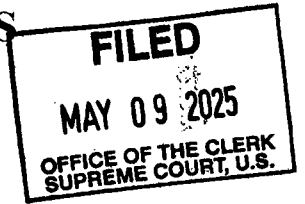


No. ~~24-7452~~

ORIGINAL

SUPREME COURT OF THE UNITED STATES

ROBERT HART,
Petitioner,
v.
BETH MAE HART,
Respondent.



On Petition for a Writ of Certiorari to the

California Supreme Court - denied

California Court of Appeal, Fifth Appellate District- Opinion

Petition for Writ of Certiorari

Robert Coleman Hart
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QUESTIONS PRESENTED

1. Whether the Due Process Clause of the Fourteenth Amendment permits application of the doctrine of issue preclusion to a party who did not participate in the underlying litigation.

2. Whether the Due Process Clause of the Fourteenth Amendment permits application of the doctrine of issue preclusion to a party who was explicitly prohibited from participating in the underlying litigation.

3. Whether the Due Process Clause of the Fourteenth Amendment is violated when a state court amends a civil judgment post-trial to add a non-party trustee as a judgment debtor based solely on findings from a family law proceeding where the trustee was not joined, not heard, and no alter ego theory was litigated.

4. Whether it is unconstitutional under the Takings Clause or Due Process Clause for a court to impose liability upon trust assets held for the benefit of a third party (an adult son) based on collateral estoppel from a separate proceeding to which the trust was not a party and where no adjudication of ownership occurred.

5. Whether the application of issue preclusion (collateral estoppel) offends federal constitutional principles where the underlying "issue" was neither identical nor actually litigated, and the target of the estoppel had no opportunity to contest the prior ruling.

6. Whether judicial reformation of a contract's clear attorney fee terms violates federal due process rights where the court rewrote the fee clause contrary to its plain language.

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OPINIONS BELOW

The unpublished opinion of the Court of Appeal of the State of California was electronically filed on 10/22/24.

A Petition for Review was denied by the Supreme Court of California on 02/11/25.

JURISDICTION

The California Court of Appeal issued its decision on October 22, 2024. The California Supreme Court denied a timely petition for review on February 11, 2025. This Court has jurisdiction pursuant to 28 U.S.C. § 1257(a). The petition is timely filed within ninety days of the order denying review.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. V: “No person shall ... be deprived of life, liberty, or property, without due process of law...”

U.S. Const. amend. XIV, § 1: “...nor shall any State deprive any person of life, liberty, or property, without due process of law...”

28 U.S.C. § 1257(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...

California Code of Civil Procedure § 187: Authorizing post-judgment amendment to add judgment debtor under certain circumstances.

STATEMENT OF THE CASE

This case arises from a civil dispute between Petitioner Robert Hart and a friend, Respondent Beth Mae Hart (no family relation). The parties became embroiled in litigation over funds loaned to Respondent and the nature of Appellant’s certain family assets, including assets held in trust for the benefit of Petitioner’s adult son.

In the underlying litigation, the trial court entered judgment against Petitioner, an individual. It was not until after judgment was entered that Respondent sought to amend the

judgment to include Robert Hart, in his capacity as trustee of certain family irrevocable trusts, as a judgment debtor.

Critically, the irrevocable family trusts, Cedar Grove Holdings trust and Old Oak Holdings trust were not a named party in the original judgment. The trial court added the irrevocable trusts as a debtor post-trial under an alter ego theory, relying not on evidence presented in the civil case, but on non-proven findings from a separate family court proceeding that never addressed alter ego. In fact, during the family court proceeding, the trial court explicitly rejected the prospect of joining the trust to the family court litigation.

The trial court took judicial notice of the statements made in the family court litigation, and on the basis of those statements, added the Trustees as judgment debtors.

On appeal to the California Court of Appeals, Petitioner argued, among other things, that no competent evidence of alter ego had been presented at the trial court level. The Court of Appeal, in an October 22, 2024 decision, ruled that the absence of evidence was not problematic, because it believed the trial court had *meant to* apply the principles of issue preclusion in order to make its determination. The Court of Appeal held that the doctrine of issue preclusion justified the trial court's ruling, and affirmed. The California Supreme Court denied review on February 11, 2025.

Significantly, the Court of Appeal further refused to remand so that the doctrine of issue preclusion could be addressed by Petitioner. The Court of Appeal's decision was the first time the doctrine was raised, and this Petition is Petitioner's only actual opportunity to date to simply present argument on the theory. As discussed above, the Court of Appeal's basic premise was clearly unconstitutional under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

Petitioner has encountered an extraordinary degree of deprivation of due process, and simply requests that the matter be remanded for the California courts to consider indisputably applicable black-letter law.

REASONS FOR GRANTING THE WRIT

This petition raises constitutional questions of national importance involving the misuse of collateral estoppel, post-judgment amendments, and violations of due process rights. The following legal authorities, some of which may not have been cited in the lower courts, support this Court's intervention:

The Decision of the California Court of Appeal Violated Basic Due Process Principles Under the 14th Amendment to the United States Constitution. In Petitioner's California state court divorce proceeding, the trial court elected not to join Cedar Grove Holdings and Old Oak Holdings, two irrevocable trusts as a party to the divorce proceedings. The beneficiary of the Trusts was – and still is – Jason Hart, Petitioner's son.

The divorce court decided not to join or make any orders concerning the Trusts. The divorce was finalized, without the Trusts ever having been joined as a party.

In a subsequent lawsuit alleging usurious interest, the trial court found Robert Hart, an individual, liable for lending usurious interest, even though the court admitted that no usurious interest was ever paid. After the judgment was entered, Plaintiff filed a motion under California Code of Civil Procedure section 187, to add Robert Hart, as Trustee of Cedar Grove Holdings and Old Oak Holdings as the alter ego of Robert Hart, and individual.

In order to avoid due process concerns, courts have interpreted Code of Civil Procedure section 187 to require “*both* (1) that the new party be the alter ego of the old party *and* (2) that the

new party had controlled the litigation, thereby having had the opportunity to litigate, in order to satisfy due process concerns.” (*Triplett v. Farmers Ins. Exchange*) 24 Cal.App.4th 1415, 1421)). In this matter, it is certain that the divorce court *actively refused to permit participation* by Robert Hart, as the Trustee of Cedar Grove Holdings and Old Oak Holdings. It therefore necessarily follows that Robert Hart, as the Trustee of Cedar Grove Holdings and Old Oak Holdings did not, and could not, have controlled the litigation in the divorce proceedings.

Nevertheless, the trial court granted the motion under section 187, based upon comments made by the divorce court in explaining the trial court’s reasons for refusing joinder or participation on the part of Robert Hart, in his capacity as Trustee. Mr. Hart appealed. The Court of Appeal ruled that the trial court, without saying as much, was *actually* applying the doctrine of collateral estoppel when it granted the motion under section 187. Despite the fact that Mr. Hart raised due process objections, the Court of Appeal circumvented them, and did not address the issue. Instead, it noted the trial court’s broad discretion, and found that the application of collateral estoppel was appropriate.

The application of collateral estoppel violated the due process rights of Mr. Hart, acting in his capacity as Trustee of Cedar Grove Holdings and Old Oak Holdings. Had the divorce court actually permitted the Trustee to participate in the litigation, there might be a possibility that the Trustee could exert such control. However, the Trustee had been denied participation in the divorce proceeding. How, then, could the divorce proceeding have bound the Trustee under the collateral estoppel? It clearly could not have done so.

The Application of Collateral Estoppel Conflicts with Federal Standards. Issue preclusion requires that the issue in question be "actually litigated and determined by a valid and final judgment." See *Montana v. United States*, 440 U.S. 147, 153 (1979). In *Taylor v. Sturgell*, 553 U.S. 880 (2008), this Court held that nonparties generally cannot be bound by a judgment

unless certain strict criteria are met. The irrevocable trusts in question, were not a party to the family court proceedings and had no opportunity to contest ownership or alter ego findings.

The due process concerns underlying California law also find expression in the Fourteenth Amendment to the United States constitution, which prohibits the deprivation of property without due process of law. (U.S. Const. amend. XIV, sec. 1). The basic requirements of due process are notice and an opportunity to be heard. (*See, e.g., Davis v. Scherer* (1984) (“[A]ppellants violated the most fundamental requirements of due process of law – meaningful notice and a reasonable opportunity to be heard.”); *Grannis v. Ordean* (1914) 234 U.S. 385, 394 (“The fundamental requisite of due process of law is the opportunity to be heard.”))

Accordingly, the failure to notify and join the Trustees of both Trust in the divorce case means that it could never serve as the basis for a later alter ego judgment. However, the divorce court, in this instance, took matters a step further by actively refusing the participation on the part of the Trustees. This foreclosed both the possibility of notice and joinder of the Trusts to the divorce case, and also foreclosed the possibility that the Trustees *could have* controlled the litigation.

The Supreme Court’s decisional law on the matter is clear: “In no event, we have observed, can issue preclusion be invoked against one who did not participate in the prior adjudication.” (*Baker by Thomas v. General Motors Corp.* (1998) 522 U.S. 222, 237 fn. 11 (citing *Blonder-Tongue Laboratories, Inc. v. University of Ill. Foundation* (1971) 402 U.S. 313, 329; *Hansberry v. Lee* (1940) 311 U.S. 32, 40)).

The procedure used to add Petitioner as a judgment debtor post-trial—without joinder, notice, or hearing—conflicts with the principles set forth in *Nelson v. Adams USA, Inc.*, 529 U.S. 460 (2000), where this Court reversed a post-trial amendment adding a party without due process. The holding in *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), reaffirms the

constitutional requirement that all interested parties must be afforded notice and an opportunity to be heard before their rights are affected.

Here, it is undisputed that the divorce court explicitly rejected the prospect of the Trustees being joined to the divorce litigation. It is therefore crystal clear that adding the Trustees as “alter egos” based solely upon a claim preclusion theory violates the rights of each Trustee to the due process afforded to them under the 14th Amendment.

An order granting certiorari is needed in order to prevent the erosion of due process principles. The Court of Appeal compounded the due process violation by refusing to remand to the trial court, where the argument might have been properly considered. Instead, the Court of Appeal explicitly rejected the proposition. As a result, Petitioner *never* was given an opportunity to address the “issue preclusion” grounds which the Court of Appeal itself raised for the first time. Absent intervention from this Court, a person who did not participate in one court proceeding will be added, *after trial*, as a judgment debtor to another, based *solely* upon the purported grounds that the trial in which they were not allowed to participate had an issue preclusive effect upon them. The clear dictates of this Court require that this Orwellian dynamic be corrected. Petitioner requests that the matter be remanded, so that the obvious due process considerations raised by the Court of Appeal’s “issue preclusion” theory may be, at least one time, examined after adversarial argument.

For the foregoing reasons, the petition presents compelling grounds for certiorari and warrants this Court’s review.

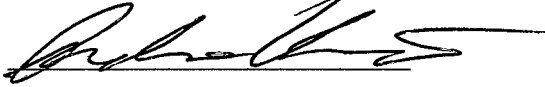
CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the petition for a writ of certiorari to review the decision of the California Court of Appeal, Fifth Appellate District.



CERTIFICATE OF COMPLIANCE

Pursuant to Supreme Court Rule 33.1(h), I certify that this petition contains fewer than 9,000 words, excluding the parts of the petition that are exempted by Rule 33.1(d).



Robert Hart

PROOF OF SERVICE

I, Robert Hart, do hereby certify that I have served one copy of the attached Petition for Writ of Certiorari with all accompanying documents and Motion to Proceed In Forma Pauperis, by personal service on the following:

Steven Williams, 2222 West Main Street, Visalia CA, 93291

Date: 5-9-2025

A corrected Motion to Proceed in Forma Pauperis was also served on 6-10-25 by electronic service to april@visalialawyers.com and srw@visalialawyers.com



Robert Hart