report, investigate, or intervene when Constitutional rights were being violated.
- Newport Beach Police Department (Exhibit 5): Detective Sergeant Darrin Joe closed the file as "suspicious circumstances" without ever examining the legal authorities provided or resolving any Constitutional issue.
- California Highway Patrol (Exhibit 6): Multiple "investigations" concluded without merit and repeatedly deferred all judicial-misconduct allegations to the Commission on Judicial Performance—an agency that has no criminal-investigative authority or executive power (Exhibit 6 pp. 43-47);

Not a single executive agency has ever produced written findings of fact or conclusions of law explaining why the 2017 judgment is Constitutionally valid or why no

crime or constitutional violation occurred. Only one sub-standard interview of the Superior Court judge was conducted. In that interview, Judge Chaffee openly admitted that § 7031 "has no penalty attached" yet is "punitive" and "draconian in its effect," and he candidly acknowledged that the legislature intended the statute to operate as a harsh consumer-protection forfeiture. Ex. 6– CHP Incident Report.

Armed with this judicial admission that the ~$930,000 total forfeiture he imposed was punitive in nature and effect, the investigating agency (CHP) nonetheless closed the file without ever addressing whether a punitive sanction of that magnitude, imposed by private parties in a civil proceeding without any criminal-process safeguards, violated the Excessive Fines Clause, the separation-of-powers doctrine, or the prohibition on private prosecution of public offenses. The agency further refused to recognize that the resulting deprivation of Petitioner's entire earnings, profession, and home equity—accomplished under color of a judgment the judge himself described as "draconian"—constituted theft or robbery (the unlawful taking of personal property by force) by any common understanding of the terms.

No executive agency has ever explained, in writing or otherwise, how the knowing judicial imposition of a conceded punitive forfeiture, followed by the executive's enforcement of that forfeiture, can be reconciled with the California or United States Constitutions. The refusal is not mere oversight; it is abdication of the executive's co-equal duty to protect Citizens from unconstitutional takings of life, liberty, and property.

Please see the table with hyperlinks on the following page, which catalogs the principal complaints Petitioner submitted to state and federal agencies concerning the

void 2017 judgment and its ongoing enforcement. *This is not an exhaustive list*. Because audio files cannot be directly lodged with this Court, the recordings are hosted on a secure, publicly accessible server and are identified by hyperlink in the “Audible Exhibit” column. Certified verbatim transcripts of most recordings have been prepared and are being filed concurrently herewith as Exhibit E (designated E1T, E2T, E3T, etc., as indicated in the final column).

DESCRIPTION	AUDIBLE EXHIBIT	CERT. TRANSCRIPT
E1 SUPERIOR COURT– MOTION TO VACATE VOID JUDGMENT 031519	E1	RJN Ex. 28
E2 CALIFORNIA LEGISLATURE– JESS HUANG OF ASSEMBLYWOMAN COTTIE PETRIE-NORRIS' OFFICE 013120 RE LEGISLATIVE COMPLAINT	E2	
E3 FBI– COMPLAINT TO FBI 013120 REFUSE TO INVESTIGATE NO RIGHTS BEING VIOLATED	E3	E3T
E4 SANTA ANA PD– COMPLAINT TO SGT. ABEL ALCANTAR 020720 REFUSAL TO INVESTIGATE PART 1	E4	E4T
E5 SANTA ANA PD– COMPLAINT TO SGT. ABEL ALCANTAR 020720 REFUSAL TO INVESTIGATE PART 2	E5	E5T
E6 SANTA ANA PD– COMPLAINT SGT. GIL HERNANDEZ REFUSAL TO INVESTIGATE 071320	E6	E6T
E7 SANTA ANA PD– CITIZEN COMPLAINT AGAINST OFFICERS INTERNAL AFFAIRS INTERVIEW SGT. MICHELLE MACCHIAROLI 080520	E7	E7T
E8 OC SHERIFF DEPT.– OCSD DISPATCH WATCH COMMANDER COMPLAINT 080620	E8	E8T
E9 OC SHERIFF DEPT.– COMPLAINT TO SGT SALCEDA AND DEP DEMAIO	E9	E9T
E10 CAL LEGISLATURE– COMPLAINT TO SEN MOORLACH CHIEF OF STAFF LANCE CHRISTENSEN 081720	E10	E10T
E11 OC SHERIFF DEPT.– COMPLAINT TO OCSD COMMANDER ROSS CAOUETTE 090120	E11	E11T
E12 OC SHERIFF DEPT.– COMPLAINT/ REPORT INTERVIEW 090220	E12	
E13 OC SHERIFF DEPT.– REPORT TO INV. ANDERSON ADDTL COMPLAINT DETAILS	E13	E13T
E14 FBI– COMPLAINT, ADDITIONAL INFORMATION 091520	E14	E14T
E15 CAL. LEGISLATURE– COMPLAINT TO CLAIRE CONLON 091720 OF ASSEMBLYWOMAN COTTIE PETRIE NORRIS' CHIEF OF STAFF	E15	E15T
E17 OC SHERIFF DEPT– COMPLAINT DISMISSAL: CALL WITH INV MIKE LEEB 112520 PART 1	E17	E17T
E18 OC SHERIFF DEPT– COMPLAINT DISMISSAL: CALL WITH INV MIKE LEEB 112520 PART 2	E18	
E19 FBI– COMPLAINT TO DUTY AGENT 060220	E19	E19T

E20 COUNTY COUNSEL– COMPLAINT TO NICOLE SIMS 022821; REFUSAL TO PROVIDE FINDINGS FOR OCSD DISMISSAL	E20	E20T
E21 SANTA ANA PD– CALL WITH SGT. MACCHIAROLI 121520 RE COMPLAINT PROGRESS	E21	E21T
E24 NEWPORT BEACH PD– COMPLAINT TO SGT. DARRIN JOE PART 1 OF 4 102921	E24	E24T
E25 NEWPORT BEACH PD– COMPLAINT TO SGT. DARRIN JOE PART 2 OF 4 110421	E25	E25T
E26 NEWPORT BEACH PD– COMPLAINT TO SGT. DARRIN JOE PART 3 OF 4 111821	E26	E26T
E27 NEWPORT BEACH PD– COMPLAINT TO SGT. DARRIN JOE PART 4 OF 4 120821	E27	E27T
E28 CALIFORNIA HIGHWAY PATROL– COMPLAINT TO CHP OFFCR MEJIA 032322	E28	E28T
E29 COSTA MESA PD– COMPLAINT TO SGT. MANSON	E29	E29T
E30 COSTA MESA PD– COMPLAINT TO LT. WADKINS 071122	E30	E30T
E31 IRVINE PD– COMPLAINT TO LT. CRAWFORD 061522	E31	E31T
E33 CAL. SENATE– COMPLAINT TO OFFICE OF SENATOR MIN	E33	E33T
E34 U.S. CONGRESS– COMPLAINT TO OFFICE OF KATIE PORTER 0413223	E34	E34T
E35 SUPERIOR COURT– DENIAL OF HABEAS CORPUS, JUDGE LEAL	E35	E35T
E36 NEWPORT BEACH PD– COMPLAINT TO SGT. DARRIN JOE 041124	E36	E36T
E38 CALIFORNIA HIGHWAY PATROL– DERELICTION OF DUTY COMPLAINT INTERVIEW 021325	E38	E38T
E39 OC SHERIFF DEPT.– COMPLAINT TO DEPUTY MURILLO: BODYCAM FOOTAGE NOTICE OF EVICTION 032725	E39	E39T
E40 OC SHERIFF DEPT.– COMPLAINT TO SGT. LOPEZ PRIOR TO EVICTION	E40	E47T
E41 COSTA MESA PD– COMPLAINT TO SGT. MARADAKAS PRIOR TO EVICTION 031525	E41	E41T
E43 CALIFORNIA HIGHWAY PATROL– COMPLAINT TO CHRIS GONZALES NO ONE ON PLANET WILL INVESTIGATE THAT 020222	E43	E43T

On May 15, 2024, Petitioner also submitted a written complaint to the Orange County Civil Grand Jury alleging that multiple county and municipal executive law-enforcement agencies—including the Orange County Sheriff's Department and the police departments of Irvine, Newport Beach, Costa Mesa, and Santa Ana—had knowingly refused, despite actual notice and the authority to act, to investigate or intervene to halt the ongoing enforcement of a judgment alleged to be constitutionally void. Ex. 8– Grand Jury Complaint. The complaint expressly requested that the Grand Jury discharge its statutory obligation to inquire into this alleged executive nonfeasance and systemic failure of constitutional checks and balances. Penal Code section 919(c) imposes a mandatory, non-discretionary duty on a civil grand jury to investigate credible allegations of willful misconduct or intentional failure to perform official duties by public officers. The Orange County Civil Grand Jury's 2024–2025 Final Report—incorporated as if fully set forth herein—reflects no investigation, inquiry, or response addressing these allegations. That omission constitutes a failure to perform a duty imposed by statute and confirms that no executive or grand-jury forum has been made available to examine, halt, or remedy the ongoing constitutional violations alleged herein, leaving Petitioner without any nonjudicial avenue of relief.

These institutional refusals have had consequences beyond the continued enforcement of the void judgment itself. California's non-judicial foreclosure statutes were thereafter invoked and enforced to effectuate the permanent transfer of Petitioner's home and home equity without any court—state or federal—ever adjudicating whether such enforcement constitutes state action or otherwise complies with constitutional limits. The resulting injury is therefore not confined to the substantive validity of any statute, but

includes the complete absence of any court willing or able to determine whether the State may lawfully exercise coercive power to divest property without judicial process. That constitutional question has never been adjudicated in any forum.

This systematic refusal violates Article I, section 3 of the California Constitution, which guarantees that "[t]he people have the right … to petition the government for redress of grievances." That guarantee is not satisfied by the mere ability to submit complaints or correspondence. Where a citizen presents bona fide allegations that state power is being exercised in violation of self-executing constitutional prohibitions, the Petition Clause imposes a corresponding, non-discretionary duty on public officers to receive the grievance and to provide a meaningful governmental response.

California courts have repeatedly recognized that the Petition Clause is "among the most precious of the liberties safeguarded" and protects the right to seek redress from all departments of government, including executive agencies and courts. *Wolfgram v. Wells Fargo Bank*, 53 Cal.App.4th 43, 56–57 (1997). The right is violated where procedures, refusals, or institutional silence effectively deny access to a forum capable of addressing the grievance on its merits. *Chorn v. Workers' Compensation Appeals Board*, 245 Cal.App.4th 1370, 1385–1386 (2016). The United States Supreme Court has likewise held that the right of petition "extends to all departments of the Government" and includes the right of access to courts and administrative agencies empowered to grant relief. *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972).

Critically, where the grievance alleges that a judgment is void for lack of constitutional authority—and thus confers no lawful power at all — a refusal by every

branch to determine that question does not constitute discretionary enforcement judgment. It constitutes a complete denial of the constitutional mechanism for redress. The Petition Clause does not permit the State to acknowledge a grievance while simultaneously denying the existence of any forum authorized to decide whether the Constitution has been violated.

Jurisdiction, whether judicial or executive, necessarily includes the authority and obligation to hear and determine before acting. A claimed power to enforce without a corresponding duty to hear is not jurisdiction at all; it is naked coercion. No branch of government may constitutionally assert jurisdiction to deprive a person of property, liberty, or rights while disclaiming jurisdiction to receive evidence, consider legal authority, and determine whether such deprivation is constitutionally permissible. To "determine" without hearing—or to refuse hearing altogether while enforcement proceeds—is the very definition of action without jurisdiction.

California law has long recognized that jurisdiction is the power "to hear and determine" a matter, not merely to impose consequences. *Abelleira v. District Court of Appeal*, 17 Cal.2d 280, 288 (1941). Where a branch of government refuses to hear a constitutional grievance yet continues to enforce a challenged judgment as valid, it acts without jurisdiction even if it claims administrative or enforcement authority. Such action is void, because constitutional jurisdiction cannot exist in fragments — it cannot attach for punishment while being withheld for adjudication.

Courts in other jurisdictions construing analogous constitutional provisions have recognized that the right to petition "contemplates that grievances will be heard and acted

upon," not merely received and ignored. *Protect Our Mountain Environment, Inc. v. District Court* 677 P.2d 1361, 1365–1366 (Colo. 1984). That principle applies with even greater force where, as here, the grievance alleges the ongoing enforcement of a judgment that is void ab initio and therefore incapable of generating lawful authority.

By refusing even to investigate, adjudicate, or produce written findings addressing whether the 2017 judgment violates mandatory constitutional prohibitions—including the Excessive Fines Clause, separation of powers, and Article I, section 1's protection of inalienable property and labor rights—executive officers have not exercised discretion. They have abdicated a constitutional duty. The result is that the Petitioner's right to petition has been nullified in substance, even while preserved in form.

When every executive and judicial forum refuses to determine whether the State possesses constitutional authority to act, the Petition Clause is independently violated, and the constitutional structure collapses into precisely the condition the Clause was designed to prevent: the exercise of coercive power without accountability to law. At that point, mandamus and this Court's original jurisdiction are not extraordinary remedies—they are the only means by which the constitutional guarantee of redress can be restored.

As James Madison warned:

> "An elective despotism was not the government we fought for; but one … in which the powers of government should be so divided and balanced among several bodies of magistracy, as that no one could transcend their legal limits, without being effectually checked and restrained by the others." The

> Federalist No. 48 (Madison), quoting Jefferson, Notes on the State of Virginia (1781).

That system of checks and balances no longer functions here. In at least this instance, there remains no lawful government—only organized power wearing the robes, badges, and titles of office while openly defying the Constitution each office is sworn to uphold.

The time for comity or procedural deference has passed. The Constitution itself now commands this Court's immediate exercise of original jurisdiction to vacate the void judgment, order full restitution, and restore Constitutional order.

VI. THE VOID 2017 JUDGMENT HAS NOW SPAWNED A SECOND, ONGOING CONSTITUTIONAL CATASTROPHE: THE UNLAWFUL TAKING OF PETITIONER'S ~$1.5 MILLION HOME IN A TRIBUNAL WITHOUT JURISDICTION

The same void ~$930,000 penal judgment that destroyed Petitioner's profession was relied upon—directly and indirectly—by state and federal courts to permit and recognize enforcement actions that culminated in the non-judicial foreclosure of his Costa Mesa home and the transfer of title without lawful jurisdiction. The foreclosure did not arise from an adjudication of lien validity, proportionality, or constitutional authority, but from the continued treatment of a judgment alleged—and repeatedly noticed—to be void ab initio and later discharged as if it were operative law.

These foreclosure and dispossession proceedings were not collateral consequences subject to ordinary causation analysis, but continuing exercises of coercive power undertaken in the absence of judicial authority. Once the April 20, 2017

judgment is void ab initio, no court possesses jurisdiction to rely upon it for any purpose, including as justification for bankruptcy stay relief, foreclosure, transfer of title, or eviction. Proceedings that treat a void judgment as operative law are themselves ultra vires and void, and cannot confer jurisdiction by repetition, reliance, or procedural finality.

Relying on the disputed and constitutionally void judgment lien, the bankruptcy court granted relief from the automatic stay without adjudicating the validity or enforceability of the lien, notwithstanding Petitioner's express notice that the judgment was void, subject to discharge, and impaired California's mandatory homestead exemption. That stay-relief order became the sole predicate for invocation of California's non-judicial foreclosure statutes. On November 18, 2024, Petitioner's home—then valued at approximately $1.5 million—was sold for $371,688, even after proceeding through the SB 1079 post-sale bidding process. The sale price fell $228,312 below the $600,000 homestead exemption, confirming that even the Legislature's minimum protections were disregarded in execution and even though the bankruptcy court order required the lender to comply with state law. Approximately $1.2 million in lawfully acquired home equity was extinguished without adjudication, compensation, or any judicial determination that such equity was owed, forfeitable, or subject to lawful taking and transferred to the purported purchaser, Canjian Hou.

Following the foreclosure sale, the purchaser obtained possession through a limited-civil unlawful-detainer proceeding (Orange County Superior Court No. 30-2025-01459684). That proceeding necessarily required adjudication of title, the validity of the foreclosure, and damages far exceeding $35,000—matters expressly excluded from

limited-civil jurisdiction. Code of Civil Procedure §§ 85(a), 86(a)(1), 580(b)(3); *Dr. Leevil, LLC v. Westlake Health Care Ctr.*, 6 Cal.5th 474, 480 (2018). Despite the patent jurisdictional defect, the Appellate Division twice refused mandatory transfer under Code of Civil Procedure section 396(b) and, on December 18, 2025, dismissed the appeal on the procedural ground that it exceeded the limited-civil word limit. SRJN Ex. 1. No court of competent jurisdiction has ever adjudicated title, lien validity, jurisdiction, or the constitutionality of the foreclosure or eviction.

Compounding these defects, the non-judicial foreclosure was carried out pursuant to a comprehensive, state-created statutory scheme that authorizes the permanent transfer of real property without prior judicial adjudication, attaches conclusive legal effect to the trustee's deed, restricts post-sale review, and commands state recognition and enforcement of the resulting transfer. Absent this statutory framework, the foreclosure and transfer of title could not have occurred. As applied here, those procedures were invoked to enforce a judgment that was void ab initio and discharged, and in the absence of any judicial determination that the debt, lien, or resulting deprivation of property was lawful or proportional. The foreclosure therefore constituted state action resulting in an unconstitutional deprivation of property without due process of law and an uncompensated taking.

This is civil capital punishment in its final stage: a Citizen permanently stripped of his home and equity through state-authorized mechanisms that operated without jurisdiction from inception to execution, and through courts that repeatedly refused to adjudicate the existence of lawful authority before permitting irreversible enforcement.

The continued recognition and enforcement of the foreclosure, unlawful-detainer judgment, and eviction rest entirely on the presumption that a void judgment may nonetheless be treated as operative law—a presumption the Constitution does not permit.

This Court may, on its own motion, consolidate the concurrently filed Emergency Petition (*Bereki v. Superior Court; Canjian Hou, Real Party in Interest*, Case No. S294339), vacate all foreclosure- and eviction-related orders predicated on the void judgment, and restore possession and title pending final resolution of this Petition.

VII. ARTICLE II, SECTION 1—RETAINED POPULAR AUTHORITY UPON CONSTITUTIONAL DEFAULT

Article II, section 1 of the California Constitution confirms that all governmental power remains conditioned upon its lawful exercise for the protection of the people. California courts have long recognized that where protection is withheld and constitutional process denied, governmental authority itself enters default. *Cohen v. Wright*, 22 Cal. 293 (1863); *Dye v. Council of City of Compton*, 80 Cal.App.2d 486 (1947). This Petition does not invoke popular sovereignty as a political remedy,but underscores that the Constitution itself does not tolerate a system in which constitutional violations are insulated from adjudication while coercive power continues to operate unchecked.

STATEMENT REGARDING JURISDICTION, VOIDNESS, AND ACTUAL NOTICE

This Petition invokes this Court's original jurisdiction to perform a mandatory judicial duty that no inferior court has performed: adjudication of a properly raised, colorable claim that the April 20, 2017 judgment is void ab initio for lack of constitutional

jurisdiction. Once such a claim is presented, vacatur is not discretionary; no principle of finality or institutional convenience may substitute for adjudication. Upon filing, this Court was placed on actual notice that enforcement of the challenged judgment had proceeded without any court determining whether lawful authority existed. In that posture, continued refusal to adjudicate jurisdiction does not preserve discretion—it permits unadjudicated exercises of power to solidify into permanent legal consequences.

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, correspondence and document in all cases and all complaints or reports submitted by him to all state or federal agencies concerning the facts and parties involved in 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 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.

CONCLUSION

For 175 years this Court has stood as the ultimate guardian of the 1849 Constitution's promise: that in California no Citizen shall be reduced to a ward of the State, no private labor shall be converted into a revocable public privilege, and no punishment—however disguised as "disgorgement" or "civil remedy"—shall be inflicted without the safeguards the People declared mandatory and prohibitory.

The 2017 judgment accomplishes precisely what the Constitution forbids. It imposes criminal punishment for a public offense in a private civil action; it seizes the entire fruit of a Citizen's labor without proof of harm, profit, or culpability; it destroys a vested profession and a family home by automatic operation of law; and it does all of this without indictment, jury, proof beyond a reasonable doubt, or any other criminal-process protection.

Every lower court has refused to examine these defects. Every branch of government—judicial, executive, and legislative—has either enforced, or acquiesced in the enforcement of, a judgment that is void ab initio on multiple independent constitutional grounds. The separation of powers has failed; the right to petition for redress of grievances has been denied; and constitutional government, in this case, has ceased to function as designed.

The California Constitution does not create a State by name alone. It creates a constitutional entity only so long as its three co-equal branches lawfully function within their assigned powers. Of those, the judiciary is indispensable, because no legislative enactment and no executive enforcement may operate lawfully absent judicial

determination of authority in cases of dispute. There is no “State of California” as a constitutional entity without a functioning judiciary. Where courts accept jurisdiction yet refuse to adjudicate jurisdiction, and enforcement nevertheless proceeds, judicial power has not merely erred—it has ceased to operate. At that point, coercive action no longer bears the sanction of law. The Constitution does not permit such a condition to persist. This Court’s intervention is therefore not discretionary, but necessary to restore the judicial power on which constitutional government itself depends.

This Court is the last remaining forum in which the People’s reserved rights may yet be vindicated. The Constitution now commands the immediate exercise of this Court’s original jurisdiction to vacate the void judgment, restore what has been taken, and re-establish the boundaries the Framers drew between liberty and arbitrary power, so as to prevent the permanent nullification of self-executing constitutional limits that constitute the supreme law of this State and the United States.

Having set forth the record and the governing law, Petitioner does not presume to know where this Petition will ultimately lead, nor what consequences may follow if the constitutional defects described herein are fully confronted. He continues to believe that courts are capable of operating honorably—faithful to their core function as truth-seeking forums bound by fidelity to the Constitution rather than arbitrary will or unexamined custom. In this case, however, that truth-seeking function has been disabled. The questions presented have not been examined, weighed, or adjudicated; they have been avoided. In place of full, fair, and impartial constitutional adjudication, enforcement has proceeded by inertia. The Supreme Law of the Land—embodying the will of the People

in a government based on the rule of law and the consent of the governed—has been displaced not by reasoned judgment, but by the unchecked continuation of power. This Petition is therefore not an attack on the judiciary, but an appeal to it: to restore the conditions under which judicial power, and all exercises of governmental authority, may once again be exercised lawfully, honorably, faithfully, and in service of truth.

Accordingly, Petitioner respectfully requests that this Court grant a peremptory writ in the first instance vacating the April 20, 2017 judgment in Orange County Superior Court Case No. 30-2015-00805807 as void ab initio, nullifying all enforcement actions taken in reliance upon it, restoring the status quo ante, and granting such further relief as is requested below and necessary to effectuate the Constitution's mandatory limits on governmental power.

EPILOGUE

When Adjudication Is Replaced and Supervision Fails

I did not come to this Court to relitigate policy, to ask for special treatment, or to challenge legislative authority as such. I came because no court has yet decided whether the Constitution permits what has been done.

Throughout these proceedings, I have not been met with an adverse ruling on the merits of my constitutional claims. I have been met with avoidance. Courts have acknowledged the governing constitutional principles while declining to determine whether they were violated. Enforcement has continued while the question of lawful authority has remained unanswered. That experience—being subjected to coercive

power without any forum willing to decide whether it is authorized—is the primary constitutional injury this Petition asks the Court to address.

I do not seek punishment of institutions or individuals. I seek adjudication and restoration of lawful government. Accountability here is not retributive; it is constitutional. It consists of deciding whether jurisdiction existed, correcting the legal consequences that flowed from its absence, and restoring rights where power was exercised without lawful authority.

The Constitution does not contemplate a system in which enforcement may proceed while jurisdiction is perpetually deferred. When constitutional limits are properly invoked and supported by a colorable record, adjudication is not discretionary. It is the means by which government remains lawful rather than merely operative.

If courts may acknowledge constitutional limits yet insulate their violation from decision through procedural dismissal, then constitutional prohibitions cease to function as law. In that condition, judicial power gives way to administration, and constitutional government becomes a form without substance.

I submit this Petition not to attack the judiciary, but because the judiciary has a distinct and indispensable role in restoring the boundary between lawful authority and unauthorized power. Whether that boundary was crossed here is a question that must be decided. If it is not, then the Constitution itself has been displaced—not by amendment or consent, but by avoidance.

REQUEST FOR COMPLETE RELIEF

Petitioner respectfully requests that this Court directly exercise its original jurisdiction to afford complete and effective relief required by the Constitution. Because the April 20, 2017 judgment was entered without subject-matter jurisdiction and is void ab initio, no discretion, balancing, remand, or further adjudication is constitutionally permissible. A void judgment is a legal nullity and must be vacated directly by this Court, together with all acts taken in reliance upon it.

Petitioner specifically requests the following relief:

1. **Vacatur of Void Judgment.** Issue a peremptory writ of mandate and/or certiorari directing that the April 20, 2017 judgment entered in Orange County Superior Court Case No. 30-2015-00805807 be vacated in its entirety as void ab initio for want of subject-matter jurisdiction and for violation of mandatory and prohibitory provisions of the California and United States Constitutions.
2. **Consolidation of Proceedings.** Consolidate this proceeding with the concurrently filed Emergency Petition (*Bereki v. Superior Court; Canjian Hou, Real Party in Interest*, Case No. S294339), pursuant to this Court's inherent authority, in order to prevent inconsistent rulings and to afford complete relief.
3. **Nullification of All Enforcement Actions.** Declare that all acts taken in reliance upon or in enforcement of the void judgment—including, but not limited to, license suspension or revocation under Business & Professions

Code § 7071.17, foreclosure proceedings, unlawful-detainer proceedings, writs of possession, and other executive or administrative enforcement actions—are themselves void and without legal effect, and order that such acts be set aside.

4. **Prohibitory and Injunctive Relief.** Issue appropriate writs of mandate, prohibition, or other equitable relief restraining all courts, agencies, officers, employees, and private parties acting under color of state law from any further enforcement, recognition, or reliance upon the void judgment or any derivative order, lien, or proceeding.
5. **Mandatory Adjudication of Constitutional Claims.** Declare that where a colorable claim of constitutional voidness is properly raised, courts have a mandatory, non-discretionary duty to adjudicate jurisdiction and constitutional validity, and that continued enforcement without such adjudication is incompatible with constitutional government and exceeds lawful authority.
6. **Restitution and Damages** Order restitution and compensatory damages necessary to restore Petitioner, as nearly as possible, to the position he would have occupied absent the void judgment and its enforcement, including restitution of property, proceeds, and interests taken, and compensation for losses proximately caused by acts taken without jurisdiction.
7. **Evidentiary Proceedings Limited to Remedy.** Upon this Court's declaration that the April 20, 2017 judgment is void ab initio, order such

limited evidentiary proceedings as are necessary, under this Court's constitutional, equitable, and statutory authority—including but not limited to Code of Civil Procedure § 1095, solely to determine the amount of restitution and compensatory damages flowing from enforcement of the void judgment, whether conducted by this Court, a court-appointed referee, or other neutral mechanism designated by this Court, and expressly without authority to revisit or adjudicate jurisdiction, liability, or constitutional validity.

8. **No Remand to Implicated Court.** Declare that remand to courts or agencies that participated in, relied upon, or enforced the void judgment would be constitutionally inadequate, and that no such tribunal may conduct further adjudicative proceedings concerning jurisdiction, validity, or enforcement of the void judgment.
9. **Restoration of Rights.** Order all relief necessary to restore Petitioner's possessory interests, property rights, professional interests, and legal status unlawfully taken or impaired pursuant to the void judgment and its derivative enforcement actions.
10. **Identification and Inclusion of Responsible Actors.** Declare that all persons or entities shown by the existing record or by additional facts and evidence presented during the evidentiary determination ordered by this Court to have materially participated in or contributed to enforcement of the void judgment or the resulting constitutional violations are subject to this Court's orders necessary to effectuate complete relief, including restitution, cessation of enforcement, and restoration of rights.

11. **Further Relief.** Grant such other and further relief as this Court deems just, proper, and necessary to restore constitutional governance, vindicate mandatory limits on legislative, judicial, and executive power, and prevent continued enforcement without lawful authority.

January 12, 2026

Respectfully filed,

Adam Bereki

VERIFICATION

I, Adam Bereki, declare:

1. I am the Petitioner in this action.
2. I wrote the foregoing Petition and know its contents.
3. The facts stated are true of my own knowledge, except as to matters stated on information and belief, and as to those, I believe them to be true.
4. Throughout the 2017 trial, real parties and the trial court repeatedly represented that the proceeding was an ordinary civil action. Relying on those representations, I waived jury trial and proceeded without counsel. Those representations were false: § 7031(a) and (b) are penal in fact (*Eisenberg Village v. Suffolk Constr. Co*., 53 Cal.App.5th 1201, 1212 (2020); *Liu v. SEC*, 591 U.S. 71 (2020)). As a result, any limited consent I gave to the 2017 proceeding was procured by fraud and is void under the principles of common law, equity, and Civil Code sections 1567–1568.
5. Real Parties deliberately concealed material evidence (Experts: Nickel report, Brockway deposition, and their own Motion for Summary Judgment at ROA 66) proving that Spartan (License #927244) performed all work and received all payments.
6. I have and continue to suffer irreparable injury: loss of my profession since 2017, severe emotional distress requiring ongoing treatment, bankruptcy, and foreclosure of my home with no access to a constitutional court and denial of remedy in all branches of California and United States government.
7. No court—state or federal—has adjudicated the constitutional validity or jurisdictional voidness of the April 20, 2017 judgment on the merits. Despite repeated notice to judicial and executive actors, enforcement of the judgment and its derivative consequences has continued, and no plain, speedy, or adequate remedy exists in any inferior tribunal.
8. All exhibits filed by me are true and correct copies of the documents or audio files they purport to be.

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

Signed on January 12, 2026, at Big Bear Lake, California.

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 (excluding the caption, cover page, tables of contents and authorities, certificate of interested entities or persons, verification, signature block, and this certificate) contains approximately 43,945 words, as calculated by Microsoft Word.

Dated: January 12, 2026

Adam Bereki

Exhibit A

Adam Bereki <abereki@gmail.com>

Notice of Emergency Supreme Court Orig. Filings and Stay Requests

1 message

Adam <abereki@gmail.com> Sun, Dec 14, 2025 at 1:50 PM
To: "wbissell wgb-law.com" <wbissell@wgb-law.com>, Henry Paloci <hpaloci@hotmail.com>

Counsel:

This email confirms that on December 14, 2025, at approximately 1:40 p.m. Pacific Standard Time, I provided 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______), including 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______).

Notice provided:

• William Bissell, Esq. (counsel for respondents Karen Humphreys and Gary Humphreys): I telephoned (949) 287-4503, spoke with counsel personally, and emailed written confirmation to wbissell@wgb-law.com.

• Henry Paloci, Esq. (counsel for real party in interest Canjian Hou): I telephoned (844) 398-5500, left a detailed voicemail, and emailed written confirmation to hpaloci@hotmail.com.

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

Accordingly, all adverse parties' counsel have been provided actual notice of both emergency filings and the immediate relief sought in each.

Sincerely,

Adam Bereki