

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

ADAM BEREKI,

Petitioner,

v.

THE SUPERIOR COURT OF
ORANGE COUNTY,

Respondent;

CANJIAN HOU,

Real Party in Interest.

G066337

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

O R D E R

THE COURT:*

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

MOORE, ACTING P. J.

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



Supreme Court of California

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

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

January 26, 2026

SENT VIA EMAIL & USPS

Adam Bereki
3649 Metter Street
Las Vegas, NV 89129
abereki@gmail.com

Re: *BEREKI v. S.C. (HOU)* – S294339

Dear Mr. Bereki:

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

Sincerely,

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

M. Chang

By: M. Chang, Deputy Clerk

Enclosure

cc: Rec.

Original Case No. **S294339**

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

Adam Bereki,
Petitioner.

v.

Superior Court of California for the County of Orange
Respondent.

Karen Humphreys and Gary Humphreys
(Real Parties in Interest)

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

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

TO THE HONORABLE JUSTICES OF THE SUPREME COURT OF CALIFORNIA:

INTRODUCTION

Petitioner Adam Bereki respectfully applies for an order:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PROCEDURAL HISTORY

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

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

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

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

The limited purpose of the transfer was therefore never fulfilled.

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

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

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

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

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

THE TRANSFER FAILED AND MUST BE RECALLED

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

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

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

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

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

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

This case now presents a single, dispositive constitutional question:

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

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

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

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

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

That is exactly what has occurred here.

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

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

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

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

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

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

MANDATORY RELIEF

This Court will please provide the following relief:

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

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

January 25, 2026

Respectfully filed,

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

Adam Bereki

Exhibit A

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

ADAM BEREKI,

Petitioner,

v.

THE SUPERIOR COURT OF
ORANGE COUNTY,

Respondent;

CANJIAN HOU,

Real Party in Interest.

G066337

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

O R D E R

THE COURT:*

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

MOORE, ACTING P. J.

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

Exhibit B

In the Fourth District Court of Appeal of California

Case No. GO66117

Adam Bereki,
Petitioner

v.

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

v.

Canjian Hou,
Real Party in Interest

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

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

*****STAY REQUESTED*****

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

RELATED FOURTH DISTRICT APPEAL CASE NO: G055075

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

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

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

CERTIFICATE OF INTERESTED PARTIES

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

Parties to the Appeal:

- Adam Bereki, Appellant
- Canjian Hou

Real Parties in Interest:

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

Judges and Commissioners Challenged in the Appeal:

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

Appellate Justices with Alleged Pecuniary Interest

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

Attorneys of Record:

- Henry Paloci (Attorney for Respondent Canjian Hou)

Persons or Entities Whose Interests May Be Affected:

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

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

Declaration of Petitioner:

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

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

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

A handwritten signature in black ink, consisting of a stylized 'A' followed by a series of loops and a final horizontal stroke.

Adam Bereki

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

OVERVIEW

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

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

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

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

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

I. PARTIES

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

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

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

II. JURISDICTION

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

III. REQUEST FOR JUDICIAL NOTICE

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

IV. VERIFIED STATEMENT OF FACTS AND ARGUMENT (MEMORANDUM)

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

Exhibit 1: Verified Opening Brief on Appeal

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

Exhibit 3: Minute Order- October 9, 2025

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

Exhibit 5: Minute Order- October 17, 2025

Exhibit 6: Motion to Take Additional Evidence

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

Exhibit 8: Clerk's Transcript (Separate filing)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18. By rejecting Petitioner’s Answer, the Deputy Clerk violated her ministerial duty and due process because clerks lack authority to determine the form or sufficiency of a pleading (*Baske v. Burke*, 125 Cal.App.3d 38, 45 (1981); *Stevens v. Torregano*, 192 Cal.App.2d 105, 112–113 (1961); see also e.g. Fed. R. Civ. P. 5: “The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice”).
19. On March 17, 2025, despite possessing: 1) Petitioner’s Answer and knowledge that his Answer had been obstructed by the Clerk and 2) notice of Petitioner’s

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

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

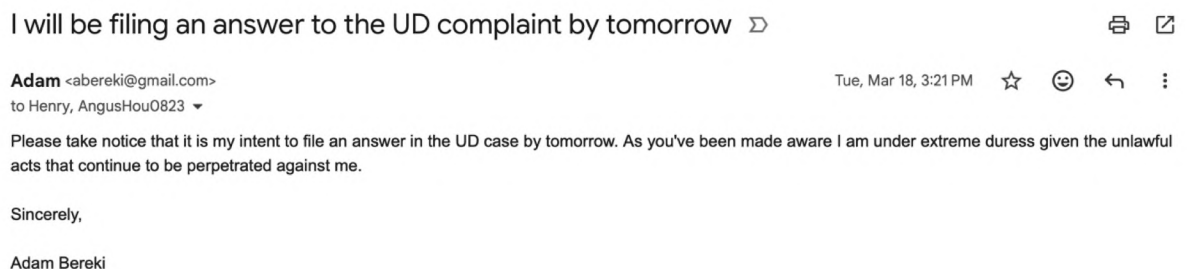
21. At the Ex parte hearing on March 18, 2025, the Superior Court’s unlimited civil division (2015 case) refused to grant a stay or to transfer the case to the unlimited division despite Petitioner’s *unopposed* evidence of the title dispute and the amount in dispute exceeding the \$35k threshold (Ex.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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

CERTIFICATE OF WORD COUNT

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

V. REQUESTED RELIEF

This Court will please order the following relief:

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

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

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

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

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

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

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

Respectfully filed,

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

Adam Bereki

Exhibit C

S294339

Original Case No. S_____

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

Adam Bereki,
Petitioner.

v.

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

Canjian Hou
(*Real Party in Interest*)

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

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

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

Judges Knill, McConville, Mittal

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

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

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

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

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

Specifically:

- I telephoned William Bissell, Esq., counsel for respondents Karen Humphreys and Gary Humphreys, at (949) 287-4503, spoke with counsel personally, and emailed written confirmation to wbissell@wgb-law.com.
- 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.
- Office of the Counsel for the Superior Court will be notified on 12/15/25 at 8:00 a.m.

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

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

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



Adam Bereki

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

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

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

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

Dated: December 14, 2025

Respectfully filed,



Adam Bereki

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WHY EMERGENCY RELIEF AND STAY ARE REQUIRED

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

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

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

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

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

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

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

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

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

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

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

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

ISSUES PRESENTED

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

NOTICE REGARDING EXHIBITS

All Exhibits are incorporated as if fully set forth herein.

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

INTRODUCTION

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

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

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

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

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

(Bereki v. Humphreys, Supreme Court No. S_____)

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

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

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

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

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

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

JURISDICTION

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

PARTIES

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

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

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

STATEMENT OF FACTS

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

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

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

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

PRESERVATION OF ALL ISSUES AND CONSTITUTIONAL CHALLENGES

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

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

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

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

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

ARGUMENT

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

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

Both exclusions apply here:

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

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

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

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

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

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

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

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

IV. The Limited-Civil Proceedings Violated Fundamental Due Process

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

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

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

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

INCORPORATION BY REFERENCE OF PRIOR FILINGS AND RELATED RECORDS

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

RELIEF REQUESTED

Petitioner respectfully requests that this Court:

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

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

Dated: December 14, 2025

Respectfully filed,

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

Adam Bereki

VERIFICATION

I, Adam Bereki, declare:

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

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

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

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

Adam Bereki

CERTIFICATE OF WORD COUNT

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

Dated: December 14, 2025

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

Adam Bereki