

CASE NO. S259479

20-1266

IN THE SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

JUN 10 2020

OFFICE OF THE CLERK

IVAN RENE MOORE AND RONALD HILLS,

Petitioners

vs

SUPREME COURT OF CALIFORNIA,

Respondent

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ON PETITION FOR

WRIT OF MANDAMUS

TO THE

UNITED STATES SUPREME COURT

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PETITION FOR WRIT OF MANDAMUS

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Ivan Rene Moore  
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\*ORIGINAL\*

## ISSUES PRESENTED FOR REVIEW

1. Shall a writ lie for violation of due process because the California Supreme Court violated its own Constitution by allowing one department of the Superior Court to contemporaneously overrule another department in the same matter?
2. Were the Petitioners 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 to dismiss the Petitioners' entire action without notice and a hearing?
3. Were the Petitioners denied due process and equal protection when the California Court of Appeals affirmed 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 his Shenandoah home because he and only he paid the mortgage, taxes and improvements on his Shenandoah home for over twenty years?
4. Were Petitioners' denied due process and right to possess and enjoy and property and practice their profession using their professional property, when the California Supreme Court affirmed the denial of their Constitutional right by upholding Judge Johnson's denial of the return of their adjudged converted property, leaving it in the hands of the converter Martin-Bragg?

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

6. Were the Petitioners denied due process and their First Amendment right to redress grievances 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 anything for the Shenandoah home when the defendant herself testified and the Superior Court and the Court of Appeals previously found, that Petitioner Moore paid the mortgage, taxes and improvements?

7. Were the Petitioners denied redress before a fair and impartial Court, when Justice Helen Bendix , was abruptly removed from the Court of Appeals Panel during oral argument, after she acknowledged she had ruled that Petitioner Moore was the owner of the Shenandoah home while a Superior Court Judge, and in another action with the same defendant Martin-Bragg, and ordered Mr. Moore only to pay the \$290,000 judgment lien or lose his 6150 Shenandoah family home?

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## UNITED STATES 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.....38

### 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.....	24
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## **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.....	24
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## **CALIFORNIA CONSTITUTION**

### **ARTICLE I SECTION 6**

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.....	37
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### **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.....	33
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## **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.....

## **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.....24 , 26, 27

## **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.

**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.....

**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.....26

## **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.....31

## **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.....

## **SECONDARY AUTHORITIES**

Richardson, John G., Bias in the Court! Focusing on the Behavior of Judges,  
Lawyers, and Court Staff in Court Interactions. Williamsburg, VA: National  
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## **APPENDIX**

**App. 1.** Watson v Moore Complaint filed June 1<sup>st</sup>, 2006

**App. 2.** Stipulation to dismiss Watson v Moore action BC353300. (Filed October 12<sup>th</sup>, 2007)

**App. 3.** Martin Bragg v Moore 219 Cal App 4th 367 (Filed August 1<sup>st</sup>, 2013)

**App. 4.** Martin Bragg Motion to void deed to the 6150 Shenandoah property. (Filed December 31<sup>st</sup>, 2012)

**App. 5.** Judge Rosenblatt's order denying Martin Bragg's request to void deed to the 6150 Shenandoah property. (Filed February 1<sup>st</sup>, 2013)

**App. 6.** Jury verdict Conversion in Moore v Bragg BC480013. (Filed July 29<sup>th</sup>, 2013)

**App. 7.** Jury verdict Trespass to Chattel in Moore v Bragg BC480013. (Filed July 29<sup>th</sup>, 2013)

**App. 8.** Judge Rosenblatt's Judgement in Moore v Bragg BC 480013 (Filed November 8<sup>th</sup>, 2013)

**App. 9.** California Court of Appeal Second District affirming the jury verdict in Moore v Bragg BC 480013. (Filed September 8<sup>th</sup>, 2017)

**App. 10.** Judge Rosenblatt's ruling on Plaintiff's Moore right to a Jury trial in BC464111. (Filed November 8<sup>th</sup>, 2013) Pg. 2, ¶4.

**App. 11.** Judge Schaller ruling on Plaintiff's Moore right and setting a Jury trial in BC464111. (Filed June 26<sup>th</sup>, 2014) Pg. ¶3.

**App. 12.** Judge Johnson denied Moore and Hills a Jury trial in Moore v Bragg BC464111. (Filed October 5<sup>th</sup>, 2015)

**App. 13.** Plaintiff Moore ex parte application to shorten time to get discovery to show Martin Bragg's fraud. (Filed July 30<sup>th</sup>, 2015)

**App. 14.** Judge Johnson denied plaintiff motion for discovery documentation to show Martin Bragg's fraud. (Filed July 30<sup>th</sup>, 2015)

**App. 15.** Writ of Possession to the 6150 Shenandoah Property issued by the Los Angeles Superior Court Clerk. (Filed February 18<sup>th</sup>, 2015)

**App. 16.** Judge Johnson denial of More and Hills to get their trial documents for trial that started on 10/5/15. (Filed September 2<sup>nd</sup>, 2015)

**App. 17.** Trail transcripts 10/5/15. (Filed October 5<sup>th</sup>, 2015) Pg. 6, lines 24-28 Pg. 7, lines 1-18.

**App. 18.** Judge Johnson's Tenitive Decision & Statement of Decision following trial (Filed February 11<sup>th</sup>, 2016)

**App. 19.** Transcript of trial 10/5/15. (Filed October 5<sup>th</sup>, 2015)

**App. 20.** Judge Johnson Judgement after trial where he states he dismissed the case Moore v Bragg BC464111 before trial. (Filed March 29<sup>th</sup>, 2016) Pg.2 lines 5-6

**App. 21.** Appellant Moore v Martin Bragg corrected Opening brief in the California Court of Appeal Second District. (Filed July 3<sup>rd</sup>, 2018)

**App. 22.** California Court of Appeal Second District ruling on Moore/Hills appeal. (Filed October 25<sup>th</sup>, 2019)

**App. 23.** California Court of Appeal Second District denial for rehearing. (Filed November 12<sup>th</sup>, 2019)

**App. 24.** California Supreme Court ruling Petition for review denied. (Filed January 15<sup>th</sup>, 2020)

## **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

## **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**

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.

## **PETITION FOR WRIT OF MANDATE**

### **STATEMENT OF THE CASE**

Petitioners are asking this Court simply to mandate that the California courts comply with the US Constitution and their own Constitution. Specifically, they allowed one judge of the same California Superior court to overrule three prior judge's rulings in the same matter involving the very same parties. The California Constitution and precedential case law cited by the California Supreme Court itself prohibits this. This case arises from the ownership of a beautiful five-bedroom family home at 6150 Shenandoah Avenue ("Shenandoah") in Los Angeles.

Three California Courts/Judges found that Petitioner Moore paid all the mortgage taxes and improvements on the 6150 Shenandoah for over ten years, even the Unlawful Detainer ("UD") Judge who evicted him, and the California Appeals Court reversing the eviction so found. The eviction was reversed because an ownership matter was tried summarily as an eviction and a prior judge found that Moore was the owner.

After the UD case was reversed and the ownership case remanded, the trial judge reversed every prior order and ruling by every previous judge on the ownership case and dismissed the remanded case without notice or hearing to the Petitioners. The trial judge stated that he could do what he wanted, flagrantly ignoring the rulings and the appeal case, Martin-Bragg vs. Moore 219 Cal. App 4<sup>th</sup> 367(2013). Petitioners not only lost their home, but their entire means of making and earning a living because a great part of the home was a multimillion-dollar music television development and production studio.

The trial Court also allowed the adjudged converter to keep all the personal property she converted, from 2012 until today. This type of unconstitutional court-sanctioned rulings deprived the Petitioners of their real and personal property rights, legal documents, professional property, and denied them due process of law in both a substantive and procedural manner. Indicators point that this may be due to racism and gender discrimination, with two of the trial courts calling Petitioners who are successful African American men, “you people think you so smart, but I’ve got something for you”. To put it simply, this Court is asked to mandate that the California Supreme Court not violate its own Constitution. When a full noticed motion and hearing, a prior judge makes an Order, do the parties have a right to rely on that order when that judge retires, and a new judge is assigned to the case? Or can the replacing judge simply overrule every prior ruling of the prior judges that were assigned to the case?

The California Supreme Court affirmed the trial courts violation of the California Constitution, which clearly states the replacing judge cannot act as an appeals court and must abide by all prior rulings when the matter is the same matter with the same parties. A litigant must have the right to rely on a court’s ruling on a motion and or a litigated issue. Otherwise, no court has efficacy. This seems to be a very fundamental right to any litigant’s due process of law. Allowing rogue judges to fabricate and create their personal jurisdiction and law, violates basic owners of real property due process of law, and denies equal protection in the most serious of manners. A fundamental precept is that a judge cannot act outside his jurisdiction.

## **HISTORY OF THIS ACTION**

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"). Mr. Moore is a music producer who travels extensively. Mrs. Moore had serious health issues, based on advice of their family corporate attorney, Mrs. Moore deeded the 6150 Shenandoah property to the Moore's family corporate secretary, Appellant Ronald Hills, to hold in trust for the Moore family, Mr. Moore, and the Moore family Corporations. Petitioner Moore is a four-time Grammy nominated music producer, songwriter, and owner of FCC governed radios stations. Mr. Moore and Mr. Hills and others operated a music recording and production studio, equipment rental business and FCC radio stations from 6150 Shenandoah Property.

### **The Watson Matter**

In 2007, Petitioners Mr. Hills and Mr. Moore, and the Respondent, Kimberly Martin-Bragg, were sued by Petitioner Moore's creditor, in Watson v Moore et al Los Angeles Superior Court BC353300. (APP# 1) It was determined in the Watson matter by Superior Court Judge Hellen Bendix, that Petitioner Mr. Moore was the legal and beneficial owner of 6150 Shenandoah property. And pursuant to Judge Bendix's rulings. Mr. Moore only was ordered to pay the stipulated judgment, \$290,000 in certified funds to release any and all liens on Shenandoah. Judge Helen Bendix was later appointed to the California Court of Appeals. After payment of certified funds of the \$290,000 the matter was dismissed by Judge Bendix's predecessor in or about October 12<sup>th</sup>, 2007 all parties signed the

stipulation the court retain jurisdiction of the matter. (App#2) Judge Helen Bendix sits now in Division One at the California Court of Appeal Second District.

## **THE UNLAWFUL DETAINER ACTION**

In 2011, Petitioner Moore's neighbor, a real estate broker, Respondent Kimberly Martin-Bragg ("Bragg") filed an Unlawful Detainer ("UD") action to dispossess him of Shenandoah, his home of twenty plus years, Martin- Bragg vs. Moore BC 459449. The California Superior Court UD Judge, Richard Fruin, evicted Mr. Moore from Shenandoah. However, it contained a multimillion-dollar music recording television and broadcast studio and everything arising from this studio, masters, intellectual property, corporate property, business property, musical equipment, musical instruments, one-of-a-kind items such as an SSL Recording console purchased by Petitioner Hills from George Martin The Beatles producer, personal items given to Mr. Moore by the late Michael Jackson, and a Concert Grand Piano purchased by Ima Moore Petitioner's mother. Also remaining in the home was everything Mr. Moore and Mr. Hills and others had at the home, of a personal and family nature. During the U.D. Judge Fruin overruled another Judge who granted Mr. Moore a stay to file an ownership/ breach of contract/fraud action. Despite the fact that he unlawfully evicted Mr. Moore, Judge Fruin's Statement of Tentative Decision January 3, 2012, found specifically that Mr. Moore and only Mr. Moore, paid all the mortgage, taxes, and improvements, for the past twelve plus years on the 6150 Shenandoah property.

In 2013, the California Court of Appeals, reversed in full the UD action in Martin-Bragg vs. Moore 219 Cal App 4<sup>th</sup> 367 (2013), calling the UD trial a “trial by ambush.” The Court cited a seminal California case Ford vs. Superior Court 188 Cal. App. 3d 737 (1986), which states that one Superior Court judge cannot overrule or another Superior Court judge in the same matter while it is pending, because that violates the California Constitution Article VI, Section 11. (APP 3) The Ford case states that in overruling another Judge, the trial judge would act as if he were the Court of Appeals and a judge has no jurisdiction or legal authority to overrule another judge in the same trial court. “[O]ne department of the Superior Court cannot enjoin, restrain, or otherwise interfere with the judicial act of another department of the superior Court”. Ford *supra*. The Court of Appeals also found that Mr. Moore had a beneficial interest in 6150 Shenandoah property because he paid the mortgage, taxes, and improvements in the Shenandoah property for the many years and Martin-Bragg never made one payment on the 6150 Shenandoah property. After the remand of the UD action, the lead ownership case, Moore vs. Martin-Bragg BC 464111 was assigned to Judge Michelle Rosenblatt (now ret).

## **THE CONVERSION TRESPASS ACTION**

Mr. Moore also filed another action for conversion and trespass, on the suggestion of the UD Judge, for the return of the studio and the contents of Shenandoah.

In 2013, a Los Angeles Superior Court Jury in Moore vs. Martin-Bragg BC 480013, unanimously found that Mr. Moore and others, owned the contents of the 6150 Shenandoah property on the day of eviction, and awarded him the **return** of

his and others personal, business and professional property, and an award of \$2,500,000 for the conversion and \$2,500,000 for trespass, and \$650,000 for the loss of earnings. In that trial the jury and the court completely rejected Bragg's outlandish baseless defense that Mr. Moore owed her money and that she Martin-Bragg was the owner of the personal and business property. (APP #6), (APP #7) Based upon these verdicts Judge Rosenblatt issued an Interlocutory Judgment, bifurcating the conversion and trespass causes of action, and ordering the immediate return to Petitioner Moore of his and others property. (APP# 8 Pg. 5-6)

The Order was very specific:

“The Court grants Plaintiff IVAN RENE MOORE’s request for return of property and orders KIMBERLY MARTIN-BRAGG to return to IVAN RENE MOORE’S clothing, shoes, kitchen equipment, personal property, piano, SSLK console, masters, 71 Camaro, and personal legal documents consistent with the evidence presented at trial. This order provides that IVAN RENE MOORE is entitled to the return of all of said property in KIMBERLY MARTIN-BRAGG’S possession or control including that which is in storage. KIMBERLY MARTIN-BRAGG, her agents, and anyone acting on her behalf are ordered not to sell, give away, damage or keep from IVAN RENE MOORE any of the property that is ordered to be returned. Kimber Martin-Bragg is ordered to have the property returned to IVAN RENE MOORE.”

Judge Rosenblatt retired shortly thereafter. After the three-week Conversion jury trial, and the unanimous special jury verdicts, and the Judgment Order calling for the immediate return and a punishing monetary award, the Order was nullified by the later trial judge appointed to this case. The California Court of Appeals On 9/8/17 upheld and affirmed the Judgment in the Petitioner Moore's favor and the Defendant Martin-Bragg did not appeal any further. (APP# 9)

### **THE OWNERSHIP /BREACH OF CONTRACT /FRAUD ACTION**

In the ownership/fraud action BC 464111, on December 31<sup>st</sup>, 2013 Martin-Bragg filed a full noticed motion to void Ronald Hills Deed to the 6150 Shenandoah property. Mr. Hills filed his action also, and all parties were at the hearing, Judge Rosenblatt took testimony from the parties and entered into evidence documents offered. Judge Rosenblatt found Mr. Hills' deed to be valid and denied Martin-Braggs Motion to void Hills Deed. Martin-Bragg did not appeal Judge Rosenblatt's February 1<sup>st</sup>, 2013 ruling. (APP #5)

On 11/08/13 Judge Rosenblatt ruled that the Petitioners were entitled to a jury trial in Moore v Bragg BC464111 and that the jury fees were paid. However, Judge Rosenblatt retired in late 2013. (Minute Order BC 464111 November 8, 2013) (APP # 10 Pg.2 of 3) The case was then assigned to Judge Frederick Schaller. He denied Petitioner Moore the return of his property. Yet Judge Schaller also Ordered and set the matter for Jury trial date April 29, 2015 and asked the parties to file notebook briefs for the jury trial. (Minute Order June 24, 2014 BC 464111). (APP #11)

Shortly thereafter Judge Frederick Schaller recused himself, and the case was then sent to Judge Michael Johnson (ret.). Judge Johnson overruled every order of Judge Rosenblatt and Judge Schaller and would not grant a motion in limine that Mr. Hills deed validity had already been decided. Judge Johnson overruled both Judge Rosenblatt and Judge Schaller and denied a jury trial to Petitioners Mr. Moore and Mr. Hills.

Judge Johnson denied a motion in limine that it had been determined by the Court of Appeals in a precedential published case, that Mr. Moore had an ownership interest in the property. (APP#12 Pg. 2)

Judge Johnson also without notice and or hearing dismissed the remanded case Moore v Bragg BC46411 in violation of the rulings from the California Court of Appeal Martin-Bragg v Moore 219 Cal App 4<sup>th</sup> 367.

The trial was set for October 2015, on July 30<sup>th</sup> 2015. Petitioner Moore filed an ex-parte motion to shorten time to modify a protective order to subpoena Martin-Bragg Credit Union that she claimed the funds came from to purchase the 6150 Shenandoah property. This subpoena would prove that Martin Bragg never paid any funds to purchase the 6150 Shenandoah property. (APP#13,) Johnson also denied the request first stating this information was relevant, but denying it, nonetheless. He also denied Petitioners the Ordered to return of their possessions, while all of petitioner's legal documents and evidentiary proof were in the hands of the converter, Martin-Bragg.

Also, the Petitioners were not allowed any discovery on the financial ability of Bragg to purchase a \$1,600,000 home on a salary of less than \$3000 per month, while the mortgage payment on the 6150 Shenandoah property was \$7100.00 per month.

Judge Johnson denied the Petitioners request for any discovery for proof Bragg paid anything to “purchase” the home, stating “you people don’t need it, so you can’t have it.” “You people” is a known pejorative, usually relating to race.

Judge Johnson denied a subpoena that would prove Bragg never paid any funds for the purchase of the 6150 Shenandoah Property. (APP #14,) Petitioner, Mr. Moore filed a motion for the return of his legal documents still in the hands of the converter, Bragg. Petitioner Moore also request for possession of the 6150 Shenandoah property per the Writ of Possession issues by the Los Angeles Superior Court clerk in the UD Case BC 459449. (APP#15) Judge Johnson denied and overruled Judge Rosenblatt’s ruling for the return from Bragg of Mr. Moore’s and Mr. Hills legal documents and personal property still at the 6150 Shenandoah property. (Minute Order BC 464111 September 2, 2015) (APP# 16,)

Judge Johnson refused to accept the decision in Martin-Bragg vs. Moore 219 Cal App 3<sup>rd</sup> 367 (2013) which he was bound to accept. He refused to allow Mr. Moore to enter Judgment from another matter, wherein yet another Judge, now Appellate Justice Hellen Bendix also found Mr. Moore to be the rightful owner of the Shenandoah Property and ordered Moore to pay \$290,000 to maintain his possession and ownership of the Shenandoah Property, which he did in fact pay.

Petitioner Moore argued that the court did not have the authority or jurisdiction to change or modify a prior court order or ruling. Judge Johnson disregarded all of this. This case was remanded with specific direction(s) back to the lower court from The California Court of Appeal Second District Division (1) *Martin-Bragg vs. Moore*, 219 Cal App 4<sup>th</sup> 367 on August 1, 2013 which stated. "The court reversed and remanded with directions. The parties rights to legal and beneficial title to the property and their respective rights to possession based on that determination" (APP #3) Pg. 23 of 23 (See Trial Transcript Oct 5<sup>th</sup>,2015) Page (6) Line 5-28), (See Transcript Oct 5<sup>th</sup> 2015) Page (7) Lines 1-18. (APP #17)

Mr. Moore and Mr. Hills vehemently disagreed with Judge Johnson.

"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."

Judge Johnson ignored all of this. The Appellant objected and argued that the Court of appeal rulings were and are controlling over the lower Court's decisions, again Judge Johnson disagreed. (Trial Transcript Oct 5<sup>th</sup> 2015 Pg. 16 lines 10-18.)

**THE COURT:** "The tentative rules are adopted. Specific objections can be made during the course of the trial. I just want to make it clear, this case was remanded by the court of appeal for retrial, so we start from scratch. There are new pleadings that weren't present at the time of the earlier rulings by the court of appeal. We are here to try this case. You can present your evidence, you can make your objections, and i will rule on those during the course of the trial."

Judge Johnson was incorrect. There were no new pleadings. He ignored the California Court of Appeal Second District. Also Judge Rosenblatt never presided over the UD case #BC459449 litigation.

The case that was reversed by the California Court of Appeal on August 1<sup>st</sup>, 2013 was the UD case Bragg v Moore BC 459449, Judge Fruin presided. (APP#3,) The case regarding the ownership of the 6150 Shenandoah property was Moore v Bragg BC 464111. The Moore v Bragg BC 464111 case where Judge Rosenblatt and Judge Schaller ordered a Jury Trial in the Moore v Bragg BC 464111 Judge Rosenblatt denied Martin-Bragg's full noticed motion to void the Petitioner Hills deed to the 6150 Shenandoah property. Judge Johnson unlawfully overruled Judge Rosenblatt's ruling regarding the deed. Judge Johnson stated: Pg. 25, line 27-28 pg. 26 lines 1-3):

"Judge Rosenblatt granted the order to dismiss (which was later rescinded), and denied the motion to void deed. The ruling is stated in a brief minute order which does not describe the reasons for denying the motion to void deeds. But Martin-Bragg's motion was invalid on its face, as it stated on ground for relief and asked what essentially a summary Judgement was without complying with Code Civ. Pro. 437c. whatever the reason for judge Rosenblatt's February 1 2013 ruling, the denial of the motion did not preclude or limited the trial of Martin Bragg's claims." (APP#18,)

This statement by Judge Johnson shows clearly that he was acting as the Court of Appeal in overruling Judge Rosenblatt in violation of the California Constitution. The truth is that the Order was a minute order, but it came from a noticed motion, a hearing with witnesses, evidence introduced, and a litigated Issue, resulting in an Order.

Judge Johnson unlawfully created his own jurisdiction, overruling the orders of three other superior court judges. appellant review of Judge Rosenblatt's rulings regarding the Hills deed and the Martin-Bragg motion to void the Petitioner Hills deed that was filed by Appellee Bragg and Judge Rosenblatt's February 1<sup>st</sup> 2013 ruling was never appealed by Martin-Bragg.

Judge Johnson decided that Judge Rosenblatt's ruling was not to his personal satisfaction. Judge Johnson also decided that the Martin-Bragg's motion was invalid and Judge Rosenblatt's ruling was not to his standards after his personal and unauthorized appellant review. Judge Johnson's appeal court type review of Judge Rosenblatt's ruling was unauthorized and not under his jurisdiction.

This was a key issue in this litigation and had already been ruled on by Judge Rosenblatt previously and never appeal by Martin-Bragg. (APP#5,) The law states in *Ford vs. Superior Court* (1968) 188 Cal. App 3d: "[O]ne department of the Superior Court cannot enjoin, restrain, or otherwise interfere with the judicial act of another department of the superior Court". Again this is exactly what Judge Johnson did enjoin, restrain and interfered with the judicial act of another department. (*People v. Grace*, 77 Cal. App. 752, 759 [247 P. 585].) Accordingly, we have conflicting adjudications of the same subject matter by different departments of the same court. The order made by the judge presiding in the former department was "the order of the Superior Court and it was binding and effective upon other departments of that court." (*People vs. Rosas*, (1965) 72 Cal. Rptr. 65.)

Judge Rosenblatt's Order was binding upon Judge Johnson. He lacked the power to modify or alter Judge Rosenblatt's rulings. (Transcript date October 5, 2015 Pg. 6, line 1-28, Pg. 7 line 1-19) Also, Martin-Bragg herself admitted during trial that Petitioner Moore paid the \$290,000 to clear the liens of the 6150 Shenandoah property. Trial transcript October 5, 2015 Pg. 109 line 24-28 Pg. 110 2-28.(APP# 19)

Over the strenuous objection of the Petitioners, Judge Johnson held a bench trial on quiet title even though possession was 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 without notice or hearing dismissed the lead remanded action, the breach of contract fraud case, without any notice or opportunity for the Plaintiffs to be heard. The Plaintiff's first learned of it *after the trial* when he issued Judgment After Trial. (**Judgment After Trial page 2/Lines 5,6 BC 464111 March 29, 2016)**) (APP #20).

Judge Johnson awarded the home to Bragg and issued a penalty to Mr. Moore and Mr. Hills because they were incredulous as to what he was doing during and before the trial and complained about it.

Mr. Moore and Mr. Hills appealed and filed briefs about the orders and findings of the Superior Court judges, in the California Court of Appeal. The briefs contained the case information and ruling written by the then Los Angeles Superior Court Judge Helen Bendix, who was now sitting on the California Court of Appeals Second District, had found Mr. Moore to be the beneficial owner

of the 6150 Shenandoah Property, in yet another case, the Watson case. Pg. 38 ¶ #4 (APP#21,)

When the parties appeared for oral argument, Justice Helen Bendix who had been assigned to this case for over (8) months was one of the appellant judges on the bench to hear the oral argument. Mr. Moore argued that she had found previously that he owned the 6150 Shenandoah property. Justice Bendix agreed verbally with Petitioner Moore. Then only a few seconds later a recess was announced by the Presiding Justice Rothschild.

When the Justices returned, an announcement was made that Justice Bendix was no longer on the case, only to be replaced at oral argument with another judge who had no knowledge or information of this case and had not read any of the prior briefs filed in the matter.

Despite the facts that Judge Johnson overruled many of the prior court orders and rulings, 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#22) (As a punishment Judge Johnson overruled the Order of return of the property making it a money judgment only because Bragg was now in bankruptcy.)

No mention was made of this nor of the prior court rulings, the findings of the Court of Appeals, and the ownership findings of Justice Bendix, Fruin, and the California Court of Appeals itself. The California Constitution forbade any jurisdiction to Superior Court Judge Johnson to overrule other Superior Court judges on the same cause involving the same parties, however this was not

mentioned. Ford vs. Superior Court 188 Cal. App. 3<sup>rd</sup> 737 (1986) was ignored. Rehearing was denied on November 12, 2019. (Denial B272445 November 12, 2019) (APP#23,)

The Supreme Court of California denied the Petition for Review on January 15, 2020. (Denial S259479 January 15, 2020). (APP#24,)

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

Did the California Supreme Court allow a violation of the California Constitution? Were Petitioners deprived due process of law, equal protection because of their gender and race, and an impartial court for redress of their grievances? They lost their home and everything in it, and ability to work despite being awarded their personal possessions back.

Can one judge overrule another judge in the same matter while the action is pending? Does a party have a right to rely on a prior Court Order in the very same case with the very same parties that was never reversed by the Appellant Courts?

These are fundamental questions for the American legal system. They are problems with national consequences, that this Court can and should settle. Petitioners have no other remedy at law. They have exhausted the remedy in their State.

## **THE PARTIES**

### **Petitioners**

Ivan Rene Moore

Ronald Hills

### **Respondent**

Kimberly Martin-Bragg aka Barbour

## **ARGUMENT**

### **1. WHY A WRIT OF MANDAMUS OR PROHIBITION IS WARRANTED**

#### **A. A WRIT OF MANDAMUS IS NEEDED TO UPHOLD THE US AND CALIFORNIA CONSTITUTION**

This writ is brought pursuant to US Supreme Court Rule 10(b):

(b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of Appeals;

(c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

A writ of mandamus is warranted when a party establishes that (1) the “right to issuance of the writ is ‘clear and indisputable,’” (2) the party has “no other adequate means to attain the relief” sought, and (3) “the writ is appropriate under the circumstances.” *Cheney v. United States Dist. Court*, 542 U.S. 367, 380-381 (2004) Mandamus is reserved for “exceptional circumstances amounting to a judicial ‘usurpation of power.’” *Id.* at 380 (citation omitted).

Those are the circumstances of this case, judicial usurpation of jurisdiction by a Superior Court Judge, and the failure of the California Supreme Court to uphold the California Constitution forbidding this.

An extraordinary writ is warranted here because Petitioners have a right, and it is appropriate because there are no other adequate means for relief.

A writ of mandamus is warranted when a party establishes that (1) the “right to issuance of the writ is ‘clear and indisputable,’ ” (2) the party has “no other adequate means to attain the relief” sought, and (3) “the writ is appropriate under the circumstances.” *Cheney v. United States Dist. Court*, 542 U.S. 367, 380-381 (2004). Those are the circumstances of this case.

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. Specifically, that the lower court violated the parameters of the California Constitution by allowing one Superior Court Judge to act as a Court of Appeal, in overruling the orders of the prior judges in the same action, same parties, with no change in facts, circumstances, parties or reversal by a higher court.

If the State Supreme Court will not stop this, then it is imperative that this Court stop it. If such decisions are permitted to stand, then due process is eroded, trials will not be fair, and the public will not have the right to rely on an order of a Judge. Confusion and mistrust of the judicial system will run rampant.

If Court orders and rulings are permitted to be ignored, the Courts will lose all efficacy. If the Constitution has 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 Petitioners' rights and allowed this aberration. In doing so, the California Supreme Court violated the Petitioner's right to procedural and substantive due process.

Petitioners were fighting for their home and place of business of twenty plus years and its contents, their real and personal property, which lost, deprived them of earning a living. This was done without due process.

The US Constitution does not allow a state to deprive a citizen of due process. Petitioners were deprived of property and their ability to practice their profession, when the California Supreme Court allowed the Superior Court Judge to act as an Appellate Court of prior judicial officers that presided over the case.

The factors for mandamus are readily satisfied. Given the manifest absence of jurisdiction in the California Superior Court, only to be upheld by the California Supreme Court, Petitioners have established a "clear and indisputable" right to relief. Cheney, 542 U.S. at 381 (citation omitted).

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 of mandamus has been to confine" a court "to a lawful exercise of its prescribed jurisdiction." Id. at 380 (citation omitted).

Mandamus is especially appropriate here, because it is the only way "to prevent a lower court from improperly discharging its constitutional responsibilities."

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.

#### **B. NO RELIEF CAN BE OBTAINED IN ANY OTHER FORM**

Mandamus appropriate where petitioner "lack adequate alternative means to obtain the relief they seek", *Mallard v. U.S.* Dist. Court for S. Dist. of Iowa, 490 U.S. 296, 309, (1989). Simply put, Petitioners' attempts to obtain relief, on merits, in the state court have been exhausted. There is no other relief available.

#### **C. THE RIGHT TO A WRIT IS CLEAR AND INDISPUTABLE**

Petitioners have a constitutional right to redress of grievances. Although there is dispute that this clause includes a remedy for the right to redress, the framers intended one. In *Chisholm v. Georgia*,<sup>16</sup> and *Marbury v. Madison*, 5 U.S. 137, 174 (1803) ("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").

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) (Prof'l 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) (Stevens, J. Pell v. Procunier, 417 U.S. 817, 1974); Ortwein v. Schwab, 410 U.S. 656, (1973); Cruz v. Beto, 405 U.S. 319, (1972); 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) ) Thus this court has recognized a First Amendment right to a remedy.

Petitioners here assert this right because they have lost critical civil rights and personal and real property rights and have no other means of redress but this Honorable Court.

**D. MANDAMUS IS APPROPRIATE BECAUSE THE TRIAL COURT  
LACKED JURISDICTION TO ACT AND THE CALIFORNIA  
SUPREME COURT FAILED TO VACATE THE WRONGFUL ACTS OF  
THE LOWER COURT**

The Court may grant a petition for mandamus in its discretion, so long as it has jurisdiction over the matter. As the Court described in Cheney v. U.S. Dist. Court for the Dist. of Columbia (03-475) 542 U.S. 367 (2004)

Mandamus is a “drastic and extraordinary” remedy “reserved for really extraordinary causes.” *Ex parte Fahey*, 332 U.S. 258 (1947). “The traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal courts has been to confine [the court against which mandamus is sought] to a lawful exercise of its prescribed jurisdiction.” *Roche v. Evaporated Milk Assn.*, 319 U.S. 21, 26, (1943).

Although courts have not “confined themselves to an arbitrary and technical definition of ‘jurisdiction,’ ” *Will v. United States*, 389 U.S. 90, (1967), “only exceptional circumstances amounting to a judicial ‘usurpation of power,’ ” *ibid.*, or a “clear abuse of discretion,” *Bankers Life & Casualty Co. v. Holland*, 346 U.S. The trial court here usurped its powers and violated the California Constitution which granted him limited power to act. The trial court Judge Michael Johnson, violated the California Constitution when he acted as the Appellate reviewing court and overruled the prior California Superior Court Judges in this matter, on the very same issues, very same parties with no change in facts, circumstances or issues.

Usurpation of jurisdiction is exactly that type of condition we have here. These are exceptional circumstances. This is the very type of usurpation the California Court of Appeals itself called out in the first decision in *Martin-Bragg vs. Moore* 219 Cal App 4<sup>th</sup> 367 (2013).

Petitioners herein have met the “Cheney” elements here and a writ should issue from this Court restraining the Superior Court of California, specifically the actions and decisions of Jude Michael Johnson (ret.), from acting outside of his

jurisdiction, acting as the court of appeals by overruling other Superior Court Judges prior orders and ruling,; and violating Petitioners due process of law; and remanding this action back to the Supreme Court of California for action in adherence to this Writ.

**2. VIOLATION OF THE CALIFORNIA CONSTITUTION DEPRIVED PETITIONERS OF DUE PROCESS BECAUSE THEY COULD NOT RELY ON A PRIOR COURT ORDERS FROM THE PREVIOUS JUDGE IN THE SAME CASE**

"The Constitution states only one command twice. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states.

The State of California failed to keep their legal obligation under the US Constitution, and allowed a violation of its own Constitution. The California Constitution Article VI § 11 provides that one department of the Superior court cannot act as an appellate court against another in the same action. SECTION 11 provides that only an appellate court has jurisdiction to overrule a superior court.

(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 Moore vs. Martin-Bragg 219 Cal App. 4<sup>th</sup> 367, in the reversal of the UD case in 2013.

In this case the trial judge, Michael Johnson, overruled the prior orders of three prior judges in the same action. He acted without jurisdiction and as an appellate reviewing court of the 3 prior judges.

This unauthorized conduct not only violates the California Constitution, but it violates controlling precedent in California. The California Court of Appeals , said this in Ford vs. Superior Court 188 Cal. App. 3<sup>rd</sup> 738 (1986), and it is controlling law:

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. Offenberg, 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. 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.' (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].)

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 vested in the Superior Court or the Court of Appeals, not in any particular judge. A superior court judge has no jurisdiction to overrule another superior court judge in the same matter pending before it.

This is exactly what Judge Johnson did. Judge Johnson overruled Judge Michelle Rosenblatt's order that Mr. Hills held a valid deed to the 6150 Shenandoah Property; Judge Johnson 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 of Moore vs. Martin-Bragg BC 464111, the case that he

dismissed without notice or a hearing, and never mentioning it, and the Petitioners first learned of it in his Statement of Decision after trial.

Judge Johnson overruled the return of all of the properties to Mr. Moore and others who testified at the conversion trial. Judge Johnson also failed to allow Mr. Moore and Mr. Hills to regain possession of theirs and others property after Judge Rosenblatt ordered the personal property returned. (APP #8)

In denying Moore and Hills and other of their personal, business property and legal documents. Judge Johnson knew he usurped and violated his jurisdiction limit as one Superior Court Judge in California. California Constitution Art VI § (2018) SECTION 11 This was forbidden. However, the appeals court upheld such a deviation from the California Constitution and deprived the Petitioners of due process, after they themselves ruled this was forbidden in 2013. No new laws were enacted.

In this case there were several Superior court judges assigned to this matter, from 2012 to 2015. The first judge, Michelle Rosenblatt (ret.) 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. The order is dated February 1<sup>st</sup> 2013 ., (APP#4)

The trial court, however, refused a motion in limine to establish this fact, claiming that the Defendant's attorney did not write the motion correctly, which is not a legal reason to deny the motion in limine. (APP#18) Pg. 25, line 27-28 pg. 26 lines 1-3):

“Judge Rosenblatt granted the order to dismiss (which was later rescinded), and denied the motion to void deed. The ruling is stated in a brief minute order which does not describe the reasons for denying the motion to void deeds. But Martin-Bragg’s motion was invalid on its face, as it stated on ground for relief and asked what essentially a summary Judgement was without complying with Code Civ. Pro. 437c. whatever the reason for judge Rosenblatt’s February 1<sup>st</sup> 2013 ruling, the denial of the motion did not preclude or limited the trial of Martin Bragg’s claims.”

The failure to uphold a prior court order, and to act as the appeals court and reviewing court of what another judge did was not a function of Judge Johnson’s jurisdiction or authority. It exceeded his authority. He is not an appeals court. If his action is left unchanged this Court will have said that a party cannot and should not rely on any Court’s Order. This is surely not what the framers intended when the judiciary was given its power.

Further, the actions of Judge Johnson have caused other judges in California have caused their removal. Specifically Judge Spruance in the matter of Spruance vs. Commission on Judicial Qualifications 13 CAL 3<sup>RD</sup> 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. “ Further the court said that willful misconduct was also found in two other instances where Spruance “improperly assumed jurisdiction” calling it petty tyranny. Disgracing the judiciary is certainly proven here.

If Judge Johnson's actions are left unchanged, there is no need for any court except a trial court, because every other court would have no meaning. Petitioner's spent years of their lives trying to get their home, the 6150 Shenandoah Property 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 by permitting Court Orders overturned and ignored by a judge with only equal jurisdiction. The California Constitution only allows the appeals court jurisdiction to review.

By doing what he wanted, overruling orders, the same action, Judge Johnson refused to accept prior courts Orders, rulings and findings. Judge Johnson refused to accept the findings of any prior court including the California Court of Appeals. In the conversion case, arising out of the Appellant's property inside the home, after a jury had found the defendant converted the property, and after she admitted to selling the Appellant's property off, the lower court judges refused to honor the trial courts Order the property including legal documents must be returned because they claimed it was an interlocutory order. This property consisted of many one-of-a-kind articles, such as outtakes and songs work tapes of Michael Jackson and the petitioner, property from George Martin producer for the Beatles, and other intellectual and one of a kind, unique property. The lower court judges egregiously forbid the Appellants to inspect, inventory, identify or insure the property while the other related cases were still litigating.

On September 8<sup>th</sup>, 2017 case B276336 the California Court of Appeals affirmed the conversion case, but the lower court still failed to order the return of the Petitioner property. (APP#9)

The Petitioners believe that some of it has been fenced, hypothecated, sold, destroyed, damaged, and or lost. The Defendant/Respondent Bragg declared bankruptcy twice all the while she was selling the property.

Now it is not known to Appellant what is left. The Appellants were denied the right to inspect, identify, and insure their property while in the hands of the converter. Appellants tried to get permission to inspect over six times in five years. The Court had a duty to protect this property and failed to do so. In California the failure to protect this 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. How can this society have any faith in the judiciary? These contradictory rulings destroy any confidence in the courts.

### **3. IGNORING THE CALIFORNIA CONSTITUTION, BINDING PRECEDENT AND CONTROLLING LAW VIOLATES DUE PROCESS AND CAUSING A MISCARRIAGE OF JUSTICE**

Not only was the trial court bound by the Ford case, it was bound by the Martin-Bragg vs. Moore case. That Case was decided in 2013 and was certified for publication. Martin-Bragg vs. Moore 219 Cal. App. 4<sup>th</sup> 367 (2013) That case found that Mr. Moore paid the mortgage, taxes and improvements on the 6150 Shenandoah Avenue Property, which gave Mr. Moore a beneficial interest in the property. The California Court of Appeal also found that Petitioners would more than likely prevail in the remanded action. California Rules of Court forbid the Court of Appeals, from ignoring Ford and Martin-Bragg because they were binding law.

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.

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* (a case that ought to be covered in the very first weeks of every legal research and writing class in any California law school): "Under the doctrine of stare decisis, all tribunals exercising inferior jurisdiction are required to follow decisions of courts exercising superior jurisdiction. Otherwise, the doctrine of stare decisis makes no

sense. The decisions of this court are binding upon and must be followed by all the state courts of California.

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." *Abelleira v. District Court of Appeal*, 17 Cal.2d 280 (1973). Therefore, the UD decision was binding upon Judge Johnson. He lacked any jurisdiction and authority to overrule any prior court orders on the same case with the same parties on the same pleadings.

In California, just as in the United States Courts, "The 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." (See, also, *Weintraub v. Superior Court*, 91 Cal. App. 763, 769 [267 P. 733]; *State v. Reynolds*, 209 Mo. 161 reviewing authorities on prohibition and quoting from *Appo v. People*, 20 N.Y. 531: "... 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 court which is failing to say the trial court lacked jurisdiction authority 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* that, "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." (17 Cal.2d at p. 291.) (emphasis added)

This is the Court and now is the time to prohibit this rogue judge from doing what he pleased outside his realm of power, jurisdiction and authority.

#### **4. THE CALIFORNIA SUPREME COURT AFFIRMED A SERIOUS DEPRIVATION OF REAL 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, 57-58; Latham v. Santa Clara County Hospital, 104 Cal.App.2d 336, 340 (1951); Globe Indemnity Co. v. Larkin, 62 Cal.App.2d 891, 894 [145 P.2d 633].)

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. (APP#10) (APP#11)

The trial Judge Johnson, however, would not allow the Petitioners to have a jury trial, overruling two prior court orders and acting as the court of appeals for the prior judicial officers that presided over the litigation for years. This is the type of usurpation of power which justifies an extraordinary writ of mandamus and or prohibition.

## **5. 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 6150 Shenandoah Property, in a different case, Watson v Moore BC35330.

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 pay.

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.

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. 3<sup>rd</sup> (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.

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 BC353300 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 over a year with no objections from any party? 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? This is the type of exceptional circumstances that warrant the use of this Court's power. This Court can put an end to this type of outrageous deplorable conduct.

## CONCLUSION

For the reasons stated, this Court should issue a writ of mandate ordering the California Supreme Court to reverse and remand its rulings January 15<sup>th</sup>, 2020 and or grant a Writ of Mandamus on the questions presented here. For the reversal of its ruling in Moore / Hills v Martin-Bragg and remand back to the Los Angeles Superior Court for new trial consistent with Ford v Superior Court. Order a new trial on all issues consistent with must protect the rights of the Petitioners in this case regarding real property and personal property rights. and mandate the State of California to do so. Petitioners have no other adequate remedy. Such serious and fundamental denials and violations of due process of law regarding real property and personal property must be stopped.

Respectfully Submitted

  
IVAN RENE MOORE

Dated: February 11<sup>th</sup>, 2021

  
RONALD HILLS