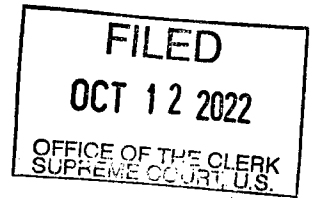


22-390
No. _____

ORIGINAL

In The
Supreme Court of the United States



SHAHROUZ JAHANSHAHI,

Petitioner,

v.

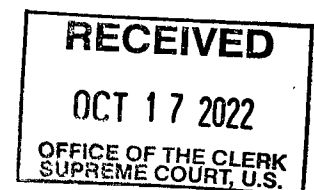
JEAN ROSENFELD et al.,

Respondents.

**On Petition For Writ Of Certiorari
To The Supreme Court Of California**

PETITION FOR WRIT OF CERTIORARI

SHAHROUZ JAHANSHAHI
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QUESTIONS PRESENTED

This petition presents an opportunity for this Court to hold whether the Superior Court of California has exceeded its jurisdiction in awarding attorney's fees in excess of its limited jurisdiction amount set by the California Legislature, and sanctioning Petitioner for his advocacy.¹

The questions presented are:

- (1) Can a limited jurisdiction court of California award attorneys' fees in excess of its jurisdictional limit of \$10,000.00?
- (2) Is it justified to sanction a litigant for his advocacy and exercise of his right to file a meritorious appeal?

¹ Forty four (44) years ago Petitioner fled his homeland with oppressive regime and corrupt judiciary for this great nation, where, John Adams eloquently stated "we are nation of laws, not men"; meaning the rule of the law is respected and there are checks and balances in place to make sure that Due Process and Equal Protection Clause of the laws is adhered to. It has taken Petitioner over 10 years of legal battle in the lower courts to make sure the rule of the law is adhered to. This Petition provides the opportunity for this Court to intervene by granting the Petition and uphold the rule of the law as it should.

**PARTIES TO THE PROCEEDINGS
AND RULE 29.6 STATEMENT**

Petitioner Shahrouz Jahanshahi is an individual, and was Defendant and Appellant.

Respondents Howard and Jean Rosenfeld are husband and wife and were Plaintiffs and Respondents.

There are no publicly held corporations involved in this proceeding.

RELATED PROCEEDINGS

The following proceedings are directly related to this case within the meaning of Rule 14.1(b)(iii):

- *Rosenfeld v. Jahanshahi*, Superior Court of California for County of Los Angeles, No. 15K09197
- *Jahanshahi v. Rosenfeld*, Appellate Division of Superior Court, County of Los Angeles, No. BV032981
- *Jahanshahi v. Rosenfeld*, California Court of Appeal, Second Appellate District, Division 7, No. B304076
- *Jahanshahi v. Rosenfeld*, Appellate Division of Superior Court, County of Los Angeles, No. BS166648
- *Jahanshahi v. Rosenfeld*, Appellate Division of Superior Court, County of Los Angeles, No. BS175685
- *Jahanshahi v. Rosenfeld*, Appellate Division of Superior Court, County of Los Angeles, No. BS175686
- *Jahanshahi v. Rosenfeld*, Appellate Division of Superior Court, County of Los Angeles, No. BS175695
- *Jahanshahi v. Rosenfeld*, Supreme Court of California, No. S273826

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PETITION FOR A WRIT OF CERTIORARI

Shahrouz Jahanshahi respectfully petitions for a writ of certiorari to review the judgment of the Superior Court of California in and for the County of Los Angeles awarding attorneys' fees in the amount of \$25,762.50, and imposing monetary sanctions of \$750 against the Petitioner, where both orders have been in excess of jurisdiction.

OPINIONS BELOW

The Opinion of the California Court of Appeal, Second Appellate District, Division Seven. App. 1.

The Order of the Supreme Court of California. App. 2.

The Order of California Court of Appeal, Second Appellate District, Division Seven. App. 3.

Opinion of Appellate Division of the Superior Court, County of Los Angeles. App. 4.

The Order of California Court of Appeal, Second Appellate District, Division Seven is provided. App. 28.

The Judgment and ruling of the Superior Court of California in and for the County of Los Angeles is provided as App. 29, 31, 34, 39.

The Opinion of the Supreme Court of California as App. 43 (en banc).

STATEMENT OF JURISDICTION

The date on which the Supreme Court of California denied the case was May 18, 2022. App. 32.

On July 19, 2022, petitioner filed for an extension with Court under application number 22A76. On July 29, 2022, the Court granted extension for the petition for writ of certiorari to be filed by October 15, 2022.

The Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1257(a).



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution Amendment V in relevant part provides:

nor be deprived of life, liberty, or property, without due process of law;

United States Constitution Amendment XIV, § 1:

nor shall any State deprive any person of life, liberty, or property, without due process of law;

California Constitution Article 1, § 1 states:

All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

California Constitution Article 1, § 26 states:

The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

California Government Code § 70613 in pertinent part states:

(b) In a case where the amount demanded, excluding attorney's fees and costs, is ten thousand dollars (\$10,000) or less, the uniform fee for filing the first paper is two hundred five dollars (\$205). The first page of the first paper shall state whether the amount demanded exceeds or does not exceed ten thousand dollars (\$10,000).

California Business and Profession Code § 6068 states:

It is the duty of an attorney to do all of the following:

- (a) To support the Constitution and laws of the United States and of this state.
- (b) To maintain the respect due to the courts of justice and judicial officers.
- (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just, except the defense of a person charged with a public offense.
- (d) To employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and

never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.

(e)(1) To maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client.

(2) Notwithstanding paragraph (1), an attorney may, but is not required to, reveal confidential information relating to the representation of a client to the extent that the attorney reasonably believes the disclosure is necessary to prevent a criminal act that the attorney reasonably believes is likely to result in death of, or substantial bodily harm to, an individual.

(f) To advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he or she is charged.

(g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest.

(h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.

(i) To cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against himself or herself. However, this subdivision shall not be construed to deprive an attorney of any privilege guaranteed by the Fifth Amendment

to the Constitution of the United States, or any other constitutional or statutory privileges. This subdivision shall not be construed to require an attorney to cooperate with a request that requires him or her to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the attorney's practice. Any exercise by an attorney of any constitutional or statutory privilege shall not be used against the attorney in a regulatory or disciplinary proceeding against him or her.

(j) To comply with the requirements of § 6002.1.

(k) To comply with all conditions attached to any disciplinary probation, including a probation imposed with the concurrence of the attorney.

(l) To keep all agreements made in lieu of disciplinary prosecution with the State Bar.

(m) To respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services.

(n) To provide copies to the client of certain documents under time limits and as prescribed in a rule of professional conduct which the board shall adopt.

(o) To report to the State Bar, in writing, within 30 days of the time the attorney has knowledge of any of the following:

(1) The filing of three or more lawsuits in a 12-month period against the attorney for malpractice or other wrongful conduct committed in a professional capacity.

(2) The entry of judgment against the attorney in a civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.

(3) The imposition of judicial sanctions against the attorney, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).

(4) The bringing of an indictment or information charging a felony against the attorney.

(5) The conviction of the attorney, including any verdict of guilty, or plea of guilty or no contest, of a felony, or a misdemeanor committed in the course of the practice of law, or in a manner in which a client of the attorney was the victim, or a necessary element of which, as determined by the statutory or common law definition of the misdemeanor, involves improper conduct of an attorney, including dishonesty or other moral turpitude, or an attempt or a conspiracy or solicitation of another to commit a felony or a misdemeanor of that type.

(6) The imposition of discipline against the attorney by a professional or occupational disciplinary agency or licensing board, whether in California or elsewhere.

(7) Reversal of judgment in a proceeding based in whole or in part upon misconduct, grossly incompetent representation, or willful misrepresentation by an attorney.

(8) As used in this subdivision, "against the attorney" includes claims and proceedings against any firm of attorneys for the practice of law in which the attorney was a partner at the time of the conduct complained of and any law corporation in which the attorney was a shareholder at the time of the conduct complained of unless the matter has to the attorney's knowledge already been reported by the law firm or corporation.

(9) The State Bar may develop a prescribed form for the making of reports required by this section, usage of which it may require by rule or regulation.

(10) This subdivision is only intended to provide that the failure to report as required herein may serve as a basis of discipline.



INTRODUCTION

Petitioner is respectfully requesting Court to grant this petition by reversing the judgment of the Superior Court of California that is not made in

conformity of the Fourteenth Amendment of the United States Constitution and the Constitution of the State of California to clear the ambiguity in the State law, uniformity of decision and to avoid miscarriage of justice and in furtherance of justice. App. 22-31.

Petitioner filed a timely appeal with the California Court of Appeal. On February 8, 2022, the court of appeal held an oral argument on the appeal where one of the justices that has signed the opinion did not participate in the oral argument. The California Court of Appeal affirmed the judgment of the court. App. 1-21.

Petitioner filed a timely petition with the Supreme Court of California, where it also summarily denied the petition. App. 32.

Thereafter, Petitioner filed an application with this Court for an extension of time to file Petition for Certiorari which was granted.

STATEMENT OF THE CASE

A. Background

Petitioner was sued by his tenant's son who is an attorney at law, for withholding security deposit for the damages caused to his rental unit in the *limited*

jurisdiction of the Superior Court of California docketed for under \$10,000.00.²

B. Proceedings Before the Superior Court

Petitioner initiated a second appeal from a landlord tenant action, where plaintiffs were seeking return of the security deposit of \$3,050. The undisputed facts of the case are as follows: In summer of 2012, Dr. Howard and Jean Rosenfeld (“Rosenfelds”) sold their multimillion-dollar home in Pacific Palisades and leased a two-bedroom condominium from appellant (“Jahanshahi”). After almost three years of tenancy, Rosenfelds provided a timely notice of terminating a lease. A mutually agreed upon date was set for the pre-moveout inspection and upon completion of that inspection a comprehensive list of the areas that were damaged beyond the normal wear and tear was provided to plaintiffs.

On June 30, 2012, Rosenfelds vacated the condominium and moved out to Hawaii where they had bought a home to be close to their daughter and her newly born children. Jahanshahi completed the final inspection of the condominium, noted the damages, and based on plaintiffs’ request provided the itemized security deposit return documents to Mr. Ben Rosenfeld

² The lawsuit was an *extortion*. As the court noted in its ruling: “The decision to file this matter as a limited jurisdiction case was ill considered.” App. 41.

(“Rosenfeld”), their son who is the attorney for the plaintiffs in the underlying action and the appeal.

Rosenfeld emailed Jahanshahi and offered to deduct \$1,500 from the \$4,000 security deposit and return the remaining \$2,500. Jahanshahi declined the offer as the damages to the hardwood flooring and cabinets were far beyond the offered amount. Seven days went by and there was no response from Rosenfeld. On July 30, 2015, Jahanshahi contacted counsel to get an update on when the plaintiffs will pay or repair the damages. Rosenfeld indicated he has not had time to review the material. Jahanshahi indicated he will seek redress in the small claims court.

The very next day, on July 31, 2015 even though Rosenfeld had represented that he does not have time to review the material he had filed a limited jurisdiction case below \$10,000 seeking return of \$3,050 of security deposit and additional damages.

Rosenfelds refused Howard Rosenfeld to be deposed, and the court denied postponing trial date so that appellant’s newly retained counsel be prepared for the trial. Ultimately, the jury awarded \$3,050 to plaintiffs, and plaintiffs moved the court for attorney’s fees and costs, and Appellant filed an opposition to plaintiffs’ motion for attorney’s fees and cost.

On March 1, 2018, Judge Tarle, denied costs and attorney’s fees in its entirety as he was of opinion that plaintiffs should have filed a small claim action by stating: “The decision to file the matter as a limited jurisdiction case was ill considered.” See App. 41.

However, on remand from the Appellate Division of the Superior Court, Judge Tarle, awarded \$25,973 in attorney's fees to Rosenfelds.

Jahanshahi filed a timely appeal in the appellate division of the Superior Court challenging Superior Court's order (1) awarding \$25,973 in attorney's fees and costs on appeal pursuant to California Code of Civil Procedure § 1034(b); California Rules of Court, rule 8.278 in excess of the limited jurisdiction court's jurisdiction California Code of Civil Procedure § 85(b); *Stratton v. Beck*, 9 Cal.App.5th 483 (2017); (2) holding appellant ("Jahanshahi") in contempt of the court imposing \$750 monetary sanctions pursuant to California Code of Civil Procedure § 177.5; and (3) denying Jahanshahi's motion for OSC re Contempt holding plaintiffs' counsel, Ben Rosenfeld in contempt of the court pursuant to California Code of Civil Procedure § 1212; Super. Ct. L.A. County, Local Rules, rule 3.1.

The appellate division of the Superior Court reversed the cost on appeal, affirmed the imposition of the monetary sanction and the Superior Court's order denying sanction on Rosenfeld. App. 4-27.

C. Background on Jurisdictional Classification

"The classification of civil cases as limited or unlimited has its roots in the historic division between municipal and Superior Courts. Historically, lower civil courts were divided into municipal courts, which had subject matter jurisdiction over cases where the

amount in controversy was \$25,000 or less, and Superior Courts, which had subject matter jurisdiction over cases involving *more* than \$25,000.

A case filed in the Superior Court whose amount in controversy did not meet the jurisdictional minimum was subject to “transfer” of jurisdiction . . . from superior court to the municipal court.” *Stratton, supra*, 9 Cal.App.5th at 491.

In 1998, an amendment to the California Constitution *unified* the two separate systems into a single Superior Court system having original jurisdiction over all matters formerly designated as Superior Court and municipal court actions. After unification, the municipal courts ceased to exist. Now civil cases formerly within the jurisdiction of municipal courts are classified as “limited” civil cases, while matters formerly within the jurisdiction of the Superior Court are classified as “unlimited” civil action[s]. The classification of a civil case as limited or unlimited no longer affects the subject matter jurisdiction of the superior court.” *Stratton*, 9 Cal.App.5th at 492.

As several courts have observed, the designation of a civil case as either limited or unlimited has “significant implications” as it affects the relevant forum where the case may be heard and its applicable procedures, the forms of relief that are available and *amount of damages* that may be recovered, and the relevant tribunal where an appeal from a judgment or order may be taken. *Ytuarte v. Superior Court*, 129 Cal.App.4th 266, 274-275 (2005); see *Stratton, supra*, 9

Cal.App.5th at p. 492; compare California Code of Civil Procedure § 904.2 “An appeal of a ruling by a superior court judge or other judicial officer in a limited civil case is to the appellate division of the superior court.” with California Code of Civil Procedure § 904.1, subd. (a) “An appeal, other than in a limited civil case, is to the court of appeal.” The statutory scheme governing the designation of civil actions makes clear that “a civil case is classified as unlimited by default; extra requirements must be satisfied to render a case limited.” *Stratton*, at p. 493; see California Code of Civil Procedure § 85, subd. (a).

Rather, California Code of Civil Procedure § 85 additionally provides that “*notwithstanding any statute that classifies an action or special proceeding as a limited civil case, an action or special proceeding shall not be treated as a limited civil case unless all of [three] conditions are satisfied.*” (Italics added.) The first of these three conditions require that “[t]he amount in controversy does not exceed twenty-five thousand dollars (\$25,000).” California Code of Civil Procedure § 85, subd. (a). “Amount in controversy” means the amount of the demand, or the recovery sought, or the value of the property, or the amount of the lien, that is in controversy in the action, exclusive of attorneys’ fees, interest, and costs.” (*Ibid.*)

“In a limited civil case, the caption shall state that the case is a limited civil case, and the clerk shall classify the case accordingly.” California Rules of Court, rule 2.111(10) requiring the words “‘Limited Civil Case’” in the “caption of every pleading and every

other paper filed in a limited civil case”; see also *Stratton*, at p. 493, “a persuasive argument may be made that a party filing the case without indicating that he or she wishes the case to be limited intends it to be unlimited.” However, the underlying action was docketed as limited civil jurisdiction for under \$10,000, and the filing fee was paid pursuant to California Government Code § 70613(b). Given these circumstances—and in particular an amount in controversy, the Superior Court exceeded its jurisdiction in awarding judgment in the form of attorney fees over its jurisdictional limit.

D. Imposition of Sanctions Not Warranted

The court sanctioned Petitioner for his advocacy and using words and phrases that are quoted and used in statutes enumerated within the California Code of Civil Procedure such as “farce and sham.” Petitioner, was also sanctioned for the *direct quote* from the cited authorities. These sanctions were handed in excess of the jurisdiction of the court, were not warranted, and it was an abuse of discretion in conjunction with bias, partial, prejudicial treatment of a *pro se* litigant as Petitioner chose his Constitutional right to appeal the decision of the court. App. 20-22.

This is evident from the record as at the same token Respondent’s attorney was not sanctioned nor admonished for misciting an authority, citing and relying on an unpublished opinion, and filing a declaration not in conformity with the governing laws. App. 34-38.

E. The Appellate Division of Superior Court Opinion

The Appellate Division of the Superior Court of California reversed the award of the attorneys' fees based lack of existence of contract, and did not address the jurisdictional limit of the limited jurisdiction of the court that is limited to the maximum amount of \$10,000. The court also affirmed the imposition of the monetary sanction and denied award of the costs on appeal. App. 4.



REASON FOR GRANTING THE PETITION

F. The Fundamental Jurisdiction Question Cannot Be Ignored

This case is ripe for Supreme Court review because it involves a clear fundamental question of Constitutional law of free speech, equal protection and due process clause of law.

Even within the state there are so many *conflicting* decisions that require the Court's intervention for uniformity of the decision and clear the jurisdictional issue and power of the limited jurisdiction court in rendering award above its jurisdictional limit as the Superior Court of California for County of Los Angeles continues to do so.

The Petition for Writ of Certiorari is appropriate when the rights of the appealing party are violated and

not addressed. *United States v. Sineneng-Smith*, S. Ct. 1575, 1578 (2020).

More importantly, it is necessary to reach a uniformity of decision where there is conflicting law in the subject matter. “[W]here the lower court’s decision amounts to a denial of a fair hearing on the merits, a writ of mandate may be proper.” *Brown Co. v. Appellate Department*, 148 Cal.App.3d 891, 895 (1983), citing *Schweiger v. Superior Court*, 3 Cal.3d 507 (1970). In *Schweiger*, for example, the Supreme Court granted relief in mandate after the Court of Appeal refused to transfer a case, despite certification by the Superior Court. (*Schweiger*, at pp. 517-518.)

In the underlying action, the petitioner had been improperly adjudged to pay over \$25,762.50 in attorney’s fees on appeal in a limited civil jurisdiction docketed for under \$10,000 which the ruling was prejudicial, abuse of discretion and in excess of jurisdiction.

There are two contradictory authorities in respect to the authority of a limited civil jurisdiction court in awarding judgment in excess of its jurisdictional limit. Dictum in one case states “the award for attorney fees cannot in itself exceed the jurisdictional limit.” *Bakkebo v. Mun. Ct. (Indian Hill Investment Co.)*, 124 Cal.App.3d 229, 236 (1981) (emphasis added). But a later case is contradictory. See *Stokus v. Marsh*, 217 Cal.App.3d at 653 (1990) (upholding \$75,000 fee award in hotly-contested municipal court unlawful detainer action). See Weil & Brown, Cal. Prac. Guide.

Pro. Before Trial (2020) Subject Matter Jurisdiction, Ch. 3-A

This question of law is a matter of public importance and appellate division of Superior Court did not address the question raised. Thus, it requires this Court's intervention to resolve the issue and for uniformity of the decision in the interest of justice and to avoid any miscarriage of justice.

The appellate division erred to reverse the contempt order based on Superior Court, Los Angeles County, Local Rules, rule 3.26 (hereinafter "Local Rule 3.26") that is preempted by California Rules of Court, rule 3.20; *Weiss v. People ex rel. Department of Transportation*, 9 Cal.5th 840, 857 (2020). It also erred in allowing Rosenfeld to submit brief and orally argue the sanctioning of Jahanshahi which was a matter between the court and Jahanshahi.

The appellate court overlooked the standard of Due Process and Equal Protection Clause of the Laws, where the Superior Court imposed sanctions on Jahanshahi only, and abused its discretion in awarding costs to the prevailing party.

The judgment or order of the Superior Court being challenged is reviewable on appeal to an intermediate appellate court. The appellate division of the Superior Court failed to recognize the code enforcement appeal before it should have been transferred to the appellate court for resolution for uniformity of decision. These errors combined to completely deprive Jahanshahi of a fair hearing on the merits and left it no

adequate appellate remedy to correct any error in the Superior Court's decision.

G. The Court Has Acted in Excess of its Jurisdiction to Impose Sanctions

The court imposed the sanctions pursuant to Local Rules 3.26, that not only is preempted pursuant to California Rules of Court, rule 3.20, but it does not apply to petitioner, a pro se litigant as that rule states: "The guidelines adopted by the Los Angeles County Bar Association are adopted as civility in litigation recommendations to members of the bar, and are contained in Appendix 3.A." [Emphasis added.] Jahanshahi is not a member of the bar, and was and is a pro se litigant. This is further defined and validated in Local Rules, rule 3.1, which states: "This chapter applies to all civil limited and unlimited cases within the Civil Division of the court. As used in this chapter, the term "counsel" includes self-represented litigants. (Local Rule 1.1). [Emphasis added.] Thus, the sanctioning petitioner pursuant to a Local Rule that does not even apply to pro se litigant is abuse of discretion and in excess of jurisdiction. *Weiss v. People ex rel. Department of Transportation*, 9 Cal.5th 840, 857 (2020).

Moreover, the words and phrases petitioner used such as "hitting below the belt" as cited by the Superior Court and the appellate division are taken out of context as it was a direct quote to the paragraph from the following authority "The law, like boxing,

prohibits hitting below the belt.” *Martinez v. Department of Transportation*, 238 Cal.App.4th 559, 566 (2015).

“The imposition of monetary sanctions pursuant to California Code of Civil Procedure § 177.5 is within the discretion of the trial court. That discretion must be exercised in a reasonable manner with one of the statutorily authorized purposes in mind and must be guided by existing legal standards as adapted to the current circumstances.” *Scott C. Moody, Inc. v. Staar Surgical Co.*, 195 Cal.App.4th 1043, 1048 (2011). Discretion is abused when it exceeds the bounds of reason, all of the circumstances being considered. *Moyal v. Lanphear*, 208 Cal.App.3d 491, 498 (1989).

Appellant filed an extensive brief denying the allegations and stating the facts that the words and phrases used were right off of the cited authorities and are part of the advocacy. However, the appellate division affirmed the Superior Court’s ruling.

The following court’s holding is instructional and illustrative in here, as looking at the evidence as a whole, and circumstances surrounding the orders appealed from, there is no doubt the errors committed and challenged in here are reversible error per se. “While the California Constitution generally prohibits a reviewing court from reversing a trial court order without a showing of prejudice, an error is reversible per se when it constitutes a structural defect in the

trial mechanism that defies evaluation for harmlessness.” *Severson & Werson, P.C. v. Sepehry-Fard*, 37 Cal.App.5th 938, 950 (2019).

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Dated: October 12, 2022 Respectfully submitted by:

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