No. 25-6907

ORIGINAL

In The
Supreme Court of the United States

ALICIA MARIE RICHARDS

Petitioner,

v.

RYAL W. RICHARDS,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE CALIFORNIA FOURTH DISTRICT COURT OF APPEAL
DIVISON THREE

AMENDED PETITION FOR WRIT OF CERTIORARI

Respectfully submitted 2/4/26

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QUESTION PRESENTED FOR REVIEW (Rule 14.1(a))

1. Whether the California Court of Appeal lacked subject-matter jurisdiction over this removed action and misapplied the federal removal statute, 28 U.S.C. § 1446, in a manner that conflicts with this Court's precedent in *Roman Catholic Archdiocese of San Juan v. Feliciano*, 140 S. Ct. 696 (2020), and longstanding Ninth Circuit authority holding that state courts "shall proceed no further" unless and until a proper remand order issues.

2. Whether the state courts violated the Due Process Clause of the Fourteenth Amendment by entering orders and a final judgment while lacking jurisdiction, refusing to provide Petitioner notice and a meaningful opportunity to oppose the motion, and adjudicating substantial property rights without adequate process.

3. Whether California Code of Civil Procedure § 430.90(a)(2) applies to all removed actions—including those involving post-judgment or ancillary motions—and whether the state courts' selective or inconsistent application of that statute deprived Petitioner of equal protection and due process guaranteed by the Fourteenth Amendment.

4. Whether the state courts' invocation of the forfeiture doctrine to bar Petitioner's federal and statutory arguments—despite their timely presentation and where the issues involve pure questions of law—conflicts with controlling authority and violates the constitutional requirement that appellate courts decide legal questions necessary to prevent manifest injustice.

5. Whether a state court may, consistent with the Fourteenth Amendment and California's homestead statutes, adjudicate and award a homestead determination under Code of Civil Procedure §§ 704.710(c) and 704.720(d) where the movant failed to satisfy statutory prerequisites, the property had already been awarded as separate property, and the state court lacked jurisdiction to enter the order.

LIST OF PARTIES

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RELATED CASES

Case No. S289198
California Supreme Court
350 McAllister Street, Room 1295
San Francisco, CA 94102-4797 tel. 415-865-7000
(Petition denied March 19, 2025)

Case No. G062009
Fourth District Court of Appeal-Div.3
601 W. Santa Ana Blvd.
Santa Ana, CA 92701 tel. 714-571-2600
Written by the Honorable Justice Kathleen E O'Leary Affirmed in Full on December 30, 2024 (Order denying Motion to Rehearing denied January 22, 2025)

Case No. 15d009634
Orange County Superior Court
341 The City Drive, Orange, CA 92868
The Honorable Sheila Recio, Judge Dept. C65
(Orders dated September 12, 2022 and September 19, 2022)

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OPINION BELOW

The decision of the Court of Appeals, Fourth District, Division Three, ***Ryal W. Richards v. Alicia Marie Richards,*** Court of Appeal Case No. G062009 affirmed on **December 30, 2024 (Appendix A)**, the lower court's orders dated 9/12/22 (Appendix:B:9) and 9/19/22 (Appendix:C:12), granting Respondent Ryal W. Richards' ("Ryal") Motion (Appendix:E:18) awarding him a portion of my homestead is appended to this Petition marked (Appendix: A:3-8).

JURISDICTIONAL STATEMENT

I, Alicia Marie Richards, the Petitioner, appealed to the Fourth Appellate Court, Division Three to vacate the lower court's 9/12/22 and 9/19/22 orders (Appendix:B:9 and C:12) granting Respondent Ryal's motion (Appendix:F:13) filed 6/8/22 for order re payment of $300,000.

The Fourth Appellate Court, Division Three affirmed the lower court orders on 12/30/24 (Appendix A).

A timely petition for rehearing was denied on 1/22/25 (Appendix H:73)

A timely petition for review to the California Supreme Court was denied 3/19/25. (Appendix:D:15) cf.(Appendix:U:)

The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1). Accordingly, this Petition is timely.

I, Alicia Marie Richards, the Petitioner respectfully pray that a Writ of Certiorari issue to review and vacate the lower family law court orders and the Opinion of the Court of Appeals, Fourth Appellate District, Division Three issued without jurisdiction. (Appendix A, B, and C).

CONSTITUTIONAL AND SATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment to the Constitution

"Clause says that "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." "No State shall "deny to any person within its jurisdiction the equal protection of the laws, and the right to access to the courts."

Bill of Rights

"All persons within the jurisdiction of the United States shall have the same right to every State and Territory to the full and equal benefit of all laws and proceedings for the security of persona and property."

28 U.S.C. § 1446. Procedure for removal of civil actions

"(a) GENERALLY.-A defendant or defendants desiring to remove any civil action from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.

(b) REQUIREMENTS; GENERALLY.-

(1) The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter. . .

(d) NOTICE TO ADVERSE PARTIES AND STATE COURT.-Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall

give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded. . ."

Civil Code of Procedure §430.90

(a)Where the defendant has removed a civil action to federal court without filing a response in the original court and the case is later remanded for improper removal, the time to respond shall be as follows: (2) If the defendant has not filed an answer in the original court, then 30 days from the day the original court receives the case on remand to do any of the following: (A) Answer the complaint. Nowhere in the statute does it state, it applies solely to the original complaint. Further, under statutory construction, the word "response" could mean any response. A removal is not limited to the initial pleading, a cause of action can be removed as well.

STATEMENT OF THE CASE AND FACTS

This is a family law case dealing with a California homestead exemption law under CCP §704.710(c) from a forced bankruptcy sale that was decided without subject matter jurisdiction.

After the homestead became a final judgment in the bankruptcy court when no timely objection was filed within the time allowed by law and it became a final judgment (Appendix:I p.76), Ryal, my ex-spouse, sought in the bankruptcy court a portion of my homestead exemption in the amount of $300,000. When Ryal knew he was not going to win his motion in the bankruptcy court because he had no standing, he withdrew his motion and asked the Chapter 7 Trustee, Richard A. Marshack ("Trustee") to use his influence in the bankruptcy court to file a motion on his behalf requesting the bankruptcy court to pay him a portion of my homestead in the amount of $300,000 or in the alternative interplead the homestead in the family

law court. The bankruptcy court granted the Trustee's alternate relief to interplead the homestead in the family law court[1] (Appendix:J p.80).

I also filed a separate motion in the bankruptcy court seeking the remining homestead funds. My motion was denied on 11/21/22 (Appendix:K p.85) based on the interplead Order (Appendix:J p.80). I appealed that order. See fn. 1, *supra.*)

While my motion to pay me the remaining homestead funds was pending in the bankruptcy court and before the bankruptcy court issued the interplead order (Appendix:J p.80) or a decision on whether to pay me (Appendix:K p.85), Ryal filed a motion (Appendix:E) in the family court requesting it to issue an order directing the Trustee to pay him $300,000 out of the sale proceeds. (Appendix:E:p.27)

After being served with Ryal' motion on 7/28/22, on 7/29/22, I removed the homestead motion to the bankruptcy court (Appendix:L p.87). While that removal was pending, Lawrence Remsen ("Remsen"), my father and a non-party, on 9/9/22, filed a separate notice of removal (Appendix:M p.89) to the bankruptcy court removing the same homestead issue claiming it was interfering with his contract he made with me over the property. Remsen's removal was not remanded until 9/17/22 (Appendix:N p.93) but yet no certified remand order ever issued on the first removal (Appendix:L p.87) filed on 7/28/22.

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[1] I filed an appeal of the bankruptcy court's interplead order (Appendix:J p.80) to the District Court who affirmed it. I then appealed to the Ninth Circuit Court and that appeal is still pending (Case Nos. 24-432 cw 24-433).

While the case was pending in the bankruptcy court, the family law court proceeded on 9/12/22 without jurisdiction, without all the parties, and decided the homestead motion (Appendix:B). It held its void order until 9/19/22 for a status conference to determine its jurisdiction. It also failed to provide me notice it would proceed or close the briefing on 9/12/22 despite its lack of jurisdiction. It also failed to provide me adequate notice that it was going to allow oral argument on the motion (Appendix:E) at the status conference on 9/19/22. This was prejudicial because not only did the court have no authority to award Ryal a portion of my final homestead (Appendix:I p.76), Ryal did not qualify for the homestead under CCP §704.710 (c) because he lived elsewhere for over four years and living in the property was a required factor for the court to consider before awarding a homestead under California law. At the status conference held on 9/19/22 (Appendix:C), I requested to file an opposition (Appendix:O p.124 ln. 25-26) to the motion and for the court to consider it before deciding issuing an order, the time to file my opposition had not expired and was tolled pursuant to CCP §430.90(a)(2). The court denied the request and entered judgment in favor of Ryal without setting forth any basis for granting the motion or how it had jurisdiction or authority under CCP §704.710 (c) to grant Ryal's motion based on California homestead law. This was error and denied me due process and equal protection under the law.

On appeal, I claimed the court lacked jurisdiction to enter its orders because of my pending bankruptcy appeals, my constitutional rights to due process and equal protection were violated, and the court lacked jurisdiction and exceeded its

authority to award Ryal Richards the homestead or change the division of property already agreed to in the Stipulation (Appendix:F) and the Judgment filed on 1/26/18 (Appendix:G) filed without notice and a hearing and does not conform to the Stipulation (Appendix:F) is void and unenforceable and could not be used to grant Ryal the homestead. The Appellate Court affirmed (Appendix:A) the lower court's orders (Appendix:B and C) and refused to decide whether the court had authority to award the homestead under California law (CCP §704.710(c)) to Ryal based on forfeiture. The California Supreme Court denied review (Appendix:D).

REASONS FOR GRANTING THE PETITION

Review is urgently required because the decision below presents serious federal questions concerning the limits of state-court jurisdiction after removal, the proper application of 28 U.S.C. § 1446, and the minimum constitutional guarantees of due process before the State may adjudicate and divest a person of vested property rights. The courts below exercised authority they did not possess, applied a repealed and discredited "defective-removal exception," and refused to follow this Court's binding precedent in *Roman Catholic Archdiocese of San Juan v. Feliciano.* In so doing, the lower courts directly contradicted federal statutory text and ignored the plain command that state courts "shall proceed no further" unless and until a remand order issues. The appellate court never addressed the absence of a certified remand order, even though a remand is "not self-executing." *Bucy v. Nev. Constr. Co.*, 125 F.2d 213, 217 (9th Cir. 1942).

This case further raises important constitutional questions regarding the State's obligations under the Fourteenth Amendment. The courts below deprived Petitioner of notice, refused to permit an opposition to be filed, adjudicated substantial property interests at a hearing noticed only as a status conference, and treated similarly situated litigants differently under California's tolling statute for removed actions. These errors implicate core guarantees of equal protection and procedural due process.

Review is also necessary to resolve the conflict between state courts on whether § 430.90(a)(2) applies to removed actions beyond an initial complaint, and whether issues of pure law necessary to avoid manifest injustice may be deemed "forfeited." These recurring questions affect large numbers of litigants removed to federal court—particularly in bankruptcy matters—yet remain unsettled and inconsistently applied.

The consequences here are profound. The judgment below authorizes state courts to proceed without jurisdiction, deny notice and hearing rights, disregard statutory tolling protections designed to ensure fairness in removed cases, and strip homeowners of their homestead protections despite statutory prerequisites never having been met. These issues are of exceptional importance to homeowners—including elderly and financially vulnerable homeowners—and to the bankruptcy system nationwide.

Only this Court can resolve these conflicts, correct the jurisdictional and constitutional violations that occurred in this case, and provide urgently needed

clarity to lower courts on the limits imposed by § 1446 and the Fourteenth Amendment.

ARGUMENT

The Court lacked Subject Matter Jurisdiction and the Court of Appeals Improperly Applied the Rules of Law and failed to Follow Binding Precedent

While the Family Law case was removed to the Bankruptcy Court from 7/29/22 through 9/15/22 no certified remand order ever issued (Appendix:L p.87). The Appellate Court did not address the lack of certified remand and instead stated that Remsen's removal (Appendix:N p.93) did not affect the Court's jurisdiction because he was a nonparty. (Opinion p.6). The Appellate Court also stated that although my appeal was pending on the dismissal of my Motion to vacate and correct the Judgment (Appendix:G) to conform to the Stipulation (Appendix:F), and the issues regarding the homestead was pending appeal in the federal court, it did not affect the Court's jurisdiction (Opinion:7) therefore §916 did not apply. I disagree and its decision is contrary to binding precedent, inconsistent with § 1446(d) and modern removal doctrine and the Court of Appeal misapplied the governing law. Its decision rests on legal error of a jurisdictional magnitude, and the resulting orders must be declared void and invalid.

The Court of Appeals incorrectly applied 28 U.S.C. §1446 and the cases it cited are contrary to binding precedent.

28 U.S.C. §1446 does not allow an exception to the court's jurisdiction by allowing it to proceed because of a defective removal and the Appellate Court's cases are dispositive, should not be followed, and conflict with United States court

precedent *Roman Catholic Archdiocese of San Juan v. Feliciano*, 140 S.Ct. 696, 206 L.Ed.2d 1 (2020) that states once a case is removed, the state "shall" take no further action and any action taken is void and there are no exceptions to 28 U.S.C. 1446's plain language. In order for the lower court to have proceeded, it was required for it to have received a certified remand order. A remand order "is not self-executing." *See Bucy v. Nev. Constr. Co.* 125 F. 2d 213, 217 (9th Cir. 1942).

The Appellate Court did not discuss in its opinion (Appendix:A) the statutory construction of §1446(d). Instead it cited *Valencia v. Allstate Texas Lloyd's* (5th Cir. 2020) 976, F. 3d 593, 595 that states "A non-party, even one that claims to be the proper party in interest, is not a defendant and accordingly lacks the authority to remove a case." However, *Valencia v. Allstate Texas Lloyd's, supra*, 976 F. 3d 593, 595 did not reach the question of whether the state court could proceed after a notice of removal regardless if the removal was filed by a nonparty. Alternatively, in *Bank of Am. V. Bozek*, 2018, IL App. (1st) 170386-U, No. 1-17-0386 (Ill App. 5/18/18), the court stated that the court lacked jurisdiction to enter any orders after the removal "even if the basis of the district court's remand is that the case was not removable, no action taken by the state court in the interim can stand."] (Appendix:Q p.235)

The Appellate Court also stated the Court retained jurisdiction based on *Clipperjet Inc. v. Tyson*, 38 Cal. App. 5th 521, 251 Cal. Rptr. 3d 34, 38 (2019) stating "if notice of removal is frivolous, state court retains jurisdiction." However, *ClipperJet, supra,* is based on the prior removal statute 28 U.S.C.A. §72 that was

repealed effective 9/1/48 allowing courts to ignore removals that were defective. In 2016, *Cole v. Wells Fargo Bank Nat'l Ass'n* 201 So. 3d 749(FlaApp. 2016) confirmed that *Metro Cas. Ins. Co. v. Stevens*, ("*Metropolitan Casualty*") 312 U.S. 563, 566, 61 S. Ct. 715, 85 L. Ed. 1044 (1941) and similar cases referencing the Metropolitan Rule "were based on a version of the removal statute that was repealed in 1948, which expressly permitted state courts to ignore notices of removal that were legally insufficient." citing 28 U.S.C. § 72 (1946) and that "there is all but unanimity on the proposition that amendments to the removal statute in 1948 effectively changed the results in *Metropolitan Casualty* so that state court adjudication, while a removal petition is pending in federal court, is void, even if the federal court subsequently determines that the case is not removable." *ClipperJet, supra*, is contrary to current law, binding precedent and this court should vacate it *ClipperJet, supra*, and declare that it not be followed and reverse.

There is no "narrow exception" to §1446(d). The statute §1446(d) specifically states: "the court "shall" proceed no further" until remanded. (Appendix:Q p. 226-227). The word "shall has been construed as a word of command. It is not permissive or only directory to be heeded or not by the senate and assembly, but mandatory and peremptory, exacting compliance with and obedience, to it, and prohibiting of any action conflicting with it." See *Taylor v. Madigan*, 53 Cal.App. 3d 943, 126 Cal. Rptr. 376, **381** (1975) citing *Oakland Paving Co. v. Hilton* (1886) 69 Cal. 479, 492 11 P. 3, 9 [stating all branches of government are required to comply with constitutional directives or prohibitions and "every constitutional provision is

self-executing to this extent, that everything done in violation of it is void." See also *Katzberg v. Regents of University of Cal.*, 127 Cal.Rptr.2d 482, 29 Cal.4th 300, 58 P.3d 339 (Cal. 2002) [citing same p. 306-307]. However, in this matter, the court did not comply with the plain command of 28 U.S.C. §1446. Instead, it proceeded and rather than the Court of Appeals vacating its order and remanding for further proceeding after it violated my constitutional rights to due process, it affirmed based on a case that conflicts with precedent.

Section 1446 (d)'s plain language that states the "**state court shall proceed no further unless and until the case is remanded**", means what it says, and no proceedings can stand after the case is removed until properly remanded. See *Roman Catholic Archdiocese of San Juan v. Feliciano*, 140 S.Ct. 696, 206 L.Ed.2d 1 (2020) confirming after removal the court lacked jurisdiction and the orders were void and recognized that once a notice of removal is filed, "the State court shall proceed no further unless and until the case is remanded." Citing 1446(d). It also stated; "[T]he State Court "los[es] all jurisdiction over the case, and being without jurisdiction, its subsequent proceedings and judgment [are] not . . .simply erroneous, but absolutely void." (Appendix:Q p.235-237). The court was bound to follow §1446(d)'s plain language regardless of whether the removal was valid or not. *Roman Catholic Archdiocese of San Juan v. Feliciano, supra*, 140 S.Ct. 696, 206 L. Ed. 2d is consistent with the plan language of the removal statute and had a direct application in this case and specifically addressed 1446(d) and controls and the Appellate Court failed to follow it, cited a case that conflicts and supported its

decision with a case based on a repealed law. See *Agostini v. Felton*, 521 U.S. 203, 237 (1997) [if a precedent of this court has a direct application in a case, the court of appeals should follow the case]. This decision cannot stand and therefore review must be granted to correct this jurisdictional defect, provide guidance to the lower court by addressing these conflicting cases.

Here, the Court committed a jurisdictional defect by ignoring 1446(d) and proceeded anyway on 9/12/22 (Appendix:B) and its order was void and the 9/19/22 order is equally void (Appendix:C) as a matter of law. The interpretation of §1446(d) under statutory construction and its unambiguous language does not imply an exception. (Appendix:P p.152). See *Lungren v. Deukmejian* (1988) 45 Cal. 3d 727, 304 [If the language is clear and unambiguous, there is no need for construction]. The statute is not capable of two interpretations. Further, as stated in *United States v. Gonzales*, 520 U.S. 1, 6 (1996), "given this clear legislative directive, it is not for the court's to carve out statutory exceptions based on judicial perceptions of bad faith." The statue §1446(d) gives a straight forward statutory command which was to proceed no further absent a remand. There is no ambiguity in the words, therefore, there is no room for a change in construction. See *United States v. Witberger* 5 Wheat 76, 95-96 (1820). The straightforward language of §1446 leaves no room to speculate about congressional intent. There is no intimation that Congress meant 1446(d) to allow the court to proceed in the event of a defective removal petition and if it wanted to, it would have specifically added it to the statue. Instead, it specifically deleted the section from the prior version 28 U.S.C.

§72 that allowed the courts to proceed in light of a defective removal and replaced it with the language that the court "shall not proceed no further" until remanded. The deletion of this critical provision indicates that the Legislature clearly intended to preclude the court from proceeding regardless of an improper removal. In sum, I posit that the plain language of §1446(d) forbid the court from proceeding until the case had been remanded and by proceeding anyway on 9/12/22 (Appendix B), the Appellate Court should have declared its order void for want of jurisdiction. The error here was obvious and prejudicial and affected my substantial rights and the Appellate Court's opinion was contrary to law in light of United States Supreme Court precedent it deliberately refused to follow citing conflicting cases. See *Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal. 2d 450, 457, 20 Cal. Rptr. 321, 369 P. 2d 937.

Because §1446 does not allow an exception to the court's jurisdiction constituting jurisdictional error and its deliberate refusal to follow binding precedent which it had a constitutional obligation to follow, and because there is a conflict in current case law that the Appellate Court used to affirm the lower court's orders, this Court must grant review and secure uniformity of decision and correct the jurisdictional defects committed and prevent a miscarriage of justice.

The Appellate Court Incorrectly Applied CCP §916

The Appellate Court also incorrectly applied §916 constituting a jurisdictional defect resulting in a manifest miscarriage of justice because my motion to vacate and correct the Judgment (Appendix:G) has never been heard or

ruled on and would have affected the judgment because a judgment must conform to the Stipulation (Appendix:F). See *Machado v. Myers* (2019) 39 Cal. App. 5th 779, 792.

The automatic stay statute CCP §916 states that "perfecting an appeal stays proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein or affected thereby, including enforcement of the judgment or order. . ." Here, the Appellate Court (Opinion:7) stated that §916 did not apply because Ryal' Motion (Appendix:E) was an independent action citing *People v. American Contractors Indemnity Co.* (2006) 136 Cal. App. 4th 245, 250. However, Ryal's motion was authorized by an interpleader order (Appendix:J p.80) that was pending appeal in the federal court and the Family Law Court has no jurisdiction over the Trustee in the Federal Court without a motion being filed by the Trustee. Further, the Court's enforcement of the Judgment (Appendix:G) that was the subject of my appeal G060576 not decided until 5/4/23 was clearly embraced in and affected my appeal. Had the Appellate Court decided my appeal G060576 on the merits instead of dismissing it as moot, it would have resulted in a remand to reset my Motion to Vacate and correct the Judgment instead of making me have to restore my motion filed on 2/8/17 again.

Not only did the Appellate Court (Opinion p. 7-8) error it its decision, but it also deliberately refused to follow binding precedent which the state court has a constitutional obligation to follow. It improperly construed §916. In *Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal. 4th 180, 198, stated that proceedings on

matters embraced in or affected' by the appeal are void and not merely voidable. (RJN:Exh.8:38-39). *Griggs v. Provident Consumer Discount Co.(*1982) 459 U.S. 56 [cannot alter or expand upon an order that is pending appeal by expanding it.] Yet here, the precedent was not upheld and the orders declared void. Instead, it stated the Court had jurisdiction to proceed during pending appeal where I collaterally attacked the Judgment (Appendix:G) where substantial and injurious occurred. See *Brecht v. Abrahamson,* 597 U.S. 619 (1993) (holding collateral attack is warranted if error had substantial and injurious effect) and an earlier attack was prevented. See *Pacific Mutual Life Insurance Co., v. McDonnell,* 44 Cal.2d 715, 727, 285 P. 2d 636, 642 (exceptional circumstances exist). In I*n re Marriage of Horowitz* (1984) 159 Cal.App. 3d 377, 381, 205 Cal.Rptr. 880, the court stated that the all proceedings that would have an effect on the effectiveness of the appeal are stayed. The error here was obvious and prejudicial and affected my substantial rights.

Review is necessary to secure uniformity of decisions and to correct the jurisdictional defects committed when the Court proceeded without jurisdiction.

The Court lacked jurisdiction on 9/12/22, its 9/19/22 Order is equally void

The Appellate Court erred by stating the Court had jurisdiction to proceed on 9/12/22 in spite of the removal based on *Clipperjet, supra,* that conflicts with *Roman Catholic Archdiocese of San Juan v. Feliciano, supra,* 140 S.Ct. 696, 206 L. Ed. 2d. The Appellate Court also failed to consider the 9/19/22 order (Appendix:C) was equally void as a matter of law because it gave effect to the 9/12/22 order (Appendix:B). (Appendix:P p.165). *County of Ventura v. Tillett* (1982) 133 Cal.App.

3d 105, 110 "any subsequent orders that gives effect to a void judgment is itself void."]; *Rochin v. Pat Johnson Manufacturing Co.* (1998) 67 Cal.App. 4th 1228, 1239-1240 [same]; *Hager v. Hager* (1962) 199 Cal.App. 2d 259, 18 Cal. Rptr. 695 [affirmance of a void judgment or order is itself void]; *Los Angeles v. Morgan* (1951) 105 Cal.App. 2d 726, 732-733 [234 P. 2d 319] ["Whether the want of jurisdiction appears on the face of the judgment or is shown by evidence *aliunde,* in either case, the judgment is for all purposes a nullity – past, present and future [Citation] . . .all acts performed under it and all claims flowing out of it are void. . [.]"];*Valley v. Northern Fire & Marine, Inc.* 254 U.S. 348 ["Any order or judgment based on a void order or judgment is void."]. This was an obvious error and the Appellate Court should have vacated the judgment.

Review is necessary to correct the jurisdictional defects and prevent a miscarriage of justice.

The Appellate Court Arbitrarily applied the Facts to the Law in this Case and Erred by Stating My Constitutional Rights to Due Process were Not Violated

The Appellate Court erred by stating my constitutional rights to due process of law under the 14th Amendment to the Constitution were not violated when the Court failed to provide me with adequate due process at a meaningful time and place. As stated, the Court failed to provide me with notice it would close briefing or hear oral argument at a status conference and then refused to allow me to submit my opposition to be considered before it entered its decision. See *Lindsey v. Normet,* 405 U.S. 56, 67 (1972) [Due Process requires that there be an opportunity to present

every available defense] cf. *Lambert v. People* (1958) 355 U.S. 225 stating "notice is required before property interest are disturbed, before assessments are made, before penalties are assessed. Notice is required in a myriad of situations where a penalty or forfeiture might be suffered for mere failure to act." Under Article 1, section 8 of the Constitution, it states that "no person shall be deprived of property without due process of law."

Here, the Appellate Court stated (Appendix:A:8-9) that that my due process arguments were frivolous because I was "warned before" 9/12/22 that if I did not appear on 9/12/22 the court would make the requested orders without me and close briefing. This statement is false and unsupported by the record. See Notice 9/12/22 (Appendix:R p.257) at 5:14 PM AFTER the conclusion of the 9/12/22 hearing held at 8:30 a.m. stating briefing was closed without notice. Cf. 9/12/22 Court's Minute (Appendix:B) stating 9/19/22 hearing was a status conference only to determine jurisdiction and briefing was closed and no appearance necessary. There are no documents dated before 9/12/22 providing me with notice the court would proceed without me on 9/12/22 without jurisdiction and close briefing if I did not attend (while the case was removed to the bankruptcy court) and none of the documents, *supra*, state there would be argument on the motion at the 9/19/22 status conference to determine jurisdiction.

I was deprived of being heard on the issue of whether Ryal was entitled to a portion of my homestead at a meaningful time and meaningful place. See *Salaby v. State Bar* (1985) 39 Cal. 3d 547, 565 [fundamental requirement of due process is

meaningful opportunity to be heard]. The Court because of its bias refused to allow me to submit my opposition and have it considered (Appendix:P p.170) and stated briefing had been closed on 9/12/22 and its policy was to not reopen briefing. However, I provided the Appellate Court with the Court's order dated 12/3/21 (Appendix:S p.260) showing this was not the policy of the court or it was just the policy when dealing with a pro se litigant not the other party. Further, in *Fewel v. Fewel* (1943) 23 Cal. 2d 431, 433 [per se reversal when court refuses or fails to allow a party to present its entire case before the trier of facts]. Cf. Civil Code §3528 [denying request based on procedural error improperly elevates form over substance] The Appellate Court arbitrarily denied taking judicial notice of the Court's prior order reopening briefing on another of Ryal's motions (for Ryal) which was prejudicial because it supported the fact the court was bias and favoring Ryal. The Appellate Court also stated I waived my argument because it said I failed to argue I attempted to have my opposition considered in the argument section of my brief. This was another mistake of fact. See *Barker v. Wingo*, 407 U.S. 514, 525-26 (1972) ["Courts should indulge every reasonable presumption against waiver"]. I petitioned for rehearing and identified where my arguments were and identified the error by applying waiver but the Appellate Court failed to grant rehearing. See (Appendix:P p.170). The Appellate Court further suggested that I should have sought a continuance after the trial court denied me the opportunity to submit my opposition, but this ignores that the denial itself deprived me of a meaningful

opportunity to be heard, in violation of federal due process. (Appendix:O p. 124 ln. 25-26).

I showed that I was deprived by the state a protected interest in property and was provided inadequate state process. See *Zinermon v. Burch,* 494 U.S. 113, 125, 10 S. Ct. 975, 108 L. Ed. 100 (1990) [procedural due process violations happens when the deprivation occurs and the court fails to provide due process]; *In re Murchison* (1955) 349 U.S. 133, 136 [99 L. Ed. 942, 946, 75 S. Ct. 63 [It is axiomatic that "[a] fair trial in a fair tribunal is a basic requirement of due process"] The Appellate Court erred by stating my due process rights were not violated and its findings are not supported and contrary to the record and had it considered the evidence, a different judgment would have resulted and I was prejudiced by the taking of property without due process of law. See *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 70 S.Ct. 652, 94 L. Ed. 865 (1950) [right to adequate notice and a hearing]. I was to be afforded sufficient notice the court was going to proceed without me and notice the court would close briefing if I did not appear on 9/12/22 when it proceeded without jurisdiction and sufficient notice before the status conference the court would allow oral argument regarding the motion (Appendix:E) it had already decided on 9/12/22 (Appendix:B) without jurisdiction. Sufficient notice is not notice provided after the 9/12/22 hearing or at the 9/19/22 status conference after I recused the judge. *Memphis Light, Gas & Water v. Craft,* 436 U.S. 1, 14 98 S. Ct. 1554, 1563 56 L. Ed. 2d 30 (1978), it is stated that "to comply with due process, notice must "appraise the affected individual of, and

permit adequate preparation for, an impeding hearing." Here, at the 9/19/22 status conference to determine jurisdiction, the court stated it would hear oral argument during the status conference. I requested to have my opposition filed submitted and considered and the court refused and entered judgment.(Appendix:O p. 124 ln. 25-26). *Bricker v. Superior Court* (2005) 133 Cal.App. 4th 634, 639 [35 Cal.Rptr. 3d 7] [superior court judge violated a party's due process rights during a readiness conference by *sua ste* dismissing an appeal]; *Moore v. California Minerals, etc. Corp.* (1953) 115 Cal.App. 2d 834, 837 [252 P. 2d 1005] [the court violated the parties' due process rights by *sua sponte* granting judgment on the pleadings.]; *Estate of Buchman* (1954) 123 Cal.App. 3d 546, 560 [failed to give notice that hearing would encompass the issue and refused an opportunity to present evidence on that issue]; *World Wide Volkswagen Corp. v. Woodson,* (1980) 444 U.S. 286, 291 [judgment rendered in violation of due process is void.] Here, on 9/19/22, at a status conference, the court *sua sponte* made a decision on decisive issue without giving me adequate notice violating my constitutional rights to due process. The procedure here was not fair. I was prejudiced because all the evidence was in my favor including the fact that I already had a final judgment awarding me the homestead (Appendix:I p.76) and had the court allowed me to submit my opposition, a different judgment would have resulted. Respondent did not even address these issues. (Appendix:U p. 313)

Because the Appellate Court erred by stating my constitutional rights to due process of law under the 14th Amendment to the Constitution were not violated

when the court failed to provide me adequate notice and a hearing at a meaningful time and place, review is necessary to secure uniformity in decision and to correct the constitutional violation that occurred when my Constitutional right to Due Process was violated and prevent a miscarriage of justice that occurred in this case.

CCP §430.90(A)(2) applies to All removed Actions

The Appellate Court stated §430.90(A)(2) only apply to the initial summons and complaint and if it did apply. However, nowhere in the statute, does it limit tolling to the initial summons and complaint. This was error and it denied me Due process and Equal Rights to the erroneous application of §430.90(A)(2) by not tolling my responsive pleading to 30 days after the remand order and instead I was treated differently than those similarly situated in an equal manner. I posit that the Appellate Court erred by stating it did not apply.

The Appellate Court failed to cite a single case supporting that §430.90(A)(2) does not apply to all removed actions. (Opinion:9). It also did not go into the statutory construction and the purpose of §430.90(A)(2) or state its reasons why it did not apply. On the other hand, I cited numerous cases finding §430.90(a)(2) tolling applying to cases that were not the initial summons and complaint. For example, see *Peoples Trust & Sav. Bank v. Humphrey,* 451 N.E. 2d 1104, 1109 (Ind.Ct.App. 1983) (finding removal of action to federal court tolled ten-day time limit to apply for change of venue and stating that "tolling the time period eliminates uncertainty, preserves the status quo, and is easily applied.); *Jatczyszyn v. Marcal Paper Mills, Inc.* 422 N.J. Super, 123, 27 A. 3d 213 (2011) (concluding

that discovery period established by state court rules is tolled during the time a motion to remand is pending before the federal court).*Gen. Elec. Credit Corp. v. Smith*, 484 So. 2d 75 (Fla Dist. Ct. App. 1986) (holding the time for filing appeal was tolled during period when case was removed to federal court). None of the above cases were initial complaints. (Appendix:Q p. 247-250).

Because the Appellate Court erred as a matter of law stating §430.90(A)(2) only applies to initial complaints when there is no such language in the statute that limits it to initial complaints, review should be granted to provide guidance to the lower courts as to whether the tolling statute 430.90(A)(2) applies to all removed actions and the correct the constitutional violations to prevent a miscarriage of justice.

The Appellate Court Abused its Discretion by Applying the Forfeiture Doctrine

The forfeiture doctrine did not apply to issues of law on appeal to determine whether the Court improperly applied California homestead law under CCP §704.710(c) and whether CCP §704.720(d) applied to an ex-spouse when there was no community property left to divide because it had already been divided regardless of the unenforceable language added to the Judgment (Appendix G) without mutual assent. I posit the Appellate Court abused its discretion, arbitrarily applied forfeiture and its decision is contrary to precedent resulting in a manifest miscarriage of justice and prejudice to me by depriving me with property without due process of law and having the error corrected because Ryal was not eligible or entitled to a portion of my homestead. The errors I complained of showed the error

was manifest and was truly of constitutional dimensions therefore I satisfied appellate review for issues raised for the first time on appeal. Regardless of my showing, the Appellate Court (Opinion:10) stated my arguments that Ryal was not entitled to a portion of my homestead because it was my separate property and I alone was living in the property were forfeited citing *In re Javier G.* (2006) 137 Cal. App. 4th 453, 464 (Appendix:A:10) although my arguments were part of the record so there was no prejudice and the issues I brough were issues of law. For example, in Ryal's Declaration attached to his motion (Appendix:E) he stated at para 12 p. 3 that I claimed "he was not entitled to any homestead became he had no interest in the property." "Ms. Richards claimed homestead exemption under automatic homestead section 704.710) and "because Mr. Richards had no further interest in the property and because he had not resided there for more than four years, he had no basis upon which to assert a homestead."

In the supplemental briefing—and again in my petition for review (Appendix U)—I cited multiple binding California Supreme Court decisions that the Court of Appeal was constitutionally required to follow, each confirming that forfeiture did *not* apply." *In re Karla C.*, 186 Cal.App. 4th 1236 (2010) [Issues of law not subject to forfeiture and can be reviewed for the first time on appeal];*Canaan v. Abdelnour*, 40 Cal. 3d 703, 221 (1985) [discretion if important legal questions involved]; *Hale v. Morgan* (1978) 22 Cal. 3d 388, 394 ["forfeiture rule is not automatic"] *Ward v. Taggart* (1959) 51 Cal. 2d 736 ["litigant may raise for the first time on appeal a pure question of law. .."]; *Fischer v. City of Berkeley* (1984) 37 Cal. 3d 644, 654 fn. 2

[same]; *People v. Butler* (2003) 31 Cal. 4th 1119, 1130 [forfeiture should not apply when it would be incompatible with the fundamental purpose of a statutory scheme]; *In re Sheena K.* 55 Cal. Rptr. 3d 716 (2007) [obvious legal error correctable is not subject to forfeiture] cf. *Putnum Sand & Gravel Co. v. Albers* (1971) 14 Cal.App. 3d 722, 726 fn. 4 ["Homestead laws are founded upon considerations of public policy" and "this policy applies . . .only if the judgment debtor actually resides in the property." Citing *Webb v. Trippet* (1991) 235 Cal.App. 3d 647, 651 [704.710 delineates the basis for the court's jurisdiction to award the homestead and *the Legislature did not go through the trouble of adopting such a carefully designed and comprehensive scheme only to permit court's under auspices of forfeiture simply because a party did not object*] 704.710 (c) states the party must reside in the property continuously."](emphasis added)(Italics added); *People v. Taylor* (2010) 48 Cal. 4th 574, 630 fn. 13 [rejecting forfeiture if substantial rights were affected]; *In re D.C.* (2006) 137 Cal.App. 4th 279 [forfeiture inappropriate for purpose of defeating an inquiry into [application] of statute."] cited by *Davis Boat and Smiths*, (2023) 95 Cal.App. 5th 660. Here my substantial rights were affected when the Court awarded half of my homestead to Ryal who was not my spouse, had not lived in the property for over four or five years, there was no community property left to divide (Appendix:F) therefore forfeiture did not apply. The Court incorrectly applied the homestead statutes and the Appellate Court arbitrarily applied forfeiture. *People v. Franco* (2009) 180 Cal.App. 4th 713, 719, stating forfeiture does not apply if the lower court incorrectly applied the law; *People v. Mitchell* (2019) 7 Cal. 5th 561, 579,

580 [failure to object does not result in forfeiture of a claim that . . . violated due process or other substantial rights]; *People v. Frandsen* (2019) 33 Cal. App. 5th 1126, 1154 [finding no forfeiture because a court's decision was foreseeable; *United Services Auto Asn v. Dalryample* (1991) 232 Cal.App. 3d 182 stating "A party does not waive legal errors by failing to respond.]

By applying forfeiture, the Appellate Court abused its discretion in an unreasonable, arbitrary and unconscionable manner especially because the Court had no jurisdiction or authority to award the homestead to Ryal and after it violated my constitutional rights to due process of law.

In requesting rehearing, I also brought up the fact that in 2022, *Haley v. Antunovich* (2022) 76 Cal.App. 5th 923, 930, 291 Cal. Rptr. 3d 835 rejected the application of forfeiture for failing to raise that the trial court improperly construed a statute because the court had discretion to decide the issue on appeal as it presented a question of law. Citing *Howitson v. Evans Hotel, LLC*, 81 Cal. App. 5th 475, 297 (2022). (RJN:21) Further, in *Baldwin v. United States*, 140 S. Ct. 690, 206 L.Ed.2d 231(Mem) (2020) citing *United States v. Mead Corp.* , 533 U.S. 218, 241, 121 S.Ct. 2164, 150 L.Ed.2d 292 (2001) (Scalia, J., dissenting) stating ["[t]o the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms . . .". The meaning of a statute was considered a question of law and recognized as much in *Trust of Bingham v. Commissioner* , 325 U.S. 365, 65 S.Ct. 1232, 89 L.Ed. 1670 (1945), writing that

questions about "the meaning of the words of [the statute]" were "questions of law," *id.* , at 371, 65 S.Ct. 1232. The Supreme court went onto state it's ". . . the court's duty to interpret statutes on an equal footing with its duty to interpret the Constitution, . ." Here, the Appellate Court disregarded its constitutional duty by applying forfeiture in direct contravention of controlling law, even though the validity of the homestead exemption turned on statutory interpretation of the California homestead statutes

Here, the homestead is a right which is provided by California law and the Legislature may define the nature of the privilege. The California Legislature in this state has provided rules governing homesteads. See *Rich v. Erwin,* (1948) 86 Cal. App. 2d 386, 390, 194 P. 2d 809 ["[T]he homestead is not a technical one in the legal sense, until the required formalities have been complied with (13 Cal.Jur. 413)" ". . .The provisions relating to the acquisition of a homestead are construed to be mandatory. (Citation)"] Pursuant to *Tarlesson v. Broadway Foreclosure Investment, LLC* 184 Cap. App. 4th 937 [continuous residency is the deciding factor] (RJN:8:53). I alone had been living in the property continuously which entitled me to the homestead under §704.710(c). Ryal brought up the fact that the FLC issued a writ of possession to him, however, the bankruptcy court stayed it and he did not appeal. He also cannot claim he is wronged by it after consenting to it. Civil Code 3515. Furthermore, under §710.720(d) it specifically states the word "community" which under statutory construction means there must be community property left to divide. See *California Teachers Assn. v. San Diego Community College Dist.*, 170

Cal.Rptr. 817, 28 Cal.3d 692, 621 P.2d 856 (Cal. 1981) [In construing a statute, we begin with the fundamental rule that we must determine the intent of the Legislature to effectuate the purpose of the law]. Because there was no community property left to divide because we divided it when we globally settled the divorce. (Appendix:F), §710.720(d) did not apply. Whether Ryal was entitled to a portion of my homestead depended on the interpretation of §704.710(c) and §710.720(d). Therefore, it was an abuse to apply forfeiture.

Furthermore, the Court made no findings that Ryal continuously resided or had an intent to reside to support its order granting Ryal's motion pursuant to the homestead statutes and the "Legislature has deemed it proper to require each and every of these things to be necessary." Its liberal construction in favor of Ryal does not give the Court a license to rewrite the California Legislature's scheme. The court also did not state which statute it relied in granting Ryal's motion. Ryal did not argue in his motion he was entitled to a portion of my homestead pursuant to §710.720(d) instead he argued he was entitled pursuant to the Judgment (Appendix:G)

I argued that based on the property division in the Stipulation (Appendix:F), the homestead was my separate property and Ryal was a creditor and who would get paid out of my bankruptcy case. Ryal did not dispute that I continuously resided in the property and there was no evidence to rebut my claim. In fact, Ryal's declaration attached to his motion (Appendix:F) he admitted he did not reside continuously in the property and had no intend to return and no evidence was

entered into the court at the hearing. *Coyne v. Krempels*, 36 Cal.2d 257, 223 P.2d 244 (Cal. 1950) [insufficient affidavit is not sufficiently to establish judgment]. The overwhelming objective evidence suggested he did not show residence upon the premises within the meaning of the homestead law. Continuous residency as well as the intention to reside were both elements to be considered in determining actual residence and the court was not bound to accept his arguments especially when other facts were inconsistent with such intention. See *Ellsworth v. Marshall*, 16 Cal.Rptr. 588, 196 Cal. App. 2d 471, **475** (1961) [court not bound to accept statements when other facts were inconsistent]. The Court made no determination as to whether Ryal intended to continue to reside therefore it incorrectly applied California law to the relevant facts. The motion was improperly granted. Further, the automatic homestead from my forced bankruptcy sale was only available when a party had continuously resided in the property. See *In re Mulch*, 182 B.R. 569, 527 (Bankr. N.D. Cal. 19 citing *Webb v. Trippet*, supra, 235 Cal.App. 3d 647, 651[holding continuous residence is required to prove entitlement]. The Court should have been compelled by the statutory language and Legislative history which would have concluded Ryal was not entitled to a portion of my homestead based solely on §704.720(d) because neither the plain language of the statute nor the case law supports the argument. "The statutory definition of homestead provided in section §704.710 requires only that the judgment debtor reside in the property as him or her principle dwelling ...and continuously thereafter until the court determines the dwelling a homestead §710.740(c)." See *Tarlesson v. Broadway*

Foreclosure Inv. LLC, 184 Cal.App. 4th 931, 109 Cal.Rptr. 3d 319 (2010). I was entitled to the homestead because I alone was living in the property. See *Hoechst Celanese Corp. v. FTB* (2001) 25 Cal. 4th 508, 528 [continuously living in the property until date determined homestead. The homestead exemption from a forced sale is limited by statute §704.710 (c) restricting the court's jurisdiction to award it.] (Appendix:A) The court had no jurisdiction or authority to award a portion of my homestead to Ryal. See California Constitution article XX, section 1.5. Cf. *Tarlesson v. Broadway Foreclosure Inv. LLC*, 184 Cal.App. 4th 931, 109 Cal.Rptr. 3d 319 (2010) [discussing Article XX, Section 1.5 and the limitations of Section §704.740(a) and §704.710(c)]

In *Taylor v. Madigan, supra*, 53 Cal.App.3d 943, 126 Cal.Rptr. 376, **387**, it discussed that the statutory provisions affecting the homestead are primarily located in Article 4 (704.710-704.850). Article 4 provides for "an automatic homestead. The automatic homestead in Article 4 confers different rights. A debtor must have Article 4 rights. Ryal was not entitled to the benefits of Article 4, the automatic homestead that can only be claimed by a debtor who resides in the homestead continuously. See *In re Anderson*, 824 F. 2d 754 (9th Cir. 1987) [describing differences between Article 4 and 5]. "The automatic homestead is available when a party has continuously resided." See *In re Mulch*, 182 B.R. 569. From the forced bankruptcy sale, my exemption was claimed under §704.720 and pursuant to §704.710(c) continuous residency was required. In *Mwangi v. Wells Fargo Bank. N.A.*, 764 F. 3d 1168 (9th Cir. 2014) the court stated that after "no

objection to a debtor's claimed homestead, the property is exempt and passes immediately to the debtor." Ryal seems to think that the property was not divided until it was sold which was absurd. Our Stipulation specifically stated the property "shall" be divided as follows. (Appendix:F). Further, the California Legislature inherently requires a non-resident debtor seeking a homestead exemption has community property left to divide with is former spouse in order to utilize §704.720(d). See Cal. Bill Analysis Assembly Comm. S.B. 433 (2007).

Ryal' failure to act within the objection period in my bankruptcy which deadline was 30 days after my 341 meeting held on 10/15/21 on 11/14/21. See FRBP 4003(b)(1); cf. *Gebbhart v. Gaughan*, 621 F. 3d 1206, 1210 (9th Cir. 2010) ["the effect of an exemption is that the debtor's interest in the property is withdrawn from the estate (and hence from creditors) for the benefit of debtor"). The homestead passed out of my bankruptcy to me and only I was entitled to possession and control of the funds. Ryal had no authority to challenge it in the Family Law Court. See *Taylor v. Freeland & Kronz*, 503 U.S. 638, 112 S. Ct. 1644, 118 L. Ed. 2d 280 (1992) [failing to object precludes any creditor from later challenging Debtor's claimed homestead]. Even if my declared homestead was more than I was entitled to, the Supreme Court indicated my exemption was dispositive once the deadline to object expired. See *Schwab v. Reilly*, 560 U.S. 700 (2010). The error here was obvious and prejudicial affecting my substantial rights by the loss of a portion of my homestead when the court had no authority under California law to award it to Ryal.

Review is therefore necessary to not only secure uniformity in decisions but also to correct the abuse of discretion and jurisdictional defect and prevent a miscarriage of justice.

The Judgment is void as a Matter of Law and Does Not conforms to the Stipulation and the Should be Corrected

The Judgment (Appendix:G) violates my constitutional rights to due process under the 14th amendment, violates public policy (Civil Code 1668) and is an enforceable judgment and cannot be used to find the property to be community and Ryal's entitlement to an equal division of proceeds. (Appendix:P p. 165-167 & 181-187). The Court lacked jurisdiction to change the division of property. The Appellate Court stated both documents state the property is community and an equal division of the proceeds. This is false. The Stipulation (Appendix:F) rebuts that interpretation. The Stipulation states "the property shall be divided" giving Ryal a negotiated sum of $450,000 plus offsets. Equal division over the appraised value of $1,250,000 was rejected. At page 8 of the Stipulation it is not checked and conflicts with page 3 considered and rejected. Shall as stated, *supra* means mandatory not discretionary. See *Taylor v. Madigan, supra*, 53 Cal.App. 3d 943, 126 Cal. Rptr. 376, 381 (1975). In *Bradley v. Superior Court* (1957) 48 Cal. 2d 509, 518-519 [310 P. 2d 634] the Court stated that: "[N]either the court nor the Legislature may impair the obligations of a valid contact [citation] and the court cannot lawfully disregard the provisions of such contract or deny to either party his rights thereunder [citation]" Id. p. 519. Here, I was denied my rights under the Stipulation. "The obligations of a contract is "the law which binds the parties to perform their agreement. See *Sturges*

v. Crowinshield 4 Wheat US 122, 197, 4 L.Ed. 529, 549 (1819)" I never signed or agreed to the changes made in the Judgment and it was subject of collateral attack because it is void. Ryal's attorney drafted it and any dispute over the language must be against him who creating it. Pursuant to *Ames v. Paley* (2001) 89 Cal.App. 4th 668, 672-674, 107 Cal.Rptr. 2d 515 [judgment entered by trial court did not match the terms of settlement, can seek relief under section 473(d) to correct the judgment to conform to the intended settlement terms.] In briefing (Appendix:Q p. 220-222), I specifically identified what did not conform. It showed no equal division and no community property language. The Appellate Court's interpretation cannot be supported and cannot stand. In *In re Marriage of Campell* (1999) 74 Cal.App. 4th 1058, 1062, stated under section 852, "[a] transmutation of property is not valid unless made in writing by an express declaration that is made, joined in, consented to, or accepted by the spouse whose interest in the property is adversely affected." (Underlining added). The Judgment (Appendix:G) was not an express declaration made, joined in, consented to, or accepted by me, therefore the changes made are not valid.CF *Bailard v. Marden,* 36 Cal. 2d 703, 708 [same]; For a transmutation of property to be valid it must be in writing by express declaration, joined in and consented to by the [ex]spouse whose interest in the property is adversely affected. It was error for the court to have stated the property was community after joint tenancy was severed.

Moreover, the Court erred by failing to find that joint tenancy had been severed by express declaration of the parties when we entered into the Stipulation.

(Appendix:F). See *Estate of Asvitt*, 154 Cal. Rptr. 713 (1979) [joint tenancy severed by express declaration]; cf. *Estate of Seibert*, 276 Cal.Rptr. 508 (1990) ["the instrument of termination in a court stipulation by the parties ... the factor of joint tenancy deed remaining of record is of no moment, joint tenancy was terminated."]

My timely Motion to vacate and correct the Judgment has never been heard and ruled on and I was deprived due process and equal protection under the law in this matter to present my defense against the granting of the motion that was prejudicial because Ryal was not entitled to the homestead based on the judgment (Appendix:G)

CONCLUSION

For the reasons stated above, the court should grant this petition for writ of Certiorari to review the clear manifest miscarriage of justice and prejudicial error.

Respectively submitted,

Dated: 2/4/26

By:_____
ALICIA MARIE RICHARDS
Petitioner in pro se

VERIFICATION

State of California, County of Santa Ana:

I, Alicia Marie Richards, declare that:

I am the Petitioner in this matter. My address is 1133 Camelback Street, #7842, Newport Beach, California 92658. I make this verification on my behalf for the reason that the facts alleged therein are within my personal knowledge. I have read the foregoing petition, and I know the contents thereof to be true as based upon my representation. I declare under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on this 4th day of February, 2026, at Newport Beach, California

By: _____
ALICIA MARIE RICHARDS