

CASE NO. S259479

20-1265

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

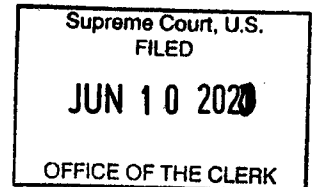
IVAN RENE MOORE AND RONALD HILLS,

Petitioners

VS

SUPREME COURT OF CALIFORNIA,

Respondent



ON PETITION FOR

WRIT OF CERTIORARI

TO THE

UNITED STATES SUPREME COURT

PETITIONERS APPENDIX FOR WRIT OF CERTIORARI

**Ivan Rene Moore
Ronald Hills
1236 Redondo Boulevard
Los Angeles, California 90019
(323) 932-9439**

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ISSUES PRESENTED FOR REVIEW

1. Shall a writ lie for denial of due process and unrestricted access to the courts when the California Supreme Court allows one department of the Superior Court to contemporaneously overrule another department in a matter pending, in violation of the California Constitution?
2. Were the Petitioners were denied due process and their right to redress by the Supreme Court of California when it affirmed the decision of the California Court of Appeals allowing the trial court jurisdiction to dismiss the Petitioner's action without notice and a hearing in violation of the California Constitution?
3. Were the Petitioners denied due process when the California Court of Appeals affirm a lower court's judgement ignoring their published opinion in Martin-Bragg vs. Moore 219 Cal App 4th 367 (2013), and the rulings of two other judges who found that Petitioner Moore had a beneficial interest in the 6150 Shenandoah Real Property and Petitioner Moore only paid the mortgage, taxes and improvements on his home for over twenty plus years
4. Was Petitioner Moore denied due process and their right to possess and enjoy his real and personal property and have an impartial court to redress when the California Supreme Court affirmed the denial of the Appellants' this Constitutional right by upholding Judge Johnson's denial of the return of Mr. Moore's adjudged converted property?

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5. Were the Petitioners denied due process and their right to fair and impartial court to redress when the California Supreme Court affirmed the denial of the Appellants' Constitutional and inviolate right to trial by jury in California and by failing to find such a denial reversible error ?

6. Were the Petitioners denied due process by the Supreme Court of California when it affirmed the decision of the California Court of Appeals affirming the lower courts orders denying the Appellants any discovery on whether defendant actually paid consideration for the real property: when she herself testified and the Superior Court and the Court of Appeals previously found, that Petitioner Moore paid all the mortgage, taxes and improvements on the 6150 Shenandoah property?

7. Were the Petitioners denied due process when Justice Helen Bendix had ruled previously, while a Superior Court Judge, and in another action with the same defendant Martin-Bragg, that Petitioner Moore was the owner of the 6150 Shenandoah Property and ordered him to pay \$290,000. Justice Helen Bendix was abruptly removed from the Court of Appeals Panel during oral argument after she acknowledged this?

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U.S. CONSTITUTIONAL PROVISIONS

FIRST AMENDMENT

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.....15,16

FIFTH AMENDMENT

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.....34

FOURTEENTH AMENDMENT

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.....11,16,25

CALIFORNIA CONSTITUTION

ARTICLE 1 SECTION 16

Trial by jury is an inviolate right and shall be secured to all, but in a civil cause three-fourths of the jury may render a verdict.

ARTICLE VI SECTION 4

SEC. 4. In each county there is a superior court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each superior court. If the governing body of each affected county concurs, the Legislature may provide that one or more judges serve more than one superior court. In each superior court there is an appellate division.31

ARTICLE VI SECTION 10

The court may make any comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause.....33

ARTICLE VI SECTION 11

(a) The Supreme Court has appellate jurisdiction when judgment of death has been pronounced. With that exception courts of appeal have appellate jurisdiction when superior courts have original jurisdiction in causes of a type within the appellate jurisdiction of the courts of appeal on June 30, 1995, and in other causes prescribed by statute.....12, 14, 16,17,22

ARTICLE VI SECTION 13

No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice.....27,3

ARTICLE VI SECTION 10

SEC. 10. The Supreme Court, courts of appeal, superior courts, and their judges have original jurisdiction in habeas corpus proceedings. Those courts also have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. The appellate division of the superior court has original jurisdiction in proceedings for extraordinary

relief in the nature of mandamus, certiorari, and prohibition directed to the superior court in causes subject to its appellate jurisdiction.

Superior courts have original jurisdiction in all other causes.

The court may make any comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause.

ARTICLE VI SECTION 13

SEC. 13. No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice.21

UNITED STATES STATUTES

28 U.S.C. § 1257 (a)1

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

CALIFORNIA STATUTES

California Code of Civil Procedure 475

The court must, in every stage of an action, disregard any error, improper ruling, instruction, or defect, in the pleadings or proceedings which, in the opinion of said court, does not affect the substantial rights of the parties. No judgment, decision, or decree shall be reversed or affected by reason of any error, ruling, instruction, or defect, unless it shall appear from the record that such error, ruling, instruction, or defect was prejudicial, and also that by reason of such error, ruling, instruction, or defect, the said party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error, ruling, instruction, or defect had not occurred or existed. There shall be no presumption that error is prejudicial, or that injury was done if error is shown.....27

California Code of Civil Procedure 581 (d)

A written dismissal of an action shall be entered in the clerk's register and is effective for all purposes when so entered. All dismissals ordered by the court shall be in the form of a written order signed by the court and filed in the action and those orders when so filed shall constitute judgments and be effective for all purposes, and the clerk shall note those judgments in the register of actions in the case.....15

California Code of Civil Procedure 592

In actions for the recovery of specific, real, or personal property, with or without damages, or for money claimed as due upon contract, or as damages for breach of contract, or for injuries, an issue of fact must be tried by a jury, unless a jury trial is waived, or a reference is ordered, as provided in this Code.....30

California Code of Civil Procedure 760.060

The statutes and rules governing practice in civil actions generally apply to actions under this chapter except where they are inconsistent with the provisions of this chapter.

California Code of Civil Procedure 2031.10

2031.010. (a) Any party may obtain discovery within the scope delimited by Chapters 2 by inspecting documents, tangible things, and land or other property that are in the possession, custody, or control of any other party to the action.

(c) A party may demand that any other party produce and permit the party making the demand, or someone acting on that party's behalf, to inspect and to photograph, test, or sample any tangible things that are in the possession, custody, or control of the party on whom the demand is made.

(d) A party may demand that any other party allow the party making the demand, or someone acting on that party's behalf, to enter on any land or other property that is in the possession, custody, or

control of the party on whom the demand is made, and to inspect and
to measure, survey, photograph, test, or sample the land or other
property, or any designated object or operation on it.....30

California Code of Civil Procedure § 2017.10

“Unless otherwise limited by order of the court in accordance with this title,
any party may obtain discovery regarding any matter, not privileged,
that is relevant to the subject matter involved in the pending action or to the
determination of any motion made in that action, if the matter either is
itself admissible in evidence or appears reasonably calculated to lead to the
discovery of admissible evidence. Discovery may relate to the claim or
defense of the party seeking discovery or of any other party to the action. Discovery
may be obtained of the identity and location of persons having knowledge
of any discoverable matter, as well as of the existence, description, nature, custody,
condition, and location of any document, electronically stored information,
tangible thing, or land or other property.....24

California Rules of Court

Rule 8.1115. Citation of opinions

(d) When a published opinion may be cited

A published California opinion may be cited or relied on as soon as it is
certified for publication or ordered published.

(e) When review of published opinion has been granted

(2) After decision on review

After decision on review by the Supreme Court, unless otherwise ordered by the Supreme Court under (3), a published opinion of a Court of Appeal in the matter, and any published opinion of a Court of Appeal in a matter in which the Supreme Court has ordered review and deferred action pending the decision, is citable and has binding or precedential effect, except to the extent it is inconsistent with the decision of the Supreme Court or is disapproved by that court.....25

California Code of Judicial Ethics

Cannon 1

A JUDGE SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL OF THE JUDGE'S ACTIVITIES

A. Promoting Public Confidence

A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

ADVISORY COMMITTEE COMMENTARY

Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny.

A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by other members of the community and should do so freely and willingly.

The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. The test for the appearance of impropriety is whether a person aware of the facts might reasonably entertain a doubt that the judge would be able to act with integrity impartiality, and competence. As to membership in organizations that practice invidious discrimination, see also Commentary under Canon 2C.

In addition, Code of Civil Procedure section 170.2, subdivision (b), provides that, with certain exceptions, a judge is not disqualified on the ground that the judge has, in any capacity, expressed a view on a legal or factual issue presented in the proceeding before the judge.

CANON 3 A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY

A. Judicial Duties in General

All of the judicial duties prescribed by law shall take precedence over all other activities of every judge. In the performance of these duties, the following 11 standards apply.

B. Adjudicative Responsibilities

(1) A judge shall hear and decide all matters assigned to the judge except those in which he or she is disqualified.

ADVISORY COMMITTEE COMMENTARY Canon 3B(1) is based upon the affirmative obligation contained in Code of Civil Procedure 170

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, engage in speech, gestures, or other conduct that would reasonably be perceived as (1) bias or prejudice, including but not limited to bias or prejudice based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political

affiliation.....34,35

CALIFORNIA CODE OF JUDICIAL ETHICS

California Code of Judicial Ethics

Preamble, Canons 1,

1 (Commentary), 2C, 4C(2) (Commentary), 4D(6)(a) (Commentary),

4D(6)(g) (Commentary), 4D(6)(i) (Commentary), 4H(3) 15

(Commentary), 5, 5A (Commentary), 5B (Commentary), and 6D(1)

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ALL PARTIES TO THE PROCEEDINGS

Ivan Rene Moore and Ronald Hills, Petitioners in the California Court of Appeals action, and Petitioners in the California Supreme Court

Kimberly Martin-Bragg aka Kimberly Barbour, Respondent in the California Court Appeals

California Supreme Court Respondent

CORPORATE DISCLOSURE US SUPREME COURT RULE 29

Pursuant to Rule 29.6 of this Court's Rules, Petitioner Ivan Rene Moore states that he has no parent company, and no publicly held corporation owns 10% or more of its stock.

Pursuant to Rule 29.6 of this Court's Rules, Petitioner Ronald Hills states that he has no parent company, and no publicly held corporation owns 10% or more of its stock.

JURISDICTION

JURISDICTION

Article III Section 2 of the US Constitution provides jurisdiction.

This case arises from a denied Petition for Review by the California Supreme Court on January 15, 2020. This case involves US Constitutional questions and Petitioners here seek a writ under 28 USC 1651.

APPENDIX

- App. 1.** California Court of Appeal Opinion Moore v Martin-Bragg B272445 (Cal. Ct. App. Oct 25, 2019)
- App. 2.** The Petition for Rehearing Denial November 12th, 2019
- App. 3.** Petition for Hearing to the California Supreme Court Denial January 15th, 2020
- App. 4.** Watson v Moore Complaint filed June 1st, 2006.
- App. 5.** Martin Bragg v Moore 219 Cal App 4th 367 (Filed August 1st, 2013)
- App. 6.** Special Jury verdict Conversion in Moore v Bragg BC480013. (Filed July 29th, 2013)
- App. 7.** Special Jury verdict Trespass to Chattel in Moore v Bragg BC480013. (Filed July 29th, 2013)
- App 7 B.** Judge Rosenblatt's Judgement in Moore v Bragg BC 480013 dated November 8th, 2013
- App. 8.** Martin-Bragg Motion to void deed to the 6150 Shenandoah property. (Filed December 31st, 2012)
- App. 9.** Judge Rosenblatt's ruling in Moore v Martin-Bragg BC 464111 Order Denying Martin-Braggs Motion to Declare Hills Deed Invalid dated February 1st 2013
- App. 10.** Judge Rosenblatt's ruling in Moore v Martin-Bragg BC 464111 Order setting Jury trial and Jury Fees Posted. Pg. 2 of 3 ¶4

App. 11. Judge Schaller in Moore vs. Martin-Bragg BC 464111 Order setting Jury Trial for April 29th, 2015 and that Parties file Brief/Notebooks June 24th, 2014 ruling on Plaintiff's Moore right and setting a Jury trial in BC464111. (Filed June 26th, 2014) Pg. 1 of 2 ¶3.

App. 12. Petitioners Moore's ex-parte Motion for Return of Property in Accordance with the Interlocutory Judgement.

App. 13. Judge Johnson denied plaintiff motion for discovery documentation to show Martin-Bragg's fraud.(Filed July 30th, 2015)

App. 14. Writ of Possession to the 6150 Shenandoah Property issued by the Los Angeles Superior Court Clerk. (Filed February 18th, 2015)

App. 15. Judge Johnson denial of Moore and Hills to get their trial documents for trial that started on 10/5/15. (Filed September 2nd, 2015)

App. 16. Watson v Moore Complaint BC 353300

App. 17. Settlement in Watson v Moore and release of Lis Pendens on the 6150 Shenandoah property.

App. 18. Judge Johnson Judgement After Trial where he states he dismissed the case Moore v Bragg BC464111 before trial. (Filed March 29th, 2016) **Pg. 2 Lines 5-6**

App. 19. Hearing Transcript of trial 10/5/15. (Filed October 5th, 2015) Pg. 6, lines 24-28, Pg. 7 lines 1-18.

App. 20. Petitioners Demand for Expert Witness

PETITION FOR WRIT OF CERTIORARI

Petitioners Ivan Rene Moore and Ronald Hills respectfully petition this Court for a Writ of Certiorari to review the judgment of the Supreme Court of California.

JURISDICTION

The opinion of the California Court of Appeals was filed on Oct 25th 2019

(App.#1) The Petition for Rehearing was denied on November 12th, 2019.

(App.#2) The Petitioner's petition for hearing to the California Supreme Court was denied on January 15th, 2020. **(App.#3)**

Therefore, Petitioners invoke this Court's jurisdiction under 28 U.S.C. § 1257.

This Court extended the date under the terms of the Notice about the Coronavirus when the U S Supreme Court closed.

PARTIES

Petitioners Ronald Hills and Ivan Rene Moore

Respondent The Supreme Court of California

STATEMENT OF THE CASE

In 1994, Petitioner Ivan Rene Moore's mother purchased a beautiful sprawling five-bedroom home in a picturesque neighborhood located at 6150 Shenandoah Avenue, Los Angeles, California. ("Shenandoah"). Mrs. Moore later deeded the property to The Secretary of the Moore family corporations, Petitioner Ronald Hills, to hold in trust for Mr. Moore and his corporations.

Mr. Moore is a four-time Grammy nominated music producer, writer, and entrepreneur. Mr. Moore and Mr. Hills operated a music production studio, and a radio station was broadcast from Shenandoah.

In 2007, Petitioners and the Respondent, Kimberly Bragg ("Bragg") were sued by a creditor, (**App.#4**) Watson vs. Moore, et al., BC353300. Los Angeles Superior Court Judge Helen Bendix found that Petitioner Moore was the beneficial owner of Shenandoah. And pursuant to stipulation and settlement signed by all defendants including Bragg. Mr. Moore only paid the \$290,000 judgement to ensure his ownership and possession of the 6150 Shenandoah property. Therefore, it is important to note that as of 2008 Mr. Moore was legally determined to be the beneficial owner of the 6150 Shenandoah property.

In 2011, Bragg promised to hold the property in trust, for the Moore family Corporations and Petitioner Moore. Bragg later filed an Unlawful Detainer ("UD") action to dispossess Mr. Moore, of Shenandoah, Martin- Bragg vs. Moore BC 459449, claiming she was owed rent. However, Judge Fruin's Statement of Tentative Decision of January 3, 2012, evicting Mr. Moore, found that Mr. Moore and only Mr. Moore, paid all the mortgage, taxes, and improvements, for the past ten plus years on the 6150 Shenandoah property.

Mr. Moore filed a breach of contract and fraud action against Bragg contemporaneous with the UD, Moore vs. Martin- Bragg BC 464111, the initial action which became the lead case and from which this petition arises. Petitioner Hills filed an action separately BC 475551.

In 2013, the California Court of Appeals, reversed the UD action in full, in Bragg vs. Moore 219 Cal App 367 (2013), calling it a “trial by ambush” and a “miscarriage of justice.” **(App. #5)** The California Court of Appeal remanded the case back to the lower court with direction.

The Appeals Court cited a precedential California case in its decision, Ford vs. Superior Court 188 Cal. App. 3d 737 (1986), (“Ford”) which holds that one Superior Court judge cannot overrule another Superior Court judge in the same matter while the action is pending, because that would violate the California Constitution Article VI, Section 11.

Ford v Superior Court says that in overruling another Judge, a trial judge would act as if he were the Court of Appeals and a judge has no jurisdiction or authority to overrule another judge.

The Appeals Court also found that Mr. Moore had a beneficial interest in Shenandoah because he paid all the mortgage, taxes and improvements for over 10 years. Thus the \$290,000 payment, and all the mortgage and taxes were paid by Petitioner Moore before, during and after Shenandoah was put in Bragg’s name to hold in trust. The matter was reversed and remanded. After the remand, the lead case, Moore vs. Bragg BC 464111 was assigned to Judge Michelle Rosenblatt (ret).

Mr. Moore filed another action for conversion and trespass for all the personal and business property locate inside his home which included the property of third parties using the studio, and Mr. Hills.

On July 29th, 2013, a Los Angeles Superior Court Jury in Moore vs. Bragg BC 480013, unanimously found that Mr. Moore owned the *contents* of 6150 Shenandoah on the day of eviction, awarded him the return of all of his personal, business and professional property, and awarded him \$5,000,000 for the conversion and trespass in Special Verdicts, and \$650,000 for the loss of earnings. **(App.#6), (App.#7)**

The jury found that Bragg had converted Mr. Moore's and others property and she Bragg had no ownership interest in the personal and business property, that she Bragg trespassed upon the property, and that Mr. Moore did not owe her any money as she claimed. (Her ownership claims were based upon this lie.)

On November 13, 2013, Judge Rosenblatt entered an Interlocutory Judgment Bifurcating the Conversion and Trespass matter from the ownership contract case, and specifically ordered Defendants, her attorneys, and agents to immediately return of all the property to Mr. Moore. **(App# 7-B) Pg. 5, ¶ 4.**

Defendant Bragg has not returned any of the property to date.

Judge Rosenblatt was also assigned to the ownership, breach of contract matter, BC 464111 and it was consolidated with Petitioner Hills' action.

On December 31, 2012, Bragg filed a full noticed motion to have Mr. Hills deed declared void, as fraudulent, and arguing it was false and forged. A noticed hearing was held, witnesses testified, documents produced, and Judge Rosenblatt

ruled Mr. Hills deed was valid, denying Bragg's motion. **(App.#8)** This Order was filed and entered on February 1, 2013. **(App.#9)**

On 11/08/13 Judge Rosenblatt then Ordered these matters for a jury trial, and found all the jury fees were paid. She retired in late 2013. **(App.#10)**

The case was then assigned to Judge Frederick Schaller. In accordance with Judge Rosenblatt's Order Judge Shaller set the matter for jury trial April 29, 2015, and ordered the parties to file notebook briefs, pursuant to Minute Order June 24, 2014 BC 464111. **(App.#11)**

Thereafter Judge Shaller recused himself. The case was transferred to Judge Michael Johnson (ret.) Mr. Moore filed an ex-parte motion to subpoena Martin- Bragg's Credit Union, to prove Bragg never paid any down payment on Shenandoah. He also requested for the return of his converted property, which included legal documents, contract, agreement, deeds to real property in accordance with Judge Rosenblatt's specific Order, arguing that depriving him of his property deprived him of his constitutional rights to earn a living using the property. **(App.#12)**

Johnson overruled every Order of Judge Rosenblatt and would not grant a motion in limine that Mr. Hills' deed was legally valid. Johnson denied a jury trial, and denied a motion in limine that it had been determined by the Court of Appeals in Ford, by which he was bound, that Mr. Moore had an ownership interest in the property.

Johnson also denied any discovery on the financial ability of Bragg to purchase a \$1,600,000 home on a salary of \$3000 per month, while she paid the mortgage on her home, and after Johnson himself said that this issue was

“relevant”. Johnson denied the Petitioners request for discovery for proof Bragg paid anything to “purchase” the home.

He denied the subpoena to Bragg’s credit union where Bragg claimed she got the money for the down payment. The documentation for the credit union would prove Bragg never paid any funds for the purchase of the Shenandoah Property. **(App.#13)**

Mr. Moore filed a motion for possession of the 6150 Shenandoah property the writ of possession was granted and issued by the Los Angeles Superior Court clerk after the decision of the Appeals court in the UD. **(App.#14)** Mr. Moore sought the return of his legal documents so he could be prepared for this trial. Judge Johnson denied this motion, showing deference allowing Bragg to stay in Shenandoah, when it contained the music studio from which the Petitioners made their living. **(App.#15)**

Johnson refused to accept the decision in Bragg vs. Moore 219 Cal App 3rd 367 (2013) which he was bound to accept. He stated it meant nothing. He refused to allow Mr. Moore to enter the Judgment entered by Judge Bendix in the Watson matter, after Mr. Moore paid the \$290,000 in certified funds. **(App.#16) face page BC353300/ (App #17 Settlement Watson v Moore)**

Over the strenuous objection of the Petitioners, Johnson held a bench trial on quiet title even though fraud, breach of contract, and possession were in issue. In California if the plaintiff is out of possession it must be a jury trial. Thomson v. Thomson, 7 Cal.2d 671 (1936).

Judge Johnson dismissed the lead remanded action in Moore vs Martin-Bragg BC 464111 the Court of Appeal remanded breach of contract fraud case, without any notice, any hearing, or opportunity for the Plaintiffs to be heard, depriving Petitioners of due process and in violation of the California Court of Appeal. Petitioners first learned Judge Johnson dismissed this action, weeks after the trial concluded in Judgment After Trial page 2/Lines 5,6 BC 464111 March 29, 2016)) (**App#18**)

Johnson awarded Shenandoah to Bragg, and issued a penalty in retaliation to Mr. Moore and Mr. Hills. They complained about their incredulity of Johnsons' orders completely overturning three other judges. The Petitioners requested findings of fact and conclusion of law. (**See Trial Transcript Oct 5th,2015) Page (6) Line 5-28), (See Transcript Oct 5th, 2015) Page (7) Lines 1-18. (APP#19)**)

Mr. Moore challenged:

"So from the plaintiff's position, we vehemently disagree. There are a lot of other issues as it relates to the jury trial, but I don't want to belabor the issue and drag this thing out longer than it should. Our position is that this court either needs to give us Findings of fact and conclusions of law, how it can **usurp** The right of California Court of Appeal, **usurp** the right Of Judge Shaller, **usurp** the right of Judge Rosenblatt When that very issue of jury trial was gone over and Determined we would get that right. I think it is a

Violation of our, again, due process to then say, okay, You can now -- I am going to do it this way. I respect The court's position that if all these other things had Not transpired, then the court would be completely Correct, but we have legal issues where the court of Appeal says, I want the legal issues, the beneficial Issues, and then we talk about possession and the other issues. from our point of view, it is improper, and it is Wrong and that the plaintiff is, in fact, entitled to a Jury trial in this matter.

The Court: thank you. Mr. Hills, do you have Anything to add?

Mr. Hills: no, I concur with Mr. Moore.”

Johnson ignored all of this. Petitioners objected and argued that the Court of appeal rulings were and are controlling over the lower Court’s decisions, again Judge Johnson disagreed.

Mr. Moore and Mr. Hills appealed Judge Johnson’s decision, and filed briefs about Johnson’s overruling three other judges assigned to this case, and ignoring the California Court of Appeal’s decision. Petitioners argued his violation of Ford vs. Superior Court, the very case the Court of Appeals used to reverse the eviction. They argued the Watson case findings by Judge Bendix. (who was now appointed to the Court of Appeals)

When the parties appeared for oral argument, Justice Bendix was one of the three judges on the Appeals court bench. Mr. Moore stated that she had found previously that he owned Shenandoah. Justice Bendix acknowledged this verbally. Then only a few seconds later a recess was called by the Presiding Justice Rothschild.

When the Justices returned, an announcement was made that Justice Bendix would not be returning, only to be replaced at oral argument with another judge who had no knowledge of this case, and had not read any of the brief.

Despite the fact that Judge Johnson overruled many of the prior court orders and ruling, which violated the California Constitution and well settled- precedential case law, the Court of Appeals affirmed on October 25, 2019. (Opinion B272445 October 25, 2019). **(App#1)**

No mention was made of this violation of the California Constitution, nor of Johnson’s overruling prior court rulings, the findings of the Court of Appeals,

and the ownership findings of Justice Bendix, Fruin, and the legal deed held by Ronald Hills in trust for Mr. Moore, and the same findings California Court of Appeals itself in Martin- Bragg vs. Moore 219 Cal. App. 4th 367 (2013) , where the very same court found that the California Constitution forbade any jurisdiction to one Superior Court Judge to overrule another in the same matter pending. Ford vs. Superior Court 188 Cal. App. 3rd 737 (1986) was ignored. Rehearing was denied November 12, 2019. **(App.#2)** (Denial B272445 November 12, 2019) The Supreme Court of California denied the Petition for Review on January 15, 2020. (Denial S259479 January 15, 2020). **(App.# 3)** Appellants timely filed these Writ.

Petitioners are here now asking this Court to decide fundamental questions.

Did the California Supreme Court violate the US Constitution's due process clause when it allowed a violation of its own Constitution ? Were Petitioners deprived due process of law when their seminal action was dismissed without a hearing or notice? Was due process and equal protection denied when Bragg was allowed to remain in the home when she had a home next door and the Petitioners business was located in Shenandoah? Was due process denied when the adjudged Converter was allowed to keep the property she converted? Were the US Constitutional rights of the Petitioners to redress grievances in a fair and impartial court denied? Can one judge overrule another in the same matter while the action is pending? Does a party have a right to rely on a Court Order while the matter is pending?

If a party does not have a right to rely on an Order of a Court, and another judge in the same court down the hall can overrule it, what validity does a court

order have? What validity does a court have? Or if a court order becomes void after a certain date, what is that date?

These are fundamental issues of due process. Just as this Court says “As the final arbiter of the law, the Court is charged with ensuring the American people the promise of equal justice under law and thereby, also functions as guardian and interpreter of the Constitution”. These are fundamental questions for the American legal system. Can a state act in violation of its own Constitution deny due process and equal protection under the US Constitution? Can a state deny First Amendment rights to redress? And can a state take the real and personal and business property of the Petitioners without due process? They are problems with national consequences, that this Court can and should settle. Petitioners have no other remedy. They have exhausted all of the remedy in their State.

ARGUMENT

1. REASONS FOR GRANTING THE WRIT

This case arises from the failure of the California Supreme Court and California Court of Appeal to reverse a decision made by a lower court lacking jurisdiction and denying due process to a litigant. The same Court of Appeals four years prior found the exact same conduct of one superior court judge overruling another superior court judge, to lack jurisdiction, and violate the California Constitution by allowing one Superior Court Judge to act as a Court of Appeal in overruling the orders of the two prior judges. These actions deny due process and equal protection under the law.

If the State Supreme Court will not stop this, then it is imperative that the United States Supreme Court stop it. If such decisions are permitted to stand, the Order of a Court will mean nothing.

Due process will erode, trials will not be fair, and the public will not accept the validity of the courts. Confusion and mistrust of the judicial system will run rampant.

If Court orders are permitted to be ignored, the Courts will lose all efficacy. If the statutes and the Constitution have no force and effect, democracy will be eliminated. Our country will not uphold sacred laws.

The Supreme Court of California has affirmed this usurpation of law and allowed this aberration. In doing so, it denied Petitioners' rights to procedural and substantive due process. Petitioners were fighting for their home and its contents, their real and personal property, which denied them their rights to work and earning a living.

The US Constitution does not allow a state to deprive a citizen of due process. Given the manifest absence of jurisdiction in the Judge of California Superior Court, only to be upheld by the California Supreme Court, Petitioners have established a "clear and indisputable" right to relief. Petitioners have "no other adequate means" to "attain the relief" when the state court violated both the state and the United States Constitution. And issuance of "the writ is appropriate under the circumstances"; indeed, the "traditional use of the writ has been to confine" a court "to a lawful exercise of its prescribed jurisdiction".

Cheney vs. U. S. 542 U.S. 367 (2004)

As to Certiorari this court has accepted such when there is state court confusion and uncertainty, and when the state court comes into conflict with the US Constitution. The Fourteenth Amendment is clear and unambiguous about due process.

The California Constitution art VI § 11 (2018) provides that one department of the superior court cannot act as an appellate court against another in the same action. Petitioners are asking this court to enforce these existing Constitutional provisions and well-settled case law upholding statutory law.

2. THE RIGHT TO A WRIT IS CLEAR BECAUSE JURISDICTION WAS USURPED

The California Constitution art VI § 11 (2018) provides that one department of the superior court cannot act as an appellate court against another in the same action. Petitioners are asking this court to enforce these existing Constitutional provisions and well-settled case law upholding statutory law.

Petitioners also have a constitutional right to redress of grievances which was denied them by the Courts in California. In *Chisholm v. Georgia*, 16 and *Marbury v. Madison*, 5 U.S. 137 (1803) this court said:

“It cannot be presumed that any clause in the constitution is intended to be without effect; and therefore such a construction is inadmissible, unless the words require it.”.

In 1831 the Court said *Kendall v. U.S. ex rel. Stokes*, 37 U.S. 524, 624 (1838) “It would be a monstrous absurdity in a well-organized government, that there should be no remedy, although a clear and undeniable right should be shown to exist”.

In more than twenty Supreme Court cases over the past five decades, one or more Justices has asserted or assumed that a lawsuit is a petition, without a single colleague disputing the premise. *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 134 S. Ct. 1749, 1757 (2014); *Woodford v. Ngo*, 548 U.S. 81, 122-23 (2006) *Lewis v. Casey*, 518 U.S. 343, 406 (1996); *Fla. Bar v. Went For It, Inc.*, 515 U.S. 618, (1995) ; *Profl Real Estate Inv'rs, Inc. v. Columbia Pictures Indus., Inc.*, 508 U.S. 49 (1993); *Hudson v. Palmer*, 468 U.S. 517, 523 (1984); *Sure-Tan, Inc. v. NLRB*, 467 U.S. 883, (1984); *Bill Johnson's Rests., Inc. v. NLRB*, 461 U.S. 731, 741 (1983); *Rhodes v. Chapman*, 452 U.S. 337, 362 n.9 (1981); *Montanye v. Haymes*, 427 U.S. 236, 244 (1976) ; *Pell v. Procunier*, 417 U.S. 817, 1974); *Ortwein v. Schwab*, 410 U.S. 656, (1973); *Cal. Motor Transp. Co. v. Trucking Unlimited*, 404 U.S. 508 (1972); *United Transp. Union v. State Bar of Mich.*, 401; U.S. 576 (1971); *United Mine Workers of Am., Dist. 12 v. Ill. State Bar Ass'n*, 389 U.S. 217, (1967); *Bhd. R.R. Trainmen v. Va. ex rel. Va. State Bar*, 377 U.S. 1, 7 (1964); *NAACP v. Button*, 371 U.S. 415, (1963).

Petitioners have no other means of redress but to seek it properly in this Court. Usurpation of jurisdiction is an exceptional circumstance which the California Court of Appeals itself called out in the first decision in *Martin-Bragg vs. Moore* 219 Cal App 4th 367 (2013). Petitioners seek the certification of this issue and ask this court to review this case.

**3. THE CALIFORNIA COURTS UPHELD A DENIAL OF DUE PROCESS
IN ALLOWING THE SUPERIOR COURT JUDGE TO DISMISS THE
SEMINAL ACTION WITHOUT NOTICE AND HEARING**

Superior Court Judge Johnson (ret.) said for *the first time* in his Decision that he dismissed the seminal action, the fraud and breach of contract action affecting the real property rights of the Petitioners, *before the trial*. He dismissed BC464111 without any notice or opportunity to be heard.

“Some form of hearing is required before an individual is finally deprived of a property [or liberty] interest.” Mathews v. Eldridge, 424 U.S. 319, 333 (1976). This is a central premise in law. “Parties whose rights are to be affected are entitled to be heard.” Baldwin v. Hale, 68 U.S. (1 Wall.) 223, 233 (1863).

This right is a “basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual, its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment” Fuentes v. Shevin, 407 U.S. 67 (1972); Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 123 (1951) Armstrong v. Manzo, 380 U.S. 545 (1965).

In dismissing an entire action without saying so until well after the trial, Johnson denied Petitioners the notice of hearing and the opportunity to be heard which “must be granted at a meaningful time and in a meaningful manner.” Ex parte Virginia, 100 U.S. 339 (1880). The state cannot allow a judge to dismiss an action and then tell the parties he did so weeks after the trial and when he files his decision. A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way.

“Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty, without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State’s power, his act is that of the State.”

State Court Judges here denied due process and equal protection. They made a severe departure from their own constitutional law and their own precedent, which they themselves quoted four years earlier in the preceding UD action. The severe departure from precedent is a state action denying equal protection. *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345 (1974).

Judge Johnson violated more than one section of California Statutes. Section 581d of the Code of Civil Procedure provides that "***A written dismissal of an action shall be entered in the*** clerk's register ... and is effective for all purposes when so entered," and that "All dismissals ordered by the court shall be entered upon the minutes ... and ... when so entered shall constitute judgments and be effective for all purposes." *Spreckels v. Spreckels*, 172 Cal. 789(1916) ; *Whitaker v. Moran*, 23 Cal. App. 75 (1914). He failed to enter dismissal of the action until well after the trial. Johnson never stated at any time during the entire trial that he dismissed BC 464111 before the trial. This was done to keep Petitioners uninformed about the dismissal of the lead case to deprive the Petitioners due process.

The Petitioners were out of possession, without their property, and unable to practice their profession because the converter was permitted to keep their music production studio and equipment. Substantive due process has been

interpreted to include things such as the right to work in an ordinary kind of job, marry, and to raise one's children as a parent.

This court has recognized that lawsuits are petitions covered by the First Amendment's right to petition and redress. *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508 (1972), and *Professional Real Estate Investors, Inc. v. Columbia Pictures Industries, Inc.*, 508 U.S. 49 (1993), *Bill Johnson's Restaurants, Inc. v. NLRB*, 461 U.S. 731 (1983), *Sure-Tan, Inc. v. NLRB* 467 U.S. 883 (1984.)

By dismissing the seminal remanded case of the Petitioners especially without notice or opportunity to be heard, the lower court denied them any right to Petition for redress under the First Amendment, and the California Court of Appeals and California Supreme Court allowed this.

4. VIOLATION OF THE CALIFORNIA CONSTITUTION DEPRIVED PETITIONERS OF FOURTEENTH AMENDMENT'S DUE PROCESS AND EQUAL PROTECTION BECAUSE THEY COULD NOT RELY ON A VALID COURT ORDER

The California Constitution Article VI § provides that one department of the superior court cannot act as an appellate court against another in the same action:

“(a) The Supreme Court has appellate jurisdiction when judgment of death has been pronounced. With that exception courts of appeal have appellate jurisdiction when superior courts have original jurisdiction in causes of a type within the appellate jurisdiction of the courts of appeal on June 30, 1995, and in other causes prescribed by statute.”

The California Court of Appeals pointed this out in *Martin-Bragg v Moore* 219 Cal App. 4th 367, in the reversal of the UD case in 2013. In this case Judge Johnson, overruled the orders of three prior judges in the same action. He acted without jurisdiction and acted as an appellate court.

The California Court of Appeals , said in *Ford vs. Superior Court* 188 Cal. App. 3rd 738 (1986) , and it remains controlling law:

"A superior court is but one tribunal, even if it be composed of numerous departments **An order made in one department during the progress of a cause can neither be ignored nor overlooked in another department**" (*People v. Grace*, 77 Cal. App. 752 ... cited in *Lee v. Offenberger*, 275 Cal. App. 2d 575, 583....) This is because the state Constitution, article VI, section 4 vests jurisdiction in the court, '... and not in any particular judge or department ...; and ... whether sitting separately or together, the judges hold but one and the same court. [Citation.] It follows, ... where a proceeding has been ... assigned for hearing and determination to one department of the superior court by the presiding judge ... and the [188 Cal. App. 3d 742] proceeding ... has not been finally disposed of ... it is beyond the jurisdictional authority of another department of the same court to interfere with the exercise of the power of the department to which the proceeding has been so assigned If such were not the law, conflicting adjudications of the same subject-matter by different departments of the one court would bring about an anomalous situation and doubtless lead to much confusion. [Citation.]' (*Williams v. Superior Court*, 14 Cal. 2d 656, 662....)" (*In re Kowalski* (1971) 21 Cal. App. 3d 67, 70 [98 Cal. Rptr. 444]; *People v. Batchelor* (1976) 56 Cal. App. 3d 278, 284 [128 Cal. Rptr. 349].) (emphasis added)

[3] **One department of the superior court cannot enjoin, restrain, or otherwise interfere with the**

judicial act of another department of the superior court. Even between superior courts of different counties, having coequal jurisdiction over a matter, the first court of equal dignity to assume and exercise jurisdiction over a matter acquires exclusive jurisdiction. (Morrisette v. Superior Court (1965) 236 Cal. App. 2d 597, 599-600 [46 Cal. Rptr. 153]; Browne v. Superior Court (1940) 16 Cal. 2d 593, 597 [107 P.2d 1, 131 A.L.R. 276].) **emphasis added**

Appellate jurisdiction to review, revise, or reverse decisions of the superior courts is vested by our Constitution only in the Supreme Court and the Courts of Appeal. (Cal. Const., art. VI, § 11.)”

Jurisdiction is not vested in any particular judge. Judge Johnson overruled Judge Michelle Rosenblatt’s order that Mr. Hills held a valid deed to the Shenandoah Property; he overruled the orders of both Judge Rosenblatt and Judge Schaller that this matter was going to be tried by a jury because of the complex issues in the matter BC 464111, the case that he dismissed without notice or a hearing.

There is simply no question that Judge Johnson usurped and violated his jurisdiction limit. However, the appeals court seemed to reverse itself and was silent on this issue denying the Petitioners due process.

In this case there were several superior court judges assigned to this matter, from 2012 to 2015. The first judge, Michelle Rosenblatt held a hearing on a noticed motion; with witnesses, and evidence presented, and found that Mr. Hills held a valid deed to the 6150 Shenandoah Avenue Property. **(App.#9)**

Before trial, however, Judge Johnson refused a motion in limine to establish this fact, claiming that the Defendant's attorney did not write the original motion correctly, which is not a legal reason to deny the motion in limine.

The failure to uphold a prior court order, and to act as the appeals court and review what another judge did was not a function of Judge Johnson's.

If his action is left unchanged this Court will have said that a party cannot rely on a Court's Order. This is surely not what the framers intended when the judiciary was given its power.

The actions of Judge Johnson have caused other judges to be removed in California. In the matter of Spruance vs. Commission on Judicial Qualifications 13 CAL 3RD 779 (1975), Judge Spruance was removed because "Petitioner (Spruance) acted in bad faith in exceeding the bounds of his lawful power, we find each of these incidents to have been willful misconduct...improperly assumed jurisdiction... calling it petty tyranny.

Petitioner's spent years of their lives trying to get their home, the Shenandoah back. It is not their fault that they had more than one judge from 2011 to and including 2015.

However, they cannot be denied due process and equal protection, and their rights to redress, in having Court Orders overturned by a judge lacking jurisdiction. This is the same petty tyranny.

The California Court of Appeals reversed the Unlawful Detainer action in Martin- Bragg vs. Moore 219 Cal App 3rd 437 (2013). In this decision the Court of Appeals cited the Ford vs. Superior Court, yet at the appeal of this case the Court of Appeals ignored this issue.

During the pendency of this action specifically in 2013, before the trial began, the California Court of Appeals had found, just as the Unlawful Detainer Judge had found, that Petitioner Moore paid the mortgage, taxes, and improvements on the 6150 Shenandoah Avenue Property from 1994 to and including 2012. Page 4 of this decision (**App.#6**) recites exactly what the Court of Appeals found:

“Moore paid—or was supposed to pay—the mortgage and all expenses on the property, since he was using it for his business and recording equipment”

“Moore continued living in and using the premises for his business; he and his corporations continued to make the mortgage and tax payments for the property.”

The trial court refused a motion in limine and refused to allow a copy of this decision to enter evidence saying he could do what he wanted.

Judge Johnson disgraced the judiciary here, by acting as a tyrant.

If Judge Johnson’s actions are left unchanged, there is no need for any Constitution to define the power of any court because any judge can decide to overrule anything.

5. DENIAL OF PETITIONERS’ DISCOVERY ON FUNDAMENTALLY DISPUTED ISSUES VIOLATES PETITIONERS’ FOURTEENTH AMENDMENTS’ DUE PROCESS AND EQUAL PROTECTION

In deciding to reverse and remand the UD case, the Court of Appeal cited Abstract Investments Co. Vs. Hutchinson (1962) 204 Cal App. 2d 242, which states:

“On appeal, the appellate department of the superior court reversed the judgment of the trial court on the ground that it was error to exclude evidence under the affirmative defenses. In its opinion the appellate department held that if the allegations of the affirmative defenses were

substantiated by competent evidence the judgment would violate the defendant's constitutional rights to equal protection of the law under the Fourteenth Amendment of the Constitution of the United States. “

Here, the trial court tried the cross-complaint of Bragg instead of the remanded case. So, the Petitioners were actually cross-defendants and were still forbidden discovery on their affirmative defenses.

Bragg had claimed and alleged she paid Mr. Hills for the Shenandoah property. Mr. Moore and Mr. Hills alleged she did not have the financial ability to purchase a \$1,400,000 home on a salary of \$3000/month. Bragg was making payments on the house next door according to what she said in her bankruptcy filing. (Since then Bragg has been warned under an OSC re Criminal Contempt for the disputing and fraudulent statements she made to the US District Court, the Los Angeles Superior Court, the US Bankruptcy Court, and the California Court of Appeals.)

Petitioners were denied a subpoena for a check for \$16,000 Bragg claimed evidenced payment for a \$1,600,000 home. The CALIFORNIA DISCOVERY ACT is broad in its application. It provides at CCP § 2017.10:

“Unless otherwise limited by order of the court in accordance with this title, any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence.

Discovery may relate to the claim or defense of the party seeking discovery or of any other party to the action. Discovery may be obtained of the identity and location of persons having knowledge

of any discoverable matter, as well as of the existence, description, nature, custody, condition, and location of any document, electronically stored information, tangible thing, or land or other property.”

In fact, the Court of Appeals found in the UD decision:

“The fact that Moore needed time for discovery and preparation with respect to these (and other) issues resulted directly from the trial court’s erroneous determination to adjudicate the issues regarding the parties’ rights to beneficial title—complex issues having nothing to do with whether or not rent had been paid—in this unlawful detainer proceeding.”

That determination that the denial of discovery was so important, led to the court’s reversal for miscarriage of justice.

“The determination of error is not itself sufficient to justify a reversal of the judgment, of course. (California Constitution ART. VI § 13 states[reversal only where error has resulted in miscarriage of justice];] Code Civ. Proc. § 475 states [reversal only where error is prejudicial].)”

Now in this case, the very same court sanctioned the lower court’s denial of discovery on:

- (1) Bragg’s proof she paid for the Shenandoah Property;
- (2) The financial ability of Bragg to purchase a \$1,600,000 home on a \$3000 salary;
- (3) permitted the Court to deny a jury trial, and conduct another summary-type proceeding, denying them critical discovery, and rejecting their evidence which would prove Bragg did not “purchase” the Shenandoah Property.

(4) the record reveals the same Court of Appeals had allowed Bragg to enter into evidence documents which ***contradicted*** what she had entered in the UD case, without any knowledge of, or review of these documents, by Mr. Moore and Mr. Hills, prior to the time they were allowed to be used at trial and entered into evidence. In total Bragg introduced three sets of Escrow Instructions, one in the UD and two others in the Johnson trial. They were all different from one another.

The trial court threatened Mr. Hills when he refused to submit to a thumbprint during trial. Demands for documents were made to Bragg and demands for experts were filed by Petitioners, and they were ignored by the court. **(App.#20)** demand for expert witness, there was no notice, no hearing, no opportunity to be heard on the matter, and Mr. Hills said so.

Johnson displayed his bias and prejudice in demanding Mr. Hills submit to a thumbprint. He objected several times, asking the court to deny any expert or any other party seeking to introduce any such evidence. Johnson said this meant Mr. Hills was lying. Johnson did allow Bragg's real estate agent, who did not have her file, and was not the real estate agent purportedly hired; and the notary who did not have her book.

Judge Johnson threatened that if Mr. Hills did not submit to a thumb print he would take that to mean Mr. Hills was lying, and found so later. Petitioners know this threat was racist in its inception. Judge Johnson would not threaten a Caucasian man in such a manner. And he was displaying his bias and prejudice against two learned and successful African American men. Johnson threatened Mr. Moore with calling the Marshalls.

Displaying more racial animus, Johnson found that Mr. Hills and Mr. Moore were dishonest on the same deed Judge Rosenblatt found to be legal, valid and genuine.

It is the belief of Appellants who are qualified to speak to racism, that Judge Johnson was biased and prejudiced against them from the beginning. Now there is a decision written which defames them.

Similarly, after a jury had found that Bragg converted the properties and after she admitted to selling the Appellant's property off, Johnson refused to honor the trial courts Order the property be returned.

This property consisted of many one-of-a-kind articles, such as outtakes of Michael Jackson recordings, songwriting sessions with Petitioner Moore and masters. Property mixing data from U2 and The Beatles from world renown producer George Martin. Other intellectual and one of a kind, unique equipment and data and property. The lower court judge egregiously forbade the Appellants to inspect, inventory, identify or insure the property while the other related cases were still litigating, after they were awarded to Mr. Moore at the end of the Conversion case. Johnson again ignored the bifurcation of the Conversion judgment by Rosenblatt.

As a punishment and knowing Bragg was in bankruptcy, Judge Johnson turned the Conversion Judgment into a money judgment, for the privileged expressions made by the Petitioners on the record accusing him of gender bias and racism. The Petitioners filed serious objections and went on the record about this to preserve their objections.

In 2017 the Court of Appeals affirmed the conversion case, but the lower court still failed to order the return of the property to Petitioner Moore.

Appellants believe that some of it has been fenced by Bragg. Respondent Bragg declared bankruptcy twice.

The Appellants were denied the right to inspect, identify, and insure the property while in the hands of the converter under California Code of Civil Procedure 2031 discovery statute.

Appellants tried to get permission to inspect and insure the property over six times in five years. The Court had a duty to protect this property valued in the millions of dollars, and failed to do so. In California the failure to protect this real and personal and business and intellectual property while in litigation is an exemption to the sovereign immunity law. The Court of Appeals ignored all of this, and contradicted itself yet again. These actions smack of racism, and many have any faith in the judiciary? These contradictory rulings destroy any confidence.

6. DEFYING THE CALIFORNIA CONSTITUTION, BINDING PRECEDENT AND CONTROLLING LAW VIOLATES DUE PROCESS AND EQUAL PROTECTION CAUSING A MISCARRIAGE OF JUSTICE

Not only was the trial court bound by the Ford case, it was bound by Martin-Bragg vs. Moore 219 Cal. App. 367 (2013). That case found that Mr. Moore paid the mortgage, taxes, and improvements and \$290,000 on the Shenandoah. Mr. Moore was adjudged a legal/beneficial interest in the property. California Rules of Court forbid the Court of Appeals, from ignoring Ford and Bragg because they were binding.

California Rules of Court provide at 8.1115:

“ (d) When a published opinion may be cited

A published California opinion may be cited or relied on as soon as it is certified for publication or ordered published.

(e) (2) After decision on review

After decision on review by the Supreme Court, unless otherwise ordered by the Supreme Court under (3), a published opinion of a Court of Appeal in the matter, and any published opinion of a Court of Appeal in a matter in which the Supreme Court has ordered review and deferred action pending the decision, is citable and has binding or precedential effect, except to the extent, it is inconsistent with the decision of the Supreme Court or is disapproved by that court. “

Bragg had appealed the UD decision to the California Supreme Court and it denied review. Therefore *Martin-Bragg vs. Moore* 219 Cal. App 4th 367 (2013) had binding and precedential effect on the trial court.

All trial courts are bound by all published decisions of the Court of Appeal. *Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, the only qualifications being that the relevant point in the appellate decision must not have been disapproved by the California Supreme Court and must not be in conflict with another appellate decision. As the Supreme Court said in *Auto Equity Sales*: "Under the doctrine of stare decisis, all tribunals exercising inferior jurisdiction are required to follow decisions of courts exercising superior jurisdiction.

Courts exercising inferior jurisdiction must accept the law declared by courts of superior jurisdiction. *Abelleira v. District Court of Appeal*, 17 Cal.2d 280 (1973). Therefore, the UD decision of the Court of Appeals, was binding upon Judge Johnson.

In California, just as in the US, "lack of jurisdiction" is a basis for writ of prohibition. A want of jurisdiction frequently means a want of authority to exercise in a particular manner a power which the board or tribunal has, the doing of something in excess of the authority possessed." *Weintraub v. Superior Court*, 91 Cal. App. 763; *State v. Reynolds*, 209 Mo. 161. 468 , "... The writ lies to prevent the exercise of any unauthorized power in a case. Petitioners have no remedy to seek a writ in California because it is that very court which is failing to say the trial court lacked jurisdiction in this case, even though the state constitution forbids it and stare decisis forbids it.

In commenting on the meaning of "jurisdiction" in a prohibition case, it was said in *Abelleira* :

"Speaking generally, any acts which exceed the defined power of a court in any instance, whether that power be defined by constitutional provision, express statutory declaration, or rules developed by the courts and followed under the doctrine of stare decisis, are in excess of jurisdiction, in so far as that term is used to indicate that those acts may be restrained by prohibition or annulled on certiorari."

This is the Court and now is the time to prohibit this rogue judge from doing what he pleased outside his realm of power or annul it on certiorari.

7. THE CALIFORNIA SUPREME COURT AFFIRMED A SERIOUS DEPRIVATION OF REAL AND PERSONAL PROPERTY RIGHTS

Procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property." *Carey v. Piphus*, 435 U.S. 247, 259 (1978). "Procedural due process

rules are shaped by the risk of error inherent in the truth-finding process as applied to the generality of cases.” Mathews v. Eldridge, 424 U.S. 319, 344 (1976)

In Auto Equity Sales, Inc. v. Superior Court (1962) 57 C 2d 450, the California Supreme Court said:

“Decisions of every division of the District Courts of Appeal are binding upon all the justice and municipal courts and upon all the superior courts of this state, and this is so whether or not the superior court is acting as a trial or appellate court. Courts exercising inferior jurisdiction must accept the law declared by courts of superior jurisdiction. It is not their function to attempt to overrule decisions of a higher court. (People v. McGuire, 45 Cal. 56 Latham v. Santa Clara County Hospital, 104 Cal.App.2d Globe Indemnity Co. v. Larkin, 62 Cal.App.2d 891)

Martin-Bragg vs. Moore 219 Cal App 3rd 367 (2013) reversed and remanded to try the issue of ownership. California law provided that when the Plaintiff is out of possession, just as Mr. Moore and Mr. Hills were, the case of ownership is a legal question, not an equitable one and the Plaintiffs must have a jury trial.

Both the first and second judge assigned to this case ruled that Petitioner Moore’s lead case, BC 464111 for breach of contract and fraud, entitled the Petitioner to a jury trial and ordered the parties were entitled to a jury trial. Both Petitioners filed and paid jury fees. The trial Judge, however, would not allow the Petitioners to have a jury trial, overruling two prior court orders and acting as the court of appeals. This is the type of usurpation of power which justifies a writ review in this court.

Quiet title law in California supports this. The California Supreme Court cases say that quiet title actions must be tried by a jury if the plaintiff is out of possession and seeks to recover possession by a quiet title action. The action is

legal, (not equitable) entitling Plaintiff to a jury trial. In *Medeiros v. Medeiros* (1960, 3rd Dist.) 177 Cal App 2d 69, the court found that the Plaintiff out of possession, she was entitled to a trial by jury.

"The first question which we must determine is whether or not the plaintiff Mary Medeiros was entitled to a jury trial. [1] The rules for determining whether or not a quiet title action is equitable or legal, and whether or not a jury trial may be had, are succinctly stated in *Thomson v. Thomson*, 7 Cal.2d 671, 681 [62 P.2d 358, 117 A.L.R. 1]:

"(1) In a simple action to quiet title when the possession of the property is not involved, it is an equitable action.

[2] "(2) When the right of possession is involved, the nature of the action, that is whether it is cognizable in an action at law, or in a court of equity, depends upon the following facts and circumstances.

"(a) If plaintiff is in possession and no claim is made that he has ousted the defendant of possession, the action is equitable and triable by the court without a jury.

[3] "(b) If plaintiff is in possession and defendant by answer or complaint avers that he was recently ousted of possession of the property involved, the action is in reality one at law, and the parties thereto are entitled to a jury trial.

[4] "(c) If the plaintiff is out of possession and seeks by an action to quiet title to recover possession, the action is triable in a court of law. (emphasis added)

Mr. Moore was evicted in 2012. Mr. Hills was evicted without any Unlawful Detainer. They have remained out of possession since then. Mr. Hills' deed was found to have been legal and valid at that time. Even though Mr. Moore's eviction case was reversed and remanded he still remains out of possession of his home to date. Possession was always an issue and each court knew so. The claim that it was not, was obvious error. (*Thomson v. Thomson* (1936) 7 Cal.2d 671 ;

Medeiros v. Medeiros (1960) 177 Cal.App.2d 69; Talbot v. Gadia (1954) 123 Cal.App.2d 712 ; Akley v. Bassett (1924) 68 Cal. App. 270, 41 Cal.Jur.2d 501, Quieting Title, Etc., § 32. As such Mr. Moore and Mr. Hills were entitled to and should have had a trial by jury.

And Mr. Hills held a valid deed and should have been in the home during the pendency of the ownership. He was not permitted to step into his home, and neither was permitted to retrieve their possessions in the home at the time of eviction of Mr. Moore. It was inherently unfair and prejudicial to allow Bragg to stay in Shenandoah when the Petitioners depended upon the music studio for their livelihood, and when she had a home next door.

She was allowed to have two homes during the pendency of the litigation. Mr. Moore and Mr. Hills had none. This violates every basic notion of equal protection. She was allowed to keep the property she converted. This is simply a racist gender-biased policy, as no white man would be evicted from the home he paid the mortgage, taxes and improvements, and who held a valid deed to. Surely it's not simple error.

**A. DENYING A JURY TRIAL IS REVERSABLE PREJUDICIAL ERROR
AND THE MATTER MUST BE REVERSED**

Plaintiff's complaint alleged fraud, breach of contract, recovery of real property, fraud, and damages, amongst other causes of action, legal in nature. Each one of these causes of action require a jury trial by statute in California. The actions noted below are recognized to be "legal" in nature and hence triable by jury, under California Statutes.

- To recover specific real or personal property with or without damages. [Ca Civ Pro § 592]
- To recover money due on a contract. [Ca Civ Pro § 592]
- To recover damages for breach of contract. [Ca Civ Pro § 592]
- To recover damages for fraud

Plaintiffs requested a jury trial on the face page of their complaint. Plaintiffs paid the jury fees. Three judges to which this matter was assigned, made orders for a jury trial, including the Presiding Judge of the Superior Court.

Judge Johnson said those orders were not applicable to him, and even though the Plaintiffs filed a motion including arguing they were entitled to a jury trial because they were out of possession, Judge Johnson ignored the motion. The denial of the trial by jury was raised in the appeal. However, the appeals court did not address the issue. This was error. It was error for the California Supreme Court not to find a miscarriage of justice which was so severe that it violated the California Constitution.

In *Union Oil Co. of Cal. v. Hane* (1938) 27 Cal. App. 2d 106) "A denial of the right to trial by jury to a party entitled thereto is a miscarriage of justice within the meaning of that phrase as used in the Constitution of the state of California, which error requires a reversal of the judgment of the trial court." (See also: *People v. One 1941 Chevrolet Coupe* (1951) 37 Cal. 2d 283, *Cowlin v. Pringle*, *supra*, 46 Cal. App. 2d 472,) Journal Article Article VI, Section 4 1/2, of the

California Constitution and the Rule Requiring the Statement of a Cause of Action
, California Law Review Vol. 16, No. 3 (Mar., 1928).

“ A denial of the right to trial by jury to a party entitled thereto is a miscarriage of justice within the meaning of that phrase as used in section 4 , article VI, of the Constitution of the state of California, which error requires a reversal of the judgment of the trial court. People v. Hall, 199 Cal. 451 (1926) ; Farrell v. City of Ontario, 39 Cal. App. 351(1919)”

This court itself has upheld as inviolate this right, In United States v. Gonzalez-Lopez (2006) 548 U.S. 140, 149, fn. 4 the Supreme Court suggested that some errors must necessarily be deemed structural, and therefore reversible per se, in light of the “difficulty of assessing the effect of the error.” The list of "structural errors" includes:

“(7) the deprivation of a jury trial where guaranteed by the Constitution; (United States v. Gonzalez-Lopez supra, 548 U.S. 140 ; Roe v. Flores-Ortega (2000) 528 U.S. 470, 486; Sullivan v. Louisiana (1993) 508 U.S. 275; Riggins v. Nevada (1992) 504 U.S. 127; Fulminante, supra, 499 U.S. at pp. 309-310; ‘

The abrogation of article VI, section 13 of the California Constitution by the California Supreme Court is prejudicial error requiring reversal and remand. This type of judicial abrogation without authority, of a section of the state constitution harms the political process and the judicial system.

The California Court of Appeals and the California Supreme Court allowed this deprivation. The only result is the prohibition of this type of denial, or to mandate the California Supreme Court comply with its own Constitution.

8. AN APPEARANCE OF UNFAIRNESS AND IMPROPRIETY BY THE CALIFORNIA COURT OF APPEALS DURING ORAL ARGUMENT CAUSED A LACK OF DUE PROCESS AND EQUAL PROTECTION

Judge Helen Bendix, Justice of California Court of Appeal Second Appellate District Division One, was previously a Los Angeles Superior Court Judge.

In 2007-8 she heard a case in which Petitioner Moore, Petitioner Hills, and Defendant Bragg were defendants regarding the ownership of the same Shenandoah Property, a different case.

Judge Bendix ruled that Mr. Moore owned the home and ordered him to pay the \$290,000 judgment to maintain ownership and possession of the property which he promptly did.

At oral argument, on this appeal, Judge Bendix sat on the Court of Appeals. Mr. Moore began to summarize the facts from his brief, specifically the fact that Judge Bendix herself had found previously in another matter with the same defendants, Bragg and Hills, that Mr. Moore was the owner of the home. Judge Bendix agreed with him, on the record. Oral argument was then abruptly halted. Judge Bendix was taken off the matter, replaced by another judge, who had not reviewed the matter and was new to it.

At no time was it announced that Justice Bendix disqualified, said to have been disqualified, or recused herself. She was simply gone. It did not appear that she was gone on her own. It appeared as though the other judges forced her off the bench. No announcement was made that she was disqualified, nor was made that she recused herself.

She had a duty to sit under law, and she was sitting, until she made the comment stating only what was procedurally and historically true. Furthermore, she had a California Constitutional right to comment on the matter. The case she had litigated was not the same case.

Article VI Section 10 of the California Constitution Provides: “The court may make any comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause.”

This statement Judge Bendix made, did not seem to comport with the other judges. They had prejudged the issue and did not want her to spoil it by revealing a truth. The case was set for oral argument months before the actual argument. This was plenty time for her to recuse herself, and for them to review the record which reveals she adjudged the property to be owned by Mr. Moore.

This is simply stated an appearance of impropriety. “Justice must satisfy the appearance of justice.” *Offutt vs. United States* 348 US 11 (1954) It appears that the Appellate court had an agenda. It breaches the Court’s duty to be fair to all parties, a First Amendment right to redress. Only after Judge Bendix made a comment on the undisputed and true procedural history of this case, did the Court of Appeals abruptly stop oral argument, recess for a few minutes, only to return with a new judge replacing Judge Bendix.

This type of conduct causes a reasonable person to believe that the court had prejudged this appeal, and that Judge Bendix’s recall of her prior judgment, did not comply with the prejudging of the matter. This is not what a Court of Appeals should do. It is not what the public trust requires. There is a requirement that public officials not only in fact properly discharge their

responsibilities but also that such officials avoid, as much as possible the appearance of impropriety. *People vs. Municipal Court* 69 Cal. App. 3rd (1977) A judge is a public official.

Both Judge Chaney and Rothschild were justices hearing the appeal of the Petitioners and they removed Judge Bendix, another woman Justice, without disqualification or recusal. Why?

What part if any this played in the decision of this case, must be considered, because Mr. Moore and Mr. Hills are both accomplished African American males. Again, racism and gender bias arises in thought.

The abrupt removal of Judge Bendix from this case during oral argument, knowing her prior Judgment that the Petitioner owned the Shenandoah property was an obvious move to put forth an agenda of discrimination and bias. It was to keep the prejudice alive, casting a very racist gender bias against Black Men, and appearance of unfairness and impropriety on this matter.

The California Code of Judicial Ethics prevents this type of conduct.

“Impropriety” includes conduct that violates the law, court rules, or provisions of this code, as well as conduct that undermines a judge’s independence, integrity, or impartiality. “

“ See Preamble, Canons 1, 1 (Commentary), 2C, 4C(2) (Commentary), 4D(6)(a) (Commentary), 4D(6)(g) (Commentary), 4D(6)(i) (Commentary), 4H(3) 1 (Commentary), 5, 5A (Commentary), 5B (Commentary), and 6D(1).

Judge Bendix’s integrity was questioned. by her own Court. The fact that she expressed what the true procedural history of the ownership of the 6150 Shenandoah was, and then was removed, undermined her independent freedom

from influence and control of the other judges, who clearly did not agree with her statements on the record. Thus, there could be no impartiality here.

The basic function of an independent, impartial, and honorable judiciary is to maintain the utmost integrity in decision-making, and this judicial ethics code should be read and interpreted with that function in mind.

Judge Bendix had an adjudicative duty to hear and decide the matter assigned to her. If she was disqualified this had to be disclosed on the record. Judge Bendix was not disqualified and had a duty to sit on this matter. Her duties included:

“Adjudicative Responsibilities

- (1) A judge shall hear and decide all matters assigned to the judge except those in which he or she is disqualified.
- (5) Disqualification of an appellate justice is also required in the following instances:
 - (f) The justice (i) served as the judge before whom the proceeding was tried or heard in the lower court. “

Mandatory disqualification was not warranted. Judge Bendix had not *served as the judge before whom the proceeding was tried in the lower court*. She was a judge in another proceeding, the *Watson v Moore* BC35330 matter.

The facts are that Judge Bendix agreed with the summarization of the procedural history of the case, because her Judgment that Petitioner Moore was the true owner of the Shenandoah Property, was a part of that history. These facts were raised in the appeal brief, they were undisputed, and the Appeals Court certainly knew that it may be raised that Judge Bendix had found previously, in another action, that Mr. Moore was the only owner of the 6150 Shenandoah property.

At oral argument, Mr. Moore stated this as a fact. Judge Bendix acknowledged this. During oral argument the mention of this accurate history was abruptly halted, and Judge Bendix was removed from hearing this case. Why?

There was no reason given, nothing except the new Justice was introduced and the parties were told he was going to hear the case and he would read the brief later. This spectacle raises too many red flags.

It appears to anyone who hears this that the Court of Appeals had an agenda at the time of oral argument and had already decided this case.

It appears that impropriety was underway, and that all vestiges of fairness were gone. “ Words, actions, and behaviors that indicate bias diminish public trust and confidence in two fundamental principles of our justice system:

1. Our courts are free of perceived and actual bias; and
2. Equal access to fair and dignified treatment in our courts awaits all who enter therein.” Richardson, John G., Bias in the Court! Focusing on the Behavior of Judges, Lawyers, and Court Staff in Court Interactions. Williamsburg, VA: National Center for State Courts, 1997.

It must be noted that the Court of Appeals’ decision does not address the prior decision by Judge Bendix that Mr. Moore owned the property. And, it does not address the fact that two prior courts, including the Court of Appeals itself in 2013, and the Los Angeles Superior Court found that Mr. Moore and only Mr. Moore paid the mortgage, taxes and improvements on the Shenandoah Property. It does not address the fact that Martin-Bragg herself testified to this in court. How is it then, that Mr. Moore has been found by this court, not to have an ownership interest in this case?

Why was Judge Bendix mysteriously removed when she was assigned to this case for months? How is it then that the Court of Appeals used the precedential case of Ford vs. Superior Court in deciding the Unlawful Detainer action, but completely avoided it and ignored it in the underlying action?

One and one do not add up to two in this case. Why? This is the type of exceptional circumstances that warrant the use of this Court's power. Only this Court can put an end to this type of outrageous deplorable conduct.

CONCLUSION


For the foregoing reasons, Petitioners respectfully request that this United States Supreme Court issue a Writ of Certiorari to review the judgment of the Supreme Court of California.

Dated: February 11th, 2021

Respectfully Submitted:



RONALD HILLS



IVAN RENE MOORE