

In the Supreme Court of the State of California

JOHN B. FREITAS,
Plaintiff-Appellant,

v.

SUPERIOR COURT OF THE STATE
OF CALIFORNIA, COUNTY OF
ALAMEDA,
Respondent;

COMMUNITY FUND, LLC,
Real Party in Interest.

California Supreme Court
Case No. S278001
on appeal from the Court of
of the State of California
County of Alameda

California Ct. of Appeal
Case # 166595

In the Court of Appeal of the State of California

JOHN B. FREITAS,
Plaintiff-Appellant,

v.

SUPERIOR COURT OF THE STATE
OF CALIFORNIA, COUNTY OF
ALAMEDA,
Respondent;

COMMUNITY FUND, LLC,
Real Party in Interest.

On appeal from Court of Appeal
of the State of California

California Ct. of Appeal
Case # 1667131

on appeal from the Superior
Court of Alameda County
Superior Court Case # RG 19026962

TABLE OF CONTENTS

| | |
|--|----|
| OPINIONS BELOW | 1 |
| JURISDICTION | 1 |
| CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.. | 5 |
| U.S. Constitution's First Amendment right to Freedom of Speech..... | 5 |
| includes: | |
| a. The Right to Access the Courts | |
| b. The Right to <u>Expose Corruption</u> in the Court(s) | |
| c. The Right to Petition the Court for redress of grievances; | |
| d. The Right to be heard in a meaningful manner and at a meaningful time; and | |
| e. The right to a fair and impartial judge | |
| INTRODUCTION..... | 9 |
| STATEMENT OF THE CASE | 11 |
| No Judge is permitted to try cases where he/she has a direct, substantial, pecuniary interest in the outcome..... . | 12 |
| U.S. Constitution's First Amendment right to Freedom of Speech... | 13 |
| REASONS FOR GRANTING THE WRIT | 28 |
| I. The Questions Presented Are Critically Important and Warrant Immediate Review..... | 28 |
| II .The Importance of this case to every U.S. homeowner cannot be overestimated..... | 28 |
| CONCLUSION | 40 |
| PRAYER FOR RELIEF..... | 40 |

INDEX TO APPENDICES

APPENDIX A THE JUDGMENT OF THE SUPREME COURT OF
THE STATE OF CALIFORNIA APPEALS DATED
FEBRUARY 15, 2023 denying Petitioner's "Petition for
Writ of Certiorari" dated 02/15/2023. Case # S278001.

NOTE TO READER- THE ABOVE DOCUMENT WAS NOT SERVED ON PETITIONER/FREITAS BY THE CLERK OF THE SUPREME COURT OF THE STATE OF CALIFORNIA.

APPENDIX B 12/01/2022 THE UNPUBLISHED ORDER OF THE
COURT OF APPEAL OF THE STATE OF CALIF. IN
RE CASE # A 166595

APPENDIX C DOCKET ENTRY SHOWING THAT THE PETITIONER’S “IN FORMA PAUPERIS APPLICATION” WAS FILED ON JANUARY 6TH, 2023 AND GRANTED ON SAME DATE.

APPENDIX D PETITIONER’S “PETITION FOR RECONSIDERATION” TIMELY FILED ON DECEMBER 30, 2022, WHICH THE COURT DENIED.

APPENDIX E PETITIONER/FREITAS TIMELY FILED A
“PETITION FOR WRIT OF CERTIORARI ON
JANUARY 6TH, 2023, WITH THE SUPREME COURT

OF THE STATE OF CALIFORNIA WHICH THE SUPREME COURT OF THE STATE OF CALIFORNIA DENIED ON FEBRUARY 15, 2023.

APPENDIX F

CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED

APPENDIX G

DEED OF FULL RECONVEYANCE RECORDED ON JULY 1, 2016. PETITIONER OWNED HIS HOUSE FREE AND CLEAR OF ANY DEBT, IF THERE WERE ANY DEBT, AS EVIDENCED BY THE DEED OF FULL RECONVEYANCE

APPENDIX H

VOID, FORGED, ALTERED, DEFECTIVE “DEED OF TRUST” RECORDED OCTOBER 25, 2005

APPENDIX I

DEED OF TRUST RECORDED OCTOBER 12, 2005 – NO FUNDS TRANSFERRED TO, FOR OR ON BEHALF OF FREITAS. THERE COULD NOT BE ANY DEFAULT BECAUSE FREITAS DID NOT OWE ANYONE ANYTHING. NO PAYMENTS WERE MADE BY FREITAS BECAUSE HE DID NOT “DRAW DOWN” ON THE ALLEGED HOME EQUITY LINE OF CREDIT.

TABLE OF AUTHORITIES CITED

| <u>CASES</u> | <u>PAGE NUMBER</u> |
|---|--------------------|
| FEDERAL | |
| <i>Caperton v. A.T. Massey Coal Co.</i> , 556 U.S. 868, 886, 129 S.Ct. 2252, 173 L.Ed.2d 1208 (2009)..... | 14 |
| <i>Carpenter v. Longan</i> , 83 U.S. 271, 16 Wall. 271..... | 38 |
| <i>Chavez Alvarez v. Monzon</i> , Case No. 16-02796 EJD (PR) (N.D. Cal. Aug. 24, 2017)..... | 26 |
| <i>Council of Ins. Agents & Brokers v. Molasky-Arman</i> , 522 F.3d 925, 932 (9th Cir. 2008)..... | 31 |
| <i>Danvers Motor Co., Inc. v. Ford Motor Co.</i> , 432 F.3d 286, 294 (3d Cir. 2005)..... | 31 |
| <i>Davis v. Department of Corrections</i> , <u>446 F.2d 644</u> (9th Cir. 1971)... | 26 |
| <i>Davis v. Passman</i> , 442 U.S. 228, 239 n.18 (1979) | 32 |
| <i>Figueroa v. Navarro</i> , No. 1:20-cv-01254- AWI-SKO (PC), 2021 WL 4991735, at *1 (E.D. Cal. Oct. 27, 2021)..... | 26 |
| <i>In re Complaint of Judicial Misconduct</i> . United States Court Of Appeals For The Ninth Circuit, Mar 14, 2016. 816 F.3d 1266 (9th Cir. 2016)... | 13 |
| <i>In re Facebook Privacy Litig.</i> , No. 10-02389, 2011 WL 2039995, at *4 (N.D. Cal. May 12, 2011)..... | 30 |
| <i>In re Murchison</i> , 349 U.S. 133, 136, 75 S.Ct. 623, 99 L.Ed. 942 (1955).13 | |
| <i>Jenkins v. McKeithen</i> , 395 U.S. 411, 423 (1969)..... | 30 |

| | |
|--|----|
| <i>La Buy v. Howes Leather Co.</i> , <u>352 U.S. 249, 259-60, 77 S.Ct. 309, 1 L.Ed.2d 290</u> (1956)..... | 15 |
| <i>McDonough v. Smith</i> , U.S. sup.ct.no. 18-485. June 20, 2019..... | 40 |
| <i>Meaunrit v. ConAgra Foods Inc.</i> , No. 09-2220, 2010 WL 2867393, at *4 (N.D. Cal. July 20, 2010) (Breyer, J.) | 31 |
| <i>Offutt v. United States</i> , 348 U.S. 11, 14, 75 S.Ct. 11, 99 L.Ed. 11 (1954).. | 14 |
| <i>Rainsberger v. Benner</i> , 7 th app.cir.no. 17 – 2521-Jan. 15, 2019..... | 40 |
| <i>Razavi v. Coti</i> , 17-cv-04341-BLF, (N.D. Cal. Nov. 9, 2021),..... | 26 |
| <i>Roman v. Liberty University, Inc.</i> (2008) 162 Cal.App.4 th 670, 677..... | 23 |
| <i>Shaw v. Lindgren</i> , No. CV 19-2700-DMG (AGR), 2021 WL 4614119, at *5 (C.D. Cal. Aug. 12, 2021)..... | 26 |
| <i>Strathvale Holdings v. E.B.H.</i> (2005) 126 Cal.App.4 th 1241, 1249.... | 23 |
| <i>Tumey v. Ohio</i> , 273 U.S. 510, 523, 47 S.Ct. 437, 71 L.Ed. 749 (1927).. | 13 |
| <i>United States v. Franco</i> , No. CR 08-0730 WHA, at pages16 -17 (N.D. Cal. Feb. 3, 2012)..... | 22 |
| <i>United States v. Heath</i> , <u>260 F.2d 623, 632</u> (9th Cir. 1958)..... | 16 |
| <i>United States v. Ohlson</i> , 552 F.2d 1347, 1348 (9th Cir. 1977)..... | 36 |
| <i>U.S. v. Antico</i> , 275 F.3d at 263..... | 35 |
| <i>U.S. v. Espy</i> , 23 F.Supp.2d 1, 7 (D.C. Dist. Ct. 1998)..... | 34 |
| <i>U.S. v. Lopez-Lukis</i> , 102 F.3d 1164, 1169 n. 13 (11th Cir. 1997)..... | 34 |

| | |
|--|----|
| <i>U.S. v. Rosen</i> , 130 F3d 5, 9 (1st Cir, 1997)..... | 34 |
| <i>U.S. v. Woodward</i> , 149 F.3d 49, 57 (1st Cir. 1997)..... | 34 |

STATE

| | |
|--|--------|
| <i>Dimock V. Emerald Properties, LLC</i> ("Dimock"), Court of Appeal, Fourth District, Division One. 97 Cal.Rptr.2d 255 (2000) 81 Cal.App.4 th 868..... | 38 |
| <i>Halajian v. Deutsche Bank Nat.Trust Co.</i> (E.D. Cal Feb.14 th , 2013, No. 1:12-CV-00814 AWIGSA) 2013 WL 593671, at p. *7..... | 39 |
| <i>Roman v. Liberty University, Inc.</i> (2008) 162 Cal.App.4 th 670, 677... | 24 |
| <i>Strathvale Holdings v. E.B.H.</i> (2005) 126 Cal.App.4 th 1241, 1249.) | 24 |
| <i>Wutzke v. Bill Reid Painting Service, Inc.</i> (1984) 151 Cal.App.3d 36, 43..... | 38 |
| <i>Yanova v. New Century Mortgage Corporation</i> , 62 Cal.4 th 919, 938 (2016)..... | 27, 38 |

STATUTES AND RULES FEDERAL

| | |
|--|----------------------|
| 12 U.S.C. § 5412 ("Dodd-Frank" Act)..... | 9, 19 |
| 15 U.S.C. § 1639d ("Dodd-Frank" Act – codified)..... | 9, 19 |
| 18 U.S.C. § 4 Misprison of felony..... | 6, 22, 30 |
| 18 U.S.C. §8.0 A (18 U.S.C. § 4)..... | 5, 22 |
| 18 U.S.C. § 371 Subversion | 5, 7, 16, 20, 30, 36 |

| | |
|--|--------------------------|
| 18 U.S.C. § 1346 Honest Services Fraud..... | 5, 8, 23, 34 |
| 18 U.S.C. § 1503 | 5, 21, 35 |
| 18 U.S.C. § 1956..... | 34 |
| 18 U.S.C. § 1957 | 35 |
| 18 U.S.C. §1961 - §1968 (R.I.C.O.)..... | 8, 21 |
| 18 USC 1341 and 1343 | 5 |
| 18 U.S.C. § 1503 Obstruction of Justice..... | 5, 6, 21, 22, 30, 35, 37 |
| 18 U.S.C. § 1956 (a) (2)(B)(i)..... | 4 |
| 18 U.S.C. §1956 (c)(7)..... | 20, 36 |
| 18 U.S.C. § 1957..... | 4, 36 |
| 18 U.S.C. § 2331 – including the U.S.A. Patriot Act..... | 4, 15, 18, 19 |
| Section <u>802</u> of the U.S.A. Patriot Act..... | 4, 19 |
| Section <u>806</u> of the U.S.A. Patriot Act..... | 4, 19, 20 |
| 18 U.S.C. § 2339C(a)..... | 4 |
| 18 U.S.C. § 2382 Misprison of Treason..... | 5, 23, 30 |

| | |
|---|--------------|
| 18 U.S.C § 2384 Sedition..... | 5, 6, 20, 37 |
| 28 U.S.C. § 1254(1)..... | 1 |
| 28 U.S.C. §1257. State courts; certiorari to U.S, Supreme Ct..... | 2 |
| 28 U.S.C § 1331..... | 2 |
| 28 U.S.C. § 1343 | 2 |
| 28 U.S.C. § 1915..... | 6, 26, 27 |
| 42 USC § 1962- 1968..... | 4 |
| 42 U.S.C. § 1983..... | 6 |
| 42 U.S.C. § 1985..... | 6 |
| 42 U.S.C. §1986 | 6 |
| Federal Rules of Civil Procedure Rule 4 | 6, 35 |
| Fed. R. Civ. P. 4 (c)(3)..... | 24, 26, 35 |
| Rule 60(b)(6)..... | 7 |
| Rule of Law..... | 13, 17 |
| Tax Evasion- Section 7203..... | 7 |

| | |
|--|---------------|
| U.S. CONSTITUTION..... | 34 |
| 1 st Amendment – Freedom of Speech | 4, 5, 13, 40 |
| 14 th Amendment - § 1..... | 4, 5, 13 , 40 |
| 14 th Amendment - § 3 | 4, 6, 21 |
| STATE | |
| California Penal Code 115 PC..... | 8 |
| Cal. Pen. Code 118 PC – Perjury | 8 |
| Cal. Pen. Code § 11416 California “Domestic Terrorism and Mass Destruction” | 8, 10, 30 |
| Cal. Code of Civil Procedure § 2936..... | 38 |
| OTHER | |
| Black’s Law Dictionary, 8th Edition | 37 |
| Code of Conduct for United States Judges | 7 |
| Canons of Judicial Ethics Canon 3B(7)(d) and Canon 2(A) | 8, 14, 33 |

| | |
|---|--------------------|
| Federal Reserve Publication "Modern Money Mechanics"..... | 32 |
| The Top Secret Banker's Manual",.....,.....,.....,.....,.....,..... | 11, 17, 32 |
| Thomson Reuters "Reuters" Report | 17, 28, 36, 37, 39 |

PETITION FOR WRIT OF CERTIORARI

Petitioner, John B. Freitas (“Petitioner” or “Freitas”) respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

1. February 15, 2023 -The unpublished order of the Supreme Court of the State of California denying Petitioner’s “Petition for Writ of Certiorari” dated 02/15/2023 is unreported and is reproduced at **Appendix “A”**. **Case # S278001.**
2. 12/01/2022, (date)The unpublished order of the Court of Appeal for the State of California is reproduced **Appendix “B”**. **Case # A 166595.**
3. January 6th, 2023Petitioner’s application to proceed “in Forma Pauperis was granted on January 6th, 2023 see Court Docket which is reproduced at **Appendix “C”**.

JURISDICTION AND VENUE

The jurisdiction of this Court is invoked under the following statutes, including but not limited to the following:

- 28 U.S.C. § 1254(1) - “Cases in the courts of appeals may be reviewed by the Supreme Court by . . . writ of certiorari granted upon the petition of any party to any civil . . . case”.

- **§1257. State courts; certiorari**

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

- 28 U.S.C § 1331 - Federal question; and
- 28 U.S.C. § 1343 - Civil rights.
- The “Amount in Controversy” is substantially more than \$75,000.
- Petitioner/Freitas claims that Petitioner suffered harm, injuries and damages as a result of the acts of commission and the acts of omission of the following:

1. Judge Jenna Whitman, Judge of the Superior Court of the State of California, to which this case was allegedly assigned;

2. The Superior Court of the State of California, County of Alameda; Respondent; and

3. Defendant – Community Fund, LLC (“Community”);

Real Party in Interest.

- The California Court of Appeal issued its opinion on 12/04/2022.
- Petitioner/Freitas timely filed with the Court of Appeal of the State of California, a “Petition for Reconsideration” on December 30, 2022, a copy of which is reproduced at **Appendix “D”**, which the court denied.

- Petitioner/Freitas timely filed a “Petition for Writ of Certiorari on January 6th, 2023, with the Supreme Court of the State of California which is reproduced at **Appendix “E”**, which the Supreme Court of the State of California denied on February 15, 2023. **Appendix “A”**.
- The order of Supreme Court of the State of California denying Petitioner/Freitas’ “Petition for Writ of Certiorari” was not ever served on Freitas by the Clerk of the California Supreme Court.
- Freitas does NOT participate in the electronic service system and has not requested automatic e-mail notifications about this or any other case.
- Fortunately, on Monday, May 8th, 2023, Petitioner/Freitas personally traveled to the office of the Clerk of the California Supreme Court in San Francisco, CA, and was told by the Court Clerk that the California Supreme Court does NOT have to show proof of service to anyone.
- After some fruitless discussion, the Court Clerk finally handed Freitas copies of the ruling of the California Supreme Court (**Appendix A**) and a copy of the Court’s Docket (**Appendix C**).

Venue is proper in the Ninth Circuit/Alameda County, California, because the subject real estate formerly owned by Petitioner/Freitas is located in Alameda County, California. Freitas owned and continuously occupied the subject residence for more than forty-(40) years and continued to reside in the

subject residence until Freitas and his family were forcibly and wrongfully evicted on September 17, 2019.

- Constitutionally guaranteed **First Amendment** right for **Freedom of Speech** including, among others:
 - a. The Right to **Access the Courts**;
 - b. The Right to **Expose Corruption in the Court(s)**;
 - c. The Right to Petition the Court for redress of grievances;
 - d. The Right to be heard in a meaningful manner and at a meaningful time; and
 - e. The right to **a fair and impartial judge and a jury**.
- Constitutionally guaranteed **Fourteenth Amendment** § 1 right not to be deprived of life, liberty, property and the pursuit of happiness without due process of law, equal protection under the law and in accordance with the Rule of law;
- Constitutionally guaranteed **Fourteenth Amendment** § 3- Insurrection or rebellion;
- Domestic Terrorism, Title 18 U.S.C. § 2331 – including the U.S.A. **Patriot Act**. (Infra at page 18 for complete description).
- Section 806 of the U.S.A. **Patriot Act** provides for the **civil seizure** and **forfeiture of the assets** of perpetrators of Domestic Terrorism including Judge Whitman, Judge Wise and their co-conspirators,
- Title 42 U.S.C. § 1962 – § 1968 – Racketeer Influenced and Corrupt Organizations Act (“**R.I.C.O.**”) including the conspiracy (agreement) to commit substantive crimes and the actual commission of the substantive crimes enumerated in the statute(s) including among others:
 - 18 U.S.C. § 2339C(a)- Financing of Domestic Terrorism
 - 18 U.S.C. § 1956 (a) (2)(B)(i) Laundering of Monetary Instruments
 - 18 U.S.C. § 1957 – Engaging in Monetary Transactions in property derived from specified unlawful activities;
 - 18 U.S.C. § 1957(a) reads: "Whoever . . . knowingly engages or attempts to engage in a **monetary transaction in criminally derived property** of a

value greater than \$10,000 and is derived from specified unlawful activity, shall be punished as provided in subsection (b).

- Title 18 U.S.C. § 1341- Mail fraud and § 1343 – Wire fraud –
Penalty - fined not more than \$1,000,000 or imprisoned not more than 30 years, or both."
- Title 18 U.S.C. § 371 – Conspiracy to commit Subversion;
- Title 18 U.S.C. § 2384 – Conspiracy to commit Sedition
- Title 18 U.S.C. § 2382 - Misprison of treason;
- Title 18 U.S.C. § 4 - Misprison of felony;
- Title 18 U.S.C. § 1346 – Honest Services Fraud; and
- Title 18 U.S.C. § 1503 – Obstruction of Justice.

CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED

See Appendix "F", for full text of constitutional and statutory provisions listed.

1. United States Constitution

1st Amendment – Freedom of Speech including but not limited to:

- a. The Right to Access the Courts;
- b. The Right to Expose Corruption in the Court(s);
- c. The Right to Petition the Court for redress of grievances;
- d. The Right to be heard in a meaningful manner and at a meaningful time; and
- e. The right to a fair and impartial judge and a jury.

14th Amendment - § 1 – the right not to be deprived of life, liberty, property and the pursuit of happiness without due process of law, equal protection under the law and in accordance with the Rule of law;

14th Amendment - § 3 - Insurrection or rebellion; in violation of the U.S. Constitution;

**2. Federal Rules of Civil Procedure Rule 4 – Summons
(c) Service.**

(1) In General. A summons must be served with a copy of the complaint.

(3) By a Marshal or Someone Specially Appointed. At the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court.

The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915.....

3. 42 U.S.C. § 1983 - Civil action for deprivation of rights;

4. 42 U.S.C. § 1985 - Conspiracy to interfere with civil rights;

Penalty: fined under this title or imprisoned up to 3 years.

5. 42 U.S.C. §1986 – Action for neglect to prevent conspiracy.....

6. 18 U.S.C. § 1503 Obstruction of Justice

Obstruction of Justice is a criminal complaint pursuant to the "catch-all provision" of **18 U.S.C. § 1503** that specifies: "Whoever-

1. corruptly or by threats or force, or
2. by any threatening letter or communication,
3. influences, obstructs, or impedes, or endeavors, to influence, obstruct, or impede, the due administration of justice,
4. shall be guilty of an offence.

Penalty: imprisoned up to 3 years."

7. Misprision of felony - Title 18 U.S.C. §8.0 A (18 U.S.C. § 4)

Conspiracy against rights of citizens;

"Whoever,

1. having knowledge
2. of the actual commission of a felony
3. cognizable by a court of the United States,
4. conceals and
5. does not (as soon as possible) make known the same to some judge or other person in civil or military authority under the United States,
6. shall be fined under this title or imprisoned not more than three years or both.

Penalty: fined under this title or imprisoned up to 3 years."

8. Misprision of treason - 18 U.S.C. § 2382 -

Whoever,

- (1) Owing allegiance to the United States and
- (2) Having knowledge of the commission of any treason against them (the United States),
- (3) Conceals and
- (4) Does not (, as soon as may be,) disclose
- (5) Make known the same to the President (of the United States) or to some judge of the United States, or to the governor or to some judge or justice of a particular State;
- (6) **Is guilty of Misprision of treason**
- (7) And shall be fined under this title or imprisoned not more than seven years, or both.

9. Committed a sedition conspiracy; 18 U.S.C § 2384

Penalty: fined under this title or imprisoned up to 20 years.

10. Conducted a conspiracy to commit subversion.

Penalty: fined under this title or imprisoned up to 5 years.

11. Tax evasion- Section 7203 proscribes the felony offense of willful tax evasion.

12. Fraud on the court – The conduct of Judge Whitman knowingly and intentionally allowing Community to file forged documents with the Court, and allowing Tim Larsen, Community's attorney, to commit perjury in open court during proceedings and Judge Whitman refused to issue sanctions over the objection of Freitas.

Federal District Court Judge Donato refused to issue the summons order to serve Defendants) defiles the court itself and resembles an "unconscionable plan or scheme which is designed to improperly influence the court in its decision", and constitutes extraordinary circumstances meriting relief under Rule 60(b)(6) setting aside the Court of Appeals' Order that .. "...the Appeal was frivolous and not in good faith".

13. Title 18 U.S.C. §1962 - §1968 "RICO"

Racketeering in violation of State of California and United States "RICO" statutes;

Penalty: Prison up to 20yrs; Fine: under this title or both.

14. Canons of Judicial Ethics Canon 3B (7)(d) and Canon 2(A).

15. 18 U.S.C. § 1346 – "Honest Services Fraud" is a valid Federal Claim against Corrupt Government Officials.

Penalty: imprisonment for not more than 30 years, a fine for as much as \$1,000,000, or both.

16. California Penal Code 115 PC- Procurement or offering false or forged document.

17. Cal. Pen. Code 118 PC – Perjury.

18. Cal. Pen. Code § 186.11 Aggravated white collar crime enhancement

19. Cal. Pen. Code § 11416 California "Domestic Terrorism and Mass Destruction"

Penalty: imprisonment for up to 12 years.

The Legislature also recognizes that terrorism involving weapons of mass destruction could result in an intentional disaster placing residents of California in great peril...

The Terrorism and mass destruction caused by Judge Whitman, Judge Wise, Federal District Court Judge Donato and their co-conspirators, accomplices, surrogates and proxies (collectively referred to herein as “co-conspirators”) includes the destruction of the U.S. democracy, including but not limited the judicial branch of the U.S. Government, the disruption of the U.S. economy and cause harm, damages and injuries to Petitioner/Freitas and result ultimately in the accomplishment of the “end game” of the conspirators, namely to control America and all of its citizens.

INTRODUCTION

Winston Churchill said it best-“Don’t worry about the United States of America. America always gets it right; right after all other alternatives have been exhausted.”

Petitioner’s Petition for Writ of Certiorari is the quintessential description of America’s institutions, the legislative, executive and judicial branches of the U.S. Government finally, after 40 years, exhausting all the other alternatives. Petitioner John B. Freitas and his team have substantial, tangible, relevant, admissible evidence confirming the actual “end game” of the participants in the conspiracy and the manner and means by which Defendants and their co-

conspirators are knowingly and intentionally accomplishing their “End Game”, namely to:

- a. Win the vast majority of the millions and millions of real estate foreclosure cases in the United States since the year 2000;
- b. Create the method and means by which the conspirators are financing the following:
 1. Committing Domestic Terrorism; and
 2. Accomplishing the conspirators’ common objectives, namely to:
 - a. gain ownership and control of all real estate in the United States;
 - b. gain ownership and control of all financial instruments (U.S. Dollars and U.S. Treasury Certificates, etc.).

Depositors such as Freitas, millions of U.S. citizens and homeowners are considered as unsecured “creditors” of the banks. Accounts of depositors and other creditors would be emptied to keep the insolvent bank(s) in business. The banks deposit the homeowners’ promissory notes and real estate mortgages and deeds of trust to “**create money**” and obtain Federal Reserve digital credits in multiples of up to one-hundred (100) times the face amount of the notes, mortgages and deeds of trust.

The “**loan from the homeowner to the bank**” is the homeowners’ deposit into the bank of the promissory note(s) and Deed(s) of Trust (or mortgage(s) (collectively referred to herein as

“Deed of Trust”). Yes ----*the reader correctly read the immediately preceding sentence.*

According to the **“Top Secret Banker’s Manual, for C-Level Bank Executives”** (third paragraph on page 18).

“The judge(s) and the bankers know that when you (the homeowner) deposit cash into your checking account, you (the homeowner [or the depositor] lent the bank your money. If you withdraw your money, the bank lent you nothing.”

The bank creates money by doing the following:

“The bank accepts the homeowner’s promissory note and deed of trust as new money as a deposit, just like depositing cash into the homeowner’s checking account. The bank’s bookkeeping entries prove that the bank lent no money to purchase your promissory note and/or Deed of Trust.

The homeowner loaned money to the bank as a deposit, the bank accepted money, cash or cash equivalents from the homeowner as a deposit; the bank never gave up one cent of the bank’s money.

STATEMENT OF THE CASE

Judge Whitman, Judge Wise, Judge Donato and Judge Tigar and their co-conspirators have perpetrated the felonies specified herein, causing harm, damages and injuries as against:

1. Petitioner John B. Freitas (“Freitas”) and
2. over fifteen-million (15,000,000) California homeowners (since 2000) in and around Alameda County, and throughout the State of California.

The judges and their co-conspirators defrauded Freitas and his family out of their residence otherwise known as 36549 Cedar Blvd., Newark, California (the "Subject Property").

The Judges and their co-conspirators continue to participate in the conspiracy to finance the single largest, ongoing criminal enterprise in the history of the United States of America. The "End Game" of the judges, including Judge James Donato, Judge Jon Tigar, Judge Whitman and Defendant Judge Wise, Defendant County of Alameda, California, and Defendant the State of California, is to successfully accomplish the following single common objective, namely to take over ownership and control of all real estate in the United States, while amassing unimaginable wealth for the benefit of the participants in the conspiracy.

Since the year 2000, to date, John Freitas and other owners of more than one-hundred-fifty-million (150,000,000) residential dwellings have fallen victim to the tactics employed by the perpetrators of the crimes outlined in this "Petitioner's Writ of Certiorari" and the documents and exhibits previously filed by Freitas in this proceeding.

The owners of approximately twenty-million (20,000,000) additional homes are facing impending foreclosure after the sun-setting of the federal foreclosure moratorium and the recent economic conditions, especially the owners whose mortgages/Deeds of Trust provide for adjustable interest rates.

The Judges and their co-conspirators swore under oath to uphold and defend the Constitution of the United States. Judge Whitman and Judge Donato their co-conspirators have violated Petitioner/Freitas' constitutionally guaranteed inalienable rights including:

1. First Amendment right to Freedom of Speech; and
2. Fourteenth Amendment right to due process of law, equal protection under the law and the right to be treated according to the "Rule of Law".

Judge Whitman and her co-conspirators have a direct interest, a financial interest, a personal interest, and a substantial connection in and to the outcome of the real estate foreclosure matters over which they preside, including Freitas' case. *See, e.g., In re Murchison*, 349 U.S. 133, 136, 75 S.Ct. 623, 99 L.Ed. 942 (1955) (concluding that "no man [person] is permitted to try cases where he has an interest in the outcome"); *Tumey v. Ohio*, 273 U.S. 510, 523, 47 S.Ct. 437, 71 L.Ed. 749 (1927) (concluding that judges should not preside over cases involving a "direct, substantial pecuniary interest" in the outcome).

Judge Whitman and her co-conspirators are behaving in a manner that is "prejudicial to the effective and expeditious administration of the business of the courts..." *In re Complaint of Judicial Misconduct*. United States Court Of Appeals For The Ninth Circuit, Mar 14, 2016. 816 F.3d 1266 (9th Cir. 2016).

The Code of Conduct for United States Judges directs federal judges to avoid both actual impropriety and its appearance. Code of Conduct for United States Federal Judges, Canon 2. As Justice Frankfurter put it, “justice must satisfy the appearance of justice.” *Offutt v. United States*, 348 U.S. 11, 14, 75 S.Ct. 11, 99 L.Ed. 11 (1954).

Judge Whitman cannot be impartial when she is corrupted by her vested interest in the outcome of the foreclosure cases over which she presides.

Federal District Court Judge Donato, the judges of the California Court of Appeal and the judges of the Supreme Court of the State of California are “covering” for the acts of commission and acts of omission committed by his co-conspirators by dismissing Freitas’ Complaint and declaring that Freitas’ appeal is “frivolous or taken in bad faith”. Judge Donato and his co-conspirators knowingly and intentionally caused harm, injuries and damages to Petitioner/Freitas, the owner of the subject property. “**Harm, injuries and damages**” destroys Judge Donato’s ruling that Freitas’ appeal is “frivolous or taken in bad faith.”

The magnitude of the harm, injuries and damages caused by Judge Donato’s rulings regarding the foreclosure of Freitas’ property valued at more than One-Million-Dollars (\$1,000,000.00) destroys Judge Donato’s ruling that Freitas’ appeal is “frivolous or taken in bad faith”. Freitas owned his home free and clear of all debt.

Judge Whitman and her co-conspirators, by their bias, and their vested interests in the outcome of each of the respective foreclosure cases:

- a. have prevented and impeded the impartiality of judgment;
- b. intentionally and fraudulently concealed and covered up the felonies committed by Judge Donato, Judge Whitman and their co-conspirators by implementing criminal activities designed to:
 1. Obstruct justice;
 2. Refuse to issue sanctions against an attorney who filed forged, void documents with the Alameda County Recorder and with the Court and committed perjury in open court;
 3. Refuse to issue summons orders to the court clerk, thereby prohibiting the court clerk from issuing instructions to the Federal Marshals to serve each respective Defendant with copies of the Summons and copies of Freitas' initial complaint;
 4. Participate in a conspiracy to commit Domestic Terrorism, in violation of 18 U.S.C. § 2331; and
 5. Prevent Freitas' case from being decided on its merits by a fair and impartial judge and/or jury.

All federal courts are endowed with certain inherent supervisory powers over the administration of justice in the courts of the United States and must utilize that power which comprehends the power to reverse a decision whenever the pursuit of truth and justice becomes tainted. See *La Buy v. Howes Leather*

Co., 352 U.S. 249, 259-60, 77 S.Ct. 309, 1 L.Ed.2d 290 (1956); United States v.

Heath, 260 F.2d 623, 632 (9th Cir. 1958). "The untainted administration of justice is certainly one of the most cherished aspects of our institutions."

Factual Background

The substantial, relevant, tangible, admissible evidence establishes the following:

1. **the intent of the judges**, bankers, mortgage servicers (Recon Trust Corp., Clear Recon, Quality Loan Services Corp. and Community Fund, LLC, etc.) their respective lawyers and other judicial officers (clerks of court(s)) to conspire (agree) to commit Domestic Terrorism, the destruction of the Democracy, the disruption of the economy, the destruction of the Judicial branch of the local, state and federal governments; and

2. **the intent of the judges to actually commit the substantive felonies** including committing Domestic Terrorism, sedition, subversion, destruction of the U.S. Democracy, disruption of the U.S. economy and to destroy the Judicial Branch of the State California and the Judicial Branch of the U.S. government.

The "End Game" of the judges and their co-conspirators represents a clear and present danger and a very real, existential threat to the U.S. Democracy.

We the people of the U.S. are obligated to protect our democracy and maintain our rights of due process, equal protection under the law and in accordance with the Rule of Law.

As discussed in the Exhibits attached to Freitas' original complaint and in Freitas' request for Judicial Notice, "The Top Secret Banker's Manual" ("TSBM") and the June 30, 2020 investigative report of Thomson Reuters "Reuters", together with written opinions of other experts, confirm that the judges and the majority of local, state and federal judges in Alameda County committed "misconduct", defined as "conduct prejudicial to the effective and expeditious administration of the business of the courts, including a substantial and widespread lowering of public confidence in the courts among reasonable people" ... and brings the judicial branch of government and their respective public officers into DISREPUTE.

The End Game of the judges and their co-conspirators includes, among others, the participation in multiple transactions in furtherance of the single conspiracy to control all of the real estate and money in the United States.

The participants' method of operation remains strikingly consistent throughout the execution of the conspiracy, including, but not limited to the following:

1. Judges would issue court orders, rulings and judgments the judges determined:

a. were in furtherance of the common objective(s) of the conspiracy;

b. were necessary to expedite the rapid clearing of their respective dockets, often referred to as “Rocket Dockets”; and

2. Judge Whitman and Judge Wise know that their “benefits” and “bribes” were dependent upon the success of the criminal conspiracy and the commission of the substantive crimes:

a. using **secret “Communications Codes”** among the judges to enable Judge Donato, Judge Tigar, Judge McKinney, Judge Wise, Judge Whitman, Judge Evenson and other local, state and federal judges, C-Level bank executives, mortgage servicers and their respective attorneys to communicate with each other to conduct millions of fraudulent, illegal, void residential foreclosures and unlawful detainer actions.

1. The **secret codes** include, among others, the following:

a. “A complaint ‘...fails to state a claim on which relief may be granted’”;

b. “The Complaint is Uncertain or Unclear”;

c. “The Complaint is Confusing or Unintelligible”;

d. “The Complaint is frivolous or done in bad faith and to harass Defendant(s)”;

and

b. committing the following acts of commission:

1. 18 U.S.C. § 2331 – Domestic Terrorism – including the U.S.A. Patriot Act (“Patriot Act”)

“DOMESTIC TERRORISM”

Defined

Under (federal law), **18 USC § 2331**: Source: FindLaw.com

“(5) the term “domestic terrorism” means activities that –
(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;
(B) appear to be intended:
(i) to intimidate or coerce a civilian population;
(ii) to influence the policy of a government by intimidation or coercion; or
(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and
(C) occur primarily within the territorial jurisdiction of the United States.”
Further, the 107th Congress passed the Patriot Act after the 9-11-2001 terror attacks in the U.S. that re-defined both domestic and international terrorism (9-11 Commission Report, PDF 585 pps). 15 U.S.C. § 1639d and 12 U.S.C. § 5481 et seq.

“The Patriot Act **INCLUDES** laws to address, fight and **punish domestic** terrorism.

Section 802 of the **PATRIOT ACT** expanded the definition of terrorism to cover **“domestic,”** as opposed to international, terrorism. A person engages in **domestic terrorism** if they do an act “dangerous to human life” that is a violation of the criminal laws of a state or the United States. Additionally, the acts have to occur primarily within the territorial jurisdiction of the United States.

Seizure of assets - Sec. 806: Section 806 of the PATRIOT Act provides for the **civil seizure** and **forfeiture of the assets** of perpetrators of Domestic Terrorism including Judge Whitman, Judge Wise, Judge Donato and their co-conspirators, without a prior hearing, and without them ever being convicted of a crime. It is by far the most significant change of which perpetrators of Domestic Terrorism need to be aware.

Section 806 amended the civil asset forfeiture statute to authorize the government to seize and forfeit: all assets, foreign or domestic:

(i) of any individual, entity, or organization engaged in planning or perpetrating any act of domestic or international terrorism against the United States, or their property, and all assets, foreign or domestic, affording any person a source of influence over any such entity or organization; or

(ii) acquired or maintained by any person with the intent and for the purpose of supporting, planning, conducting, or concealing an act of domestic or international terrorism against the United States, citizens or residents of the United States or their property; or

(iii) derived from, involved in, or used or intended to be used to commit any act of domestic or international terrorism against the United States, citizens or residents of the United States, or their property.

Freitas' claims that the assets of Defendants are subject to forfeiture because the assets constitute the proceeds of "Specified Unlawful Activity" ("SUA"), as defined in **18 U.S.C. §1956 (c)(7)**, or because the assets constitute property involved in money laundering transactions involving the proceeds of the Domestic Terrorism crimes perpetrated by Judge Whitman, Judge Donato, Judge Wise and their co-conspirators.

2. 18 U.S.C. § 2382 - Misprision of treason
3. 18 U.S.C § 2384 - **Seditious conspiracy**;
4. 18 U.S.C. § 371- Conspiracy to **commit subversion**;
5. Insurrection or rebellion; in violation of the U.S. Constitution, 14th

Amendment § 3;

6. **Conspiracy (an agreement) to commit** the elements of the violation(s) of the “**RICO**” statute; 18 U.S.C. Section 1961- 1968 Racketeer Influenced and Corrupt Organizations Act (The “**RICO**” statute):

- a. “conduct of an enterprise
- b. through an ongoing pattern of
- c. criminal racketeering activity (“predicate acts”)
- d. causing harm, damages and injuries to ...” Freitas and millions of homeowners of property and businesses in California.

7. The **actual commission** of the **substantive crime(s)** mentioned above.

8. **Obstruction of Justice:**

Obstruction of Justice is a criminal complaint pursuant to the omnibus clause, or “**catch-all provision**” of **18 U.S.C. § 1503**, which provides:

Whoever....

- a. corruptly or by threats or force, or
- b. by any threatening letter or communication,
- c. influences, obstructs, or impedes, or endeavors, to influence, obstruct, or impede, the due administration of justice,
- d. shall be guilty of an offence.

“**Obstruction of justice**” is the frustration of governmental purposes by violence, corruption, destruction of evidence, or deceit.—Judge Whitman, Judge Wise, Judge Donato and their co-conspirators have committed an Obstruction of Justice by violating and ignoring the Rules of Civil Procedure and the Rules of Evidence.

Obstruction of justice means influencing, obstructing, impeding, or trying to influence, obstruct, or impede the due administration of justice and doing so corruptly, or by threats or force, or by any threatening communication, with the intent to obstruct justice.

United States v. Franco, No. CR 08-0730 WHA, at pages 16 -17 (N.D. Cal. Feb. 3, 2012)

Corrupt judges do this to favor certain parties and law firms. They may do it for money or other considerations, or they may do it simply because they favor certain attorneys and political allies.

Judge Whitman committed the following:

As fully described in Petitioner’s “Petition for Reconsideration” marked “received” by the Court of Appeal of the State of California on December 30, 2022, (**Appendix “D”**) and Petitioner’s “Petition for Writ of Certiorari” filed on Jan. 6th, 2023 in the Supreme Court of the State of California (**Appendix “E”**).

a. Judge Whitman and her co-conspirators prepared and filed void, false, defective, forged documents purporting to assign Judge Whitman, Judge Wise, Judge Evenson as the “Judge for all Purposes” in the instant case. The void, defective assignments to preside in this case were in furtherance of the conspiracy of which Judge Whitman, Judge Wise, Judge Evenson and Judge Donato are an integral part;

b. Judge Whitman knowingly and intentionally allowed Defendant Community’s Attorney Tim Larsen to file forged documents with the court and commit perjury; and Judge Whitman refused to impose sanctions as against Tim Larsen, in spite of objections raised by Freitas;

9. Misprison of felony – in violation of §8.0A (18 U.S.C. § 4):
Whoever,

1. having knowledge

2. of the actual commission of a felony
3. cognizable by a court of the United States,
4. conceals and
5. does not (as soon as possible) make known the same to some judge or other person in civil or military authority under the United States,
6. shall be fined under this title or imprisoned not more than three years or both.

10. **Misprison of treason** - in violation of 18 U.S.C § 2382

Whoever,

- (1) Owing allegiance to the United States and
- (2) Having knowledge of the commission of any treason against them (the United States),
- (3) Conceals and
- (4) Does not (, as soon as may be,) disclose
- (5) Make known the same to the President (of the United States) or to some judge of the United States, or to the governor or to some judge or justice of a particular State;
- (6) Is guilty of **Misprision of treason**
- (7) And shall be fined under this title or imprisoned not more than seven years, or both."

11. Honest Services Fraud; 18 U.S.C. §1346

12. Accept Bribes.

13. The co-conspirators knowingly and intentionally recorded forged, false, void, defective, unauthorized copies of document(s) (among which are "Deeds of Trust", "Trustee's Deeds upon Sale", Notices of Default, and "Notices of Trustee's Sale") in County Recorders' offices in California and in many other counties in the United States.

14. The co-conspirators knowingly and intentionally filed forged, false, void, defective, unauthorized copies of document(s) (among which are “Deeds of Trust”, “Trustee’s Deeds upon Sale”, and “Notices of Trustee’s Sale”) in courtrooms in California and in many other jurisdictions in the United States. Judge Donato, Judge Wise and other co-conspirators knowingly and intentionally caused harm, damages and injuries to Petitioner/Freitas, the owner of the subject residential property.

Judge Donato has no jurisdiction.

“Lack of jurisdiction, in its most fundamental or strict sense, means an entire absence of power to hear or determine the case, and absence of authority over the subject matter *or the parties.*” [Citations.] *Strathvale Holdings v. E.B.H.* (2005) 126 Cal.App.4th 1241, 1249.) “When the evidence is not in conflict, whether jurisdiction exists is a question of law which we review de novo.” (*Roman v. Liberty University, Inc.* (2008) 162 Cal.App.4th 670, 677.)

On **November 8, 2021** - Petitioner/Freitas filed the original complaint.

On **April 22, 2022** Judge Donato issued an “**ORDER GRANTING MOTION TO PROCEED IN FORMA PAUPERIS AND DISMISSING CASE** and authorizing Freitas to file a First Amended Complaint.

On May 6, 2022 Petitioner/Freitas filed the First Amended Complaint.

On or about May 6, 2022, Freitas learned that Judge Donato, in contravention of **Fed. R. Civ. P. 4 (c)(3) had not issued and refused to issue the**

Summons Order to the District Court Clerk. The District Court Clerk therefore had no authority to instruct the U.S. Marshall to serve the Summons and two copies of the Original Complaint on each respective Defendant.

2. Judge Donato knowingly and intentionally violated Federal Rules of Civil **Procedure Rule 4 – Summons** (Current through **12/01/2022**).

(c) Service.

(1) In General. A summons must be served with a copy of the complaint. The plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m) and must furnish the necessary copies to the person who makes service.

(2) By Whom. Any person who is at least 18 years old and not a party may serve a summons and complaint.

(3) By a U.S. Marshal or Someone Specially Appointed. At the plaintiff's request, **the court may** order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. **The court must so order** if the plaintiff is authorized to proceed in forma pauperis" (Emphasis added). Judge Donato on April 22, 2022 issued the order authorizing Freitas to proceed in forma pauperis. Petitioner/Freitas has the right to rely upon the obligation of the Judge, the clerk and the Marshal to serve the Summons and a copy of the Complaint on each Defendant. *Infra Shaw v. Lindgren.*

d. As a result of the fact that Judge Donato knowingly and intentionally did not issue the Summons Orders the clerk could not do its job and therefore, the U.S. Marshal could not do its job.

e. Judge Donato and his co-conspirators obstructed Justice and denied Plaintiff his constitutionally guaranteed right to life, liberty, property, and the pursuit of happiness without due process of law, equal protection under the law and in violation of the Rule of Law.

Plaintiff [Freitas] has a right to rely on the court officers and marshals doing their duty.

Service of Summons and Complaint – “Summons Order”

“In cases involving plaintiffs proceeding in forma pauperis, the **Court routinely orders** the U.S. Marshals Service to serve the summonses and complaints on the defendants.” *Razavi v. Coti* 17-cv-04341-BLF (N.D. Cal. Nov. 9, 2021), *Figueroa v. Navarro*, No. 1:20-cv-01254-AWI-SKO (PC), 2021 WL 4991735, at *1 (E.D. Cal. Oct. 27, 2021). “A **pro se plaintiff** proceeding in forma pauperis is entitled to rely on the [officers of the Court and the] U.S. Marshal for service of the summons and complaint after having provided the necessary information to help effectuate service under 28 U.S.C. § 1915 and Rule 4.” *Shaw v. Lindgren*, No. CV 19-2700-DMG (AGR), 2021 WL 4614119, at *5 (C.D. Cal. Aug. 12, 2021) (internal quotation marks and citation omitted).

Plaintiff [Freitas] is proceeding *in forma pauperis* and is “entitled to such service by the officers of the Court and the U.S. Marshal.” See Fed. Civ. P. 4(c)(3). *Chavez Alvarez v. Monzon*, Case No. 16-02796 EJD (PR) (N.D. Cal. Aug. 24, 2017).

Similarly, 28 U.S.C. § 1915(c) provides that in cases in which a court authorizes a plaintiff to proceed in forma pauperis the "**officers of the court shall issue and serve all process.**" In *Davis v. Department of Corrections*, 446 F.2d 644 (9th Cir. 1971), the Court held that the district court's dismissal of an action brought by a plaintiff proceeding in forma pauperis for failure to effect service was erroneous because under 28 U.S.C. § 1915(c) the officers of the court should have effected service. *Id.* at 645.

3. "Harm, Injuries and Damages" destroy "frivolous" or "taken in bad faith". The harm, injuries and damages suffered by Freitas were caused by adverse parties, namely Defendant Judge Wise, Judge Whitman and Judge Donato.

The Supreme Court of California in *Yanova v. New Century Mortgage Corporation*, 62 Cal.4th 919, 938 (2016) concluded as follows:

- a. "That a homeowner who has been foreclosed on by one with no right to do so—**by those facts alone**—sustains prejudice {damages} or **harm sufficient to constitute a cause of action for** wrongful foreclosure;
- b. When a non-debtholder forecloses, a homeowner (Freitas) is **harmed** by losing his home to an entity with no legal right to take it; and
- c. Therefore under those circumstances, the void deed of trust, the non-code compliant, required notices, no "Notice of Default", void "Notice of Trustee's Sale", void "Trustee's Deed Upon Sale" and the non-code-compliant unlawful detainer notices are the

proximate cause of Freitas' actual harm, injuries and damages and constitute all that is required to be alleged to satisfy the element of prejudice, harm and damages in a wrongful foreclosure cause of action.” *Id. Yvanova*.

REASONS FOR GRANTING THE WRIT OF CERTIORARI

I. The Questions Presented Are Critically Important and Warrant Immediate Review.

Nothing is more important than re-establishing the respect and dignity once associated with the justices, judges and the entire **judicial branch** of the United States government. **Reuters News Service** considers the matters discussed in this “Petition for Writ of Certiorari” important enough to have conducted an exhaustive, 5-year-long investigation regarding state and federal judges in California and surrounding states who are among the enablers that are complicit with the co-conspirators perpetrating the single largest criminal enterprise in history.

II .The Importance of this case cannot be overestimated.

Petitioner/Freitas has substantial, tangible, relevant, admissible evidence of the following:

1. Superior Court Judge Whitman, Judge Wise, Federal District Court Judge Donato, their co-conspirators are participating in a conspiracy to finance the single largest, ongoing pattern of criminal racketeering (predicate) acts in the history of America;

2. The “**End Game**” of local, state and federal judges and the other conspirators represents a clear and present danger and a very real, existential threat to the U.S. Democracy, the U.S. economy and the Judicial branch of the U.S. Government;

3. The “End Game” of the “conspirators” is to successfully commit the **actual, substantive crime(s)** participants in the conspiracy agreed to accomplish by whatever means necessary in order to overthrow and to undermine the U.S. Government;

4. Federal, state and local judges, elected officials and banks have conspired to weaponize the Judicial Branch of the U.S. Government to gain ownership and control of all farmland, residential property and commercial real estate in the United States (collectively referred to herein as “U.S. real estate”);

5. The reason is clear. U.S. real estate provides the strength, backing, confidence and acceptability of the U.S. (Dollar) currency;

6. Owning and controlling all U.S. real estate:

- guarantees control of the U.S. currency and control of the U.S. Democracy; and
- vests in the conspirators total control of all assets of U.S. citizens by denying all citizens their Constitutionally guaranteed inalienable rights, among others, to freedom of speech, freedom of press and the right not to be denied life, liberty, property and the pursuit of happiness without due process of law;

7. The violations of the Federal Rules of Civil Procedure rules, statutory laws and the U.S. Constitution committed by the conspirators are well beyond “egregious”;

8. Achieving success by winning almost every one of the millions and millions of real estate foreclosure cases is merely a method and means to finance a seditious conspiracy and a conspiracy to commit Domestic Terrorism, Subversion, Misprison of treason, Misprison of felony, Obstruction of Justice and Honest Services Fraud; and

9. The conspirators have successfully completed their ultimate goal of overthrowing and undermining the U.S. Democracy, disrupting the U.S. economy and controlling every facet of the life, liberty, property and the pursuit of happiness that United States citizens hold sacred.

Hence, the “standing question. . . is whether the constitutional or statutory provision on which the claim rests properly can be understood as granting persons in the Petitioner/Freitas’ position a right to judicial relief.” *In re Facebook Privacy Litig.*, No. 10-02389, 2011 WL 2039995, at *4 (N.D. Cal. May 12, 2011) (Ware, J.) (quotations omitted) (holding that plaintiffs had standing, but dismissing claims on other grounds); *see also Jenkins v. McKeithen*, 395 U.S. 411, 423 (1969) (“*In this sense, the concept of standing*

focuses on the party seeking relief, rather than on the precise nature of the relief sought.”) (emphasis added).

As Justice Alito stated, “[i]njury-in-fact is not Mount Everest.” *Danvers Motor Co., Inc. v. Ford Motor Co.*, 432 F.3d 286, 294 (3d Cir. 2005). To the contrary, it suffices for federal standing purposes to allege some specific, “identifiable trifle” of injury. *Id.*; See *Council of Ins. Agents & Brokers v. Molasky-Arman*, 522 F.3d 925, 932 (9th Cir. 2008) (in affirming the plaintiff’s standing, the Ninth Circuit court noted that the U.S. Supreme Court:

“has allowed important interests to be vindicated by plaintiffs with no more at stake in the outcome of an action than a fraction of a vote, a \$5 fine, costs, and a \$1.50 poll tax

‘The basic idea is that an *identifiable trifle is enough to fight out a question of principle; the trifle is the basis for standing* and the principle provides the motivation.’”) (Emphasis added).

Petitioner/Freitas’ allegations of harm, injuries and damages rise to a level far greater than such a “trifle”. Freitas lost ownership and title to his house, now valued at well over \$1,000,000.00. There was no outstanding debt and Freitas owned the house free and clear of any debt, if there were any debt, as evidenced by the Deed of Full Reconveyance recorded on July 1, 2016. See Appendix “G”

The determination of a plaintiffs’ standing is separate and preliminary to the issue of whether the plaintiff adequately pleaded a cause of action. *Meaunrit v. ConAgra Foods Inc.*, No. 09-2220, 2010 WL 2867393, at *4 (N.D. Cal. July 20, 2010) (Breyer, J.)

Petitioner/Freitas alleges an injury, and alleges that it was caused by the actions of Judge Whitman, Judge Wise and Judge Donato. Asking whether or not Plaintiff has a legally cognizable claim is not the same thing as asking whether he has suffered an injury in fact. *See also Davis v. Passman*, 442 U.S. 228, 239 n.18 (1979) (court of appeals improperly confused the question of standing with the question of whether plaintiff had a cause of action).

Sufficiently alleging injury in fact creates a justiciable issue that allows the court to advance to the merits inquiry. (Emphasis added).

There is no constitutional or factual basis for depriving Petitioner/Freitas access to this Court, the only venue for resolution available to him.

The exhaustive Reuters investigation found that in the past dozen years “**...judges have repeatedly escaped public accountability for misdeeds that have victimized thousands of homeowners.**” (Emphasis added).

Local, state and federal judges are among the numerous enablers that are complicit with the co-conspirators involved in and who have perpetrated the single largest criminal enterprise in the history of the State of California, the United States of America and, most likely, in the history of the world.

“The Top Secret Bankers’ Manual” and
the Federal Reserve Publication “Modern Money Mechanics”

More importantly, the Court Orders of Judge Whitman, Judge Wise and Judge Donato demonstrate that the “Top Secret Bankers’ Manual”, the Federal Reserve’s publication titled “Modern Money Mechanics” and the exhaustive,

investigative **Reuters** report issued in June, 2020 confirm that local, state and federal judges in California, in general and in Alameda County, California, in particular, are participants in a large conspiracy to weaponize the Judicial branch of the U.S. Government, destroy our democracy, disrupt our economy and destroy the United States judicial system.

Judge Whitman, Judge Wise and Judge Donato by their acts of commission and acts of omission, confirm that they are participating in a conspiracy causing harm, damages and injury to Plaintiff (Freitas) and millions of other (home) owners of property and businesses in California and the remainder of the United States.

Judge Donato, Judge Whitman and Judge Wise have violated and continue to violate their Code of Judicial Ethics and Legal Ethics which the judges swore to uphold. **Canon 3B(7)(d) and Canon 2(A)**, and committed felonies in violation of state and federal law and criminal statutes.

Judges who commit crimes and accept bribes from litigants appearing before them will be disqualified from cases, removed from office for “... conduct prejudicial to the administration of justice that brings the judicial office into disrepute...”) and imprisoned for “bribery” and violation of the “intangible right to Honest Services”

The penalty for the violation of 18 U.S.C. Section 1346 (Honest Services Fraud) includes imprisonment for not more than 30 years, a fine for as much as \$1,000,000, or both.

Judge Whitman, Judge Wise and Judge Donato, in “furtherance of their conspiracy”, conspired with other co-conspirators to:

- a. defraud Freitas of his property;
- b. deny Freitas of his inalienable right to freedom of speech;
- c. deny, without due process of law, equal protection under the law and in violation of the Rule of Law, Freitas’ constitutionally guaranteed right to life, liberty, property and the pursuit of happiness.

Specific intent to defraud can be established using circumstantial evidence. *U.S. v. Rosen*, 130 F3d 5, 9 (1st Cir., 1997); *U.S. v. Woodward*, 149 F.3d 49, 57 (1st Cir. 1997). (Emphasis added)

“Concealment of gifts by failing to report them on financial disclosure forms (local, state, or federal) can be used to establish intent to defraud.” *U.S. v. Espy*, 23 F.Supp.2d 1, 7 (D.C. Dist. Ct. 1998).

Honest Services Fraud (18 U.S.C. 1346) is concerned with the manner in which officials make their decisions, and not the wisdom of the official action. (*U.S. v. Lopez-Lukis*, 102 F.3d 1164, 1169 n. 13 (11th Cir. 1997).)

“....If the official instead secretly makes his decision based on his own personal interests - as when an official accepts a bribe or personally benefits from an undisclosed conflict of interest - the official has defrauded the public of his honest services.” *Id.*

A violation occurs when there is undisclosed, biased decision-making, whether or not tangible loss to the public is shown. (*U.S. v. Antico*, 275 F.3d at 263.)

2. Obstruction of Justice

Obstruction of Justice is a crime pursuant to the "omnibus clause" of 18 U.S.C. § 1503, which provides:

"Whoever . . . corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be guilty of an offence."

3. Denial of Constitutional Rights

The Constitution is meaningless to corrupt judges. They simply violate Constitutional rights with no regard for the people they damage.

4. Violate and Ignore the Rules of Civil Procedure

By violating and ignoring the Rules of Civil Procedure and the Rules of Evidence, judges commit obstruction of justice and the obstruction of the Administration of Justice. They allow the favored party to break rules and get away with it.

"Obstruction of justice" is the frustration of governmental purposes by violence, corruption, destruction of evidence, or deceit.

General Obstruction Prohibitions:

- a. Intentionally and fraudulently **covered up and concealed the criminal activities** of the participants in the furtherance of the subject conspiracy;

- b. Violated 18 U.S.C. § 1956- Laundering of Monetary Instruments; and
- c. Violated 18 U.S.C. § 1957- Engaging in Monetary Transactions in property derived from specified unlawful activity.

5. Aiding, Abetting and Conspiring Against the Rights of Citizens.

Additional prohibited activities of Judge Whitman, Judge Wise and Judge Donato include, among others, the following:

- a. accepting bribes in exchange for dismissing foreclosure cases;
- b. accepting bribes and other “favors” by using expediency in clearing the court dockets/calendars of Judge Whitman, Judge Wise and Judge Donato, having regard for what is advantageous, governed by self-interest and the interests of the criminal conspiracy, rather than for what is right or just;
- c. using coded messages in court orders and court rulings in order to convey information to accomplices and participants in the criminal conspiracy;

6. Commit the actual, substantive crimes

The statutes intended to draw a distinction between conspiracy and the substantive offenses. The general rule of separate offenses remains the doctrine of this circuit. See, e. g., *United States v. Ohlson*, 552 F.2d 1347, 1348 (9th Cir. 1977).

“Conspiracy counts” charge the existence of an agreement to commit the crime..... while the “substantive counts” charge actual commission of the crime....”

7. Subversion

Subversion and the act of subverting are defined as a systematic attempt to overthrow the judicial branch, undermine and destroy our democracy and

disrupt our economy by persons working secretly from within. (Black's Law Dictionary, 8th Edition).

Judge Whitman, Judge Wise and Judge Donato, by their participation in the conspiracy are subverting the judicial system in Alameda County, California. and the U.S. District Court, California Northern District. Judge Whitman, Judge Wise and Judge Donato are ignoring the substantial, relevant, tangible, admissible evidence Petitioner/Freitas has filed as attachments to Freitas' Complaint regarding Judge Whitman, Judge Donato and Defendant Judge Wise.

8. Seditious Conspiracy

“Seditious Conspiracy, to knowingly and intentionally conspire, confederate and agree with other persons known and unknown to Plaintiff to obstruct justice, obstruct the administration of justice, destroy our democracy, disrupt our economy, commit domestic terrorism and commit the financing of terrorism.”

There is no constitutional or factual basis for depriving Petitioner/Freitas access to this Court, the only venue for resolution available to him.

Investigative Report of Reuters

Thomson Reuters Inc. (“Reuters”) recently completed an in depth, 5-year long investigation into the judicial misconduct in the target area of Alameda County and a number of other counties in California and surrounding states. The findings of the Reuters' investigation indicated that the activities of judges in the target area already have raised to the level of obstruction of justice and in many cases a flagrant dereliction of duty.

The investigative report was written by researchers Michael Berens and John Shiffman, and published on June 30th, 2020, by “Reuters”. Reuters reaches more than one-billion (1,000,000,000) people every day. The findings of the Reuters investigative report are used herein with the permission of Reuters. Reuters is responsible for the content of the investigative report.

According to the Reuters report, thousands of U.S. Judges who broke laws and oaths remained on the bench.

The exhaustive Reuters investigation found that in the past dozen years “...judges have repeatedly escaped public accountability for misdeeds that have victimized thousands [actually millions] of homeowners.” (Emphasis added).

Local, state and federal judges including Judge Donato, Judge Whitman and Judge Wise are among the numerous enablers that are complicit with the co-conspirators involved in and who have perpetrated the single largest criminal enterprise in the history of the State of California, the United States of America and, most likely, in the history of the world.

Judge Whitman, Judge Wise and Judge Donato arbitrarily and capriciously knowingly and intentionally **refused** to comply with statutory and case law and precedents, including but not limited to:

1. California Code of Civil Procedure § 2936
2. *Carpenter v. Longan*, 83 U.S. 271, 16 Wall. 271.
3. *Yanova v. New Century Mortgage Corporation*,
62 Cal.4th 919, 938 (2016)
4. “Dimock” “A later sale by a prior Trustee is Void.” *Dimock V. Emerald Properties, LLC* (“Dimock”), Court of Appeal, Fourth District, Division One. 97 Cal.Rptr.2d 255 (2000) 81 Cal.App.4th 868;
5. *Wutzke v. Bill Reid Painting Service, Inc.* (1984) 151 Cal.App.3d 36, 43. **Void is Void;** “A **forged** document is void ab initio and constitutes a nullity; as such it cannot provide the basis for a superior title as against the original grantor” (Freitas); *Wutzke v. Bill Reid Painting Ser. Inc.* 1984 151

Cal.App.3d 36, 43, *Halajian v. Deutsche Bank Nat. Trust Co.* (E.D. Cal Feb. 14th, 2013, No. 1:12-CV-00814 AWIGSA) 2013 WL 593671, at p. *7;

Because the “Deed of Trust” Recorded Oct. 25, 2005 (**See Appendix H**) is an altered, forged, defective, void copy of the Deed of Trust recorded October 12, 2005 (**Appendix I**) which was satisfied and paid in full on July 1, 2016, as evidenced by the Deed of Full Reconveyance. (**See Appendix G**).

Quality was substituted **OUT** on July 1, 2016, (approximately 2.5 years earlier when Recon Trust became the newly substituted trustee). Therefore, the “Power of Sale” **is Void** and the “Trustee’s Deed Upon Sale” signed and recorded June 11, 2019, by Quality **is Void**. (**See Appendix I**).

Community did not, could not and cannot “**duly perfect**” **Community’s Title to the subject Property**. The entire UD process used by Community is defective, flawed and void. **This is jurisdictional**.

The “**Notice of Trustee’s Sale**”, recorded March 7th, 2019, signed by **Quality is VOID**.

The “**Trustee’s Deed Upon Sale**” recorded on June 11, 2019, signed by **Quality is VOID**.

Quality Loan Service Corp. was without authority or standing to initiate, conduct or conclude a trustee’s sale/non-judicial foreclosure sale (see *Dimock* ruling which held that …“**a later sale by a prior trustee is void.**”).

Judge Whitman, Judge Wise and Judge Donato have a vested interest in the outcome of the subject case(s).

The judges’ vested interest is to quickly clear the Court’s docket and to collect the “judge’s bonuses”, as confirmed by **Reuters**’ investigative team.

Bribes have been paid to Judge Whitman, Judge Donato Judge Wise and other members of the conspiracy.

According to the Hon. Amy Coney Barrett, prior to becoming a Justice of the U.S. Supreme Court, ruled that due process rights come into play “if the other side” uses dishonorable means to prosecute a case. *Rainsberger v. Benner*, 7th app.cir.no. 17 – 2521-Jan. 15, 2019 (Applies to civil and criminal cases). See also U.S. Supreme Court case *McDonough v. Smith*, U.S. sup.ct.no. 18-485. June 20, 2019.

CONCLUSION

Petitioner/Freitas’ Petition for Writ of Certiorari must be granted. The Constitutionally guaranteed, inalienable rights specified in the Bill of Rights, primarily, the First Amendment Freedom of Speech (including: a. “**The Right to Access the Courts**” and b. “**The Right to Expose Corruption in the Courts**”) and the Fourteenth Amendment **due process rights** are legal rights vested in Petitioner/Freitas. The acts of conspiracy committed by Judge Whitman, Judge Donato and their other co-conspirators have violated the vested legal rights of Petitioner/Freitas.

The United States Supreme Court **now** has the opportunity, in fact, the duty to “right the wrongs” committed by Judge Whitman, Judge Wise Judge Donato and their other co-conspirators.

Now is the time to grant Freitas’ Petition for Writ of Certiorari.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, John B. Freitas, respectfully requests that judgment be entered in favor of Freitas and against Defendants as follows:

1. For an order of this Court granting Freitas’ Petition for Writ of Certiorari;

2. For an Court order issuing sanctions as against Community for One-Million-Dollars and Community's attorney, Tim Larsen, for One-Million-Dollars.
3. For an order granting Freitas such other and further relief as the Court may deem appropriate.

Petitioner John B. Freitas

Date: May 11, 2023

A handwritten signature in black ink, appearing to read "John B. Freitas", is written over a horizontal line.

One for each separate Appendix

No. _____

In the
Supreme Court of the United States

John B. Freitas

Petitioner

v.

Superior Court of Alameda County, Judge J. Whitman, et. al.

Respondents

COMMUNITY FUND, LLC.

REAL PARTY IN INTEREST

**ON PETITION FOR A WRIT OF CERTIORARI TO
THE SUPREME COURT OF CALIFORNIA
Case #S 278001**

APPENDIX "A"

**FILED CONCURRENTLY WITH
PETITIONER'S PETITION FOR WRIT OF CERTIORARI**

On Appeal from Alameda County Superior Court
Judge Jenna Whitman, Presiding
Civil Case No. RG 19026962

John B. Freitas, Petitioner
36937 Cherry Street
Newark, California 94560
Phone: 510-377-8777
Email: jbfcp@icloud.com

SUPREME COURT
FILED

FEB 15 2023

Jorge Navarrete Clerk

S278001

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

JOHN B. FREITAS, Petitioner,

v.

SUPERIOR COURT OF ALAMEDA COUNTY, Respondent;

COMMUNITY FUND, LLC, Real Party in Interest.

The petition for writ of certiorari is denied.

GUERRERO

Chief Justice

One for each separate Appendix

No. _____

In the
Supreme Court of the United States

John B. Freitas

Petitioner

v.

Superior Court of Alameda County, Judge J. Whitman, et. al.

Respondents

COMMUNITY FUND, LLC.

REAL PARTY IN INTEREST

ON PETITION FOR A WRIT OF CERTIORARI TO
THE SUPREME COURT OF CALIFORNIA
Case #S 278001

APPENDIX "B"

**FILED CONCURRENTLY WITH
PETITIONER'S PETITION FOR WRIT OF CERTIORARI**

On Appeal from Alameda County Superior Court
Judge Jenna Whitman, Presiding
Civil Case No. RG 19026962

John B. Freitas, Petitioner
36937 Cherry Street
Newark, California 94560
Phone: 510-377-8777
Email: jbfcp@icloud.com

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

JOHN B. FREITAS,
Petitioner,
v.
SUPERIOR COURT OF
CALIFORNIA, COUNTY OF
ALAMEDA,
Respondent;
COMMUNITY FUND, LLC,
Real Party in Interest.

A166595

Alameda County Super. Ct.
No. RG19026962

THE COURT*:

The petition for writ of mandate is denied. The request for a stay is denied.

Date: 12/01/2022

Pollak, P.J. P.J.

* Pollak, P.J., Brown, J., and Goldman, J.

One for each separate Appendix

No. _____

In the
Supreme Court of the United States

John B. Freitas

Petitioner

v.

Superior Court of Alameda County, Judge J. Whitman, et. al.

Respondents

COMMUNITY FUND, LLC.

REAL PARTY IN INTEREST

**ON PETITION FOR A WRIT OF CERTIORARI TO
THE SUPREME COURT OF CALIFORNIA
Case #S 278001**

APPENDIX "C"

**FILED CONCURRENTLY WITH
PETITIONER'S PETITION FOR WRIT OF CERTIORARI**

**On Appeal from Alameda County Superior Court
Judge Jenna Whitman, Presiding
Civil Case No. RG 19026962**

**John B. Freitas, Petitioner
36937 Cherry Street
Newark, California 94560
Phone: 510-377-8777
Email: jbfcp@icloud.com**

Appellate Courts Case Information

Supreme Court

[Change court ▾](#)

Docket (Register of Actions)

FREITAS v. S.C. (COMMUNITY FUND)

Division SF

Case Number S278001

| Date | Description | Notes |
|------------|--|--|
| 01/06/2023 | Petition for writ of certiorari filed | Petitioner: John B. Freitas Pro Per |
| 01/06/2023 | Forma pauperis application filed | John B. Freitas, Petitioner Pro Per |
| 01/06/2023 | Forma Pauperis application granted | |
| 02/15/2023 | Petition for writ of certiorari denied | The petition for writ of certiorari is denied. |

[Click here](#) to request automatic e-mail notifications about this case.