Supreme Court, U.S.
FILED
JUL 23 2026
OFFICE OF THE CLERK

No. 26-249

In The

Supreme Court of the United States

RANDY QUAID AND EVGENIA H. QUAID,
Petitioners,

v.

CRAIG GRANET; R. SCOTT TURICCHI; LANNETTE TURICCHI; FIDELITY NATIONAL TITLE INSURANCE COMPANY; JAMES HEPWORTH; SUSAN WILLIAMS; BRUCE BERMAN; TONY DAVIS, IN HIS OFFICIAL CAPACITY; COUNTY OF SANTA BARBARA,
Respondents.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Ninth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

California's litigation privilege protects communications made in judicial proceedings. California's Supreme Court has also held that the privilege does not bar claims based on independent, antecedent, noncommunicative wrongful conduct undertaken to gather evidence for litigation. *Kimmel v. Goland,* 51 Cal. 3d 202 (1990). The same court has explained that the threshold inquiry is the claim's "gravamen": if the injury arises from a protected litigation communication, the privilege applies; if an independent noncommunicative wrongful act is the gravamen, it does not. *Rusheen v. Cohen,* 37 Cal. 4th 1048 (2006); *Jacob B. v. County of Shasta,* 40 Cal. 4th 948 (2007).

Petitioners alleged that restricted law-enforcement database material—including criminal history, warrant-status, mug-shot, and jail-record information—was accessed, retrieved, received, possessed, and routed from a sheriff/prosecutor channel to private civil counsel for an unofficial private civil-litigation purpose, without subpoena, discovery request, court order, or law-enforcement purpose. The Ninth Circuit nevertheless held that Petitioners' privacy claims "all stem" from obtaining and later disclosing those records in a judicial proceeding and affirmed dismissal with prejudice because amendment would be futile under California Civil Code section 47(b).

The question presented is:

Whether a federal court, at the Rule 12(b)(6) and Rule 15 futility stages, may apply California Civil

Code section 47(b)'s litigation privilege as a categorical bar to amendment of privacy claims directed to alleged antecedent unauthorized access, retrieval, acquisition, receipt, and possession of restricted law-enforcement database material, solely because that material was later used in a judicial proceeding.

LIST OF PARTIES

Petitioners are Randy Quaid and Evgenia H. Quaid.

Respondents are Craig Granet; R. Scott Turicchi; Lannette Turicchi; Fidelity National Title Insurance Company; James Hepworth; Susan Williams; Bruce Berman; Tony Davis, in his official capacity; and the County of Santa Barbara.

No petitioner is a corporation.

RELATED PROCEEDINGS

United States District Court for the Central District of California:
Quaid v. Granet, et al., No. 2:24-cv-03455-MRA-JPR. Order granting motions to dismiss without leave to amend and declaring Petitioners vexatious litigants entered January 3, 2025. Amended order dismissing Reggie Serrano without prejudice, denying reconsideration, and awarding costs entered February 12, 2025.

United States Court of Appeals for the Ninth Circuit:
Quaid v. Granet, et al., Nos. 25-270 and 25-1026. Memorandum disposition entered May 13, 2026. Petition for panel rehearing and rehearing en banc denied June 15, 2026.

Related state proceedings:
Turicchi v. Quaid, Santa Barbara County Superior Court No. 19CV06268; California Court of Appeal, Second Appellate District, Division Six, No. B346952.

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The Ninth Circuit's memorandum disposition is unpublished. It is reproduced at Pet. App. A.

The district court's February 12, 2025 amended order dismissing defendant Serrano without prejudice, denying reconsideration, and awarding costs is reproduced at Pet. App. B.

The district court's January 3, 2025 order granting motions to dismiss without leave to amend is reproduced at Pet. App. C.

The Ninth Circuit's order denying panel rehearing and rehearing en banc is reproduced at Pet. App. D.

JURISDICTION

The Ninth Circuit entered its memorandum disposition on May 13, 2026. Petitioners timely sought panel rehearing and rehearing en banc. The Ninth Circuit denied rehearing on June 15, 2026. Pet. App. D. This petition is timely under Supreme Court Rule 13.3 because the time to petition for certiorari runs from the denial of rehearing. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Federal Rule of Civil Procedure 12(b)(6) permits dismissal for "failure to state a claim upon which relief can be granted."

Federal Rule of Civil Procedure 15(a)(2) provides that courts "should freely give leave [to amend] when justice so requires."

California Civil Code section 47(b) provides, in relevant part, that a privileged publication or broadcast is one made "[i]n any ... judicial proceeding."

California Civil Code section 1798.53 provides a civil invasion-of-privacy remedy for intentional disclosure of nonpublic information that the disclosing person knows or reasonably should know was obtained from state-agency records, subject to the statutory terms and limitations.

California Penal Code sections 11141–11143 restrict unauthorized furnishing, receipt, and possession of state summary criminal-history information.

STATEMENT OF THE CASE

This case arises from alleged access to restricted law-enforcement database material and the routing of that material to private civil counsel for use in related state civil litigation.

Petitioners Randy Quaid and Evgenia H. Quaid filed this federal action after learning that criminal-history and arrest-related material concerning them had allegedly moved from a law-enforcement database channel into private civil litigation. The operative First Amended Complaint alleged that Reggie Serrano, acting in his capacity as an employee of the Santa Barbara Sheriff's Department, accessed Petitioners' criminal-history and arrest records, including mug shots, warrant status, and jail inmate records; disseminated those records to Assistant District Attorney Anthony Davis; and that Davis then circulated the information to Craig Granet, private counsel for the Turicchis in related state civil litigation. FAC ¶¶ 27–29.

The FAC further alleged that defendant James Hepworth communicated and acted in concert with Serrano, Davis, and Granet to elicit sealed, non-public information on Petitioners, and that Serrano, Davis, Granet, and Williams maintained direct lines of communication to discuss Petitioners' criminal-history and arrest records. FAC ¶¶ 13, 44–45.

Petitioners asserted privacy-related claims, including invasion of privacy, public disclosure of private facts, conspiracy to invade privacy, and related claims. They alleged that the wrong was not merely a court filing. The wrong was the antecedent access, retrieval, receipt, possession, and routing of restricted law-enforcement database material for an unofficial private civil-litigation purpose.

The district court dismissed the operative complaint without leave to amend. The court acknowledged the pleaded Serrano-to-Davis-to-Granet chain. It summarized that Serrano accessed Petitioners' criminal-history and arrest records, disseminated them to Davis, and that Davis circulated the information to Granet. Pet. App. C. But the court then treated the records as "obtained, shared, and submitted" in connection with the state proceedings and held the privacy claims barred by California's litigation privilege, Civil Code section 47(b). Pet. App. C. The court denied leave to amend.

The Ninth Circuit affirmed. It held that Petitioners' claims against the Turicchi defendants, Fidelity defendants, and Williams were barred by the litigation privilege because the claims "all stem" from defendants obtaining Petitioners' criminal-history records and disclosing them in a judicial proceeding. Pet. App. A. It further held that amendment would be futile because additional facts would not overcome the absolute privilege. Pet. App. A.

Petitioners sought panel rehearing and rehearing en banc, arguing that the panel had collapsed antecedent database misuse into later litigation communication. The Ninth Circuit denied rehearing. Pet. App. D.

This petition is limited. Petitioners do not seek review of the Government Claims Act ruling as to the County defendants, the Rule 4(m) dismissal of Serrano, the Berman slander-of-title dismissal, the vexatious-litigant order, or the fee award. The question presented concerns the litigation privilege and futility rulings as applied to privacy claims or amendment theories directed to antecedent database access, receipt, possession, and routing.

REASONS FOR GRANTING THE PETITION

I. The Ninth Circuit collapsed the pleaded antecedent database misconduct into later litigation use.

The decision below rests on a categorical conflation. The Ninth Circuit stated that Petitioners' privacy claims "all stem" from defendants obtaining criminal-history records and disclosing them in a judicial proceeding. Pet. App. A. On that basis, it held that the claims were based on a communicative act and barred by California's litigation privilege.

But Petitioners' pleaded injury did not begin with a court filing. The operative FAC alleged an antecedent chain: restricted law-enforcement database material was accessed by a sheriff's employee, disseminated to a prosecutor, and circulated to private civil counsel. FAC ¶¶ 27–29. It further alleged communications and concerted conduct concerning the records among private and public actors. FAC ¶¶ 13, 44–45.

At the Rule 12(b)(6) stage, those well-pleaded factual allegations had to be accepted as true and the complaint assessed for plausibility, not proof. *Ashcroft v. Iqbal,* 556 U.S. 662, 678–79 (2009). The question was not whether Petitioners had proven the allegations. Nor was it whether the later court filing itself could be privileged. The question was whether the litigation privilege also made amendment categorically futile as to an alleged earlier privacy/statutory injury: unauthorized access, retrieval, receipt, possession, and routing of restricted law-enforcement database information before any protected judicial filing.

The panel did not separately analyze that antecedent conduct. Instead, it treated "obtaining" and "disclosing" as one litigation communication. That is the error requiring review.

II. The decision conflicts with the California Supreme Court's gravamen distinction and expands the litigation privilege beyond its stated limits.

California's litigation privilege is broad, but California's Supreme Court has not made it boundless. The controlling distinction is the claim's gravamen.

In *Kimmel v. Goland*, 51 Cal. 3d 202 (1990), the California Supreme Court held that the litigation privilege did not bar claims based on unlawful recording of confidential communications to gather evidence for future litigation. The Court recognized that later litigation use of information may be privileged, but the antecedent unlawful evidence-gathering act was independently actionable.

That principle is not incidental. *Kimmel* expressly rejected the notion that unlawful evidence gathering becomes privileged simply because the wrongdoer intended to use the information in litigation. The Court gave the example of a litigant burglarizing another person's home to obtain evidence for litigation.

The later evidentiary use would not immunize the burglary. That example marks the boundary at issue here: a litigation purpose may explain why the information was sought, but it does not convert an independently unlawful acquisition into protected advocacy.

This case presents the same structural problem in modern form. Petitioners alleged that restricted law-enforcement database material was accessed and routed from a sheriff/prosecutor channel into private civil litigation without subpoena, discovery request, court order, or law-enforcement purpose. If later filing the material in court immunizes the entire prefiling database route, the litigation privilege would swallow the very distinction *Kimmel* preserved.

Rusheen v. Cohen, 37 Cal. 4th 1048 (2006), does not compel a different result. *Rusheen* applied the privilege where the abuse-of-process claim was based on a communicative act: filing allegedly false declarations of service to obtain a default judgment. Later noncommunicative enforcement steps were privileged only because they were necessarily related to that protected communicative act. *Rusheen* thus confirms, rather than rejects, the gravamen inquiry. It states that unless an independent noncommunicative wrongful act is the gravamen, the privilege applies. Here, Petitioners alleged precisely such an independent antecedent act: unauthorized access, retrieval, receipt, and possession of restricted database material before the later filing.

Nor does *Jacob B. v. County of Shasta*, 40 Cal. 4th

948 (2007), foreclose Petitioners' theory. In *Jacob B.*, the California Supreme Court held that a privacy claim was barred where the alleged injury arose from a letter submitted in a family-law proceeding. The plaintiff there did not contend that the underlying database access itself was unlawful. The gravamen was the privileged court-filed letter.

This case is different. Petitioners did contend that the access itself was unauthorized. The alleged wrong was not merely that confidential information appeared in a court file. The alleged wrong was that restricted law-enforcement database material was accessed, retrieved, received, possessed, and routed into private civil litigation without lawful process or official purpose.

The Ninth Circuit's unpublished disposition treats *Jacob B.* as though it erased *Kimmel.* It did not. *Jacob B.* applies where the gravamen is the court communication. *Kimmel* applies where the gravamen is antecedent unlawful evidence gathering. *Rusheen* requires the court to identify the gravamen before applying the privilege. The decision below skipped that step.

III. The issue is important because the decision creates a route for restricted law enforcement database material to be routed into private civil litigation without judicial process.

The question presented is important beyond these parties.

Law-enforcement databases contain sensitive information that private civil litigants ordinarily cannot access at will. Criminal-history, warrant-status, mug-shot, booking, and jail-record information carry obvious stigma. When such information is routed into private civil litigation, it can alter the character of a civil case even if it has little or no substantive bearing on the elements of the civil claim.

Petitioners alleged that the material here was sought and used in a private civil dispute. It was not alleged to have been obtained through a subpoena. It was not alleged to have been obtained through discovery. It was not alleged to have been obtained by court order. It was not alleged to have been obtained for a law-enforcement purpose.

The point is not merely that sensitive information later appeared in a filing; the CORI statutes and DOJ disclosure materials treat unauthorized furnishing, receipt, possession, and misuse of criminal-history information as independent statutory misconduct, which is why the antecedent database conduct required separate analysis before amendment was declared futile.

If California's litigation privilege can be applied categorically at the pleading stage to bar amendment whenever restricted database material later appears in a court filing, then private litigants and counsel have an incentive to obtain sensitive government records first and invoke privilege later. The privilege would shift from protecting litigation communications to insulating unlawful prefiling acquisition of government-held information.

That result is inconsistent with the purposes of both the litigation privilege and privacy protections. The litigation privilege exists to protect access to courts and candid advocacy. It does not exist to create a safe harbor for unauthorized access to restricted databases.

The Ninth Circuit's decision allows precisely that risk. It did not ask whether the antecedent database access, receipt, possession, and routing could be pleaded as an independent wrong. It instead declared amendment futile because the material was later used in a judicial proceeding. That rule strips meaningful force from the distinction between privileged litigation use and unprivileged unlawful acquisition.

IV. This case is a suitable vehicle because Petitioners seek leave to amend, not liability for a court filing.

This case is a proper vehicle because it arises at the pleading and amendment stages. Petitioners do not ask this Court to decide final liability. They do not ask this Court to hold that any respondent is liable for a privileged court filing. They do not ask this Court to disturb the litigation privilege as applied to ordinary litigation communications.

Petitioners seek a narrower ruling: a federal court may not deny leave to amend as categorically futile under a state litigation privilege without separately addressing alleged antecedent database conduct that the relevant state-law gravamen authorities distinguish from later litigation communication.

That posture matters. The Ninth Circuit did not hold that Petitioners failed to plead a perfect Civil Code section 1798.53 claim. It held that additional facts could not overcome the absolute privilege. Pet. App. A. That futility holding is what this petition challenges. Rule 15 embodies a liberal amendment policy: if the underlying facts may be a proper subject of relief, a plaintiff ordinarily should be afforded an opportunity to test the claim on the merits absent a justifying reason such as undue delay, bad faith, prejudice, repeated failure to cure, or true futility. *Foman v. Davis,* 371 U.S. 178, 182 (1962).

Civil Code section 1798.53 supplies a civil privacy remedy for intentional disclosure of nonpublic information obtained from state-agency records, subject to the statute's requirements. Petitioners' appellate briefs identified that statute as the civil privacy remedy they sought leave to plead more precisely. The question is not whether the original FAC was ideal. The question is whether amendment was necessarily futile once Petitioners alleged the antecedent database chain.

The answer should be no. Petitioners should have been allowed, at minimum, to amend to plead a claim limited to unauthorized database access, retrieval, receipt, possession, and related routing outside law-enforcement channels, while excluding any claim for damages based solely on the later court filing.

The panel's contrary holding foreclosed that possibility at the threshold. That is an error of sufficient importance to warrant review or, at minimum, vacatur and remand.

CONCLUSION

The petition for a writ of certiorari should be granted. The judgment of the Ninth Circuit should be vacated, and the case should be remanded for further proceedings limited to whether Petitioners may amend to plead claims directed to alleged antecedent unauthorized access, retrieval, acquisition, receipt, possession, and routing of restricted law-enforcement database material, distinct from any privileged judicial-proceeding communication.

Respectfully submitted,

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/s/ Evgenia H. Quaid
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DATED: July 22, 2026

Respectfully submitted,

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/s/ Evgenia H. Quaid
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