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No. 26-290

FILED

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SUPREME COURT, U.S.

In the Supreme Court of the United States

MIHAL EMBERTON,
Petitioner,

v.

SUPERIOR COURT OF CALIFORNIA,
SAN FRANCISCO COUNTY, ET AL.,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF CALIFORNIA

PETITION FOR WRIT OF CERTIORARI

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JUNE MMXXVI

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QUESTIONS PRESENTED

1. Whether the privacy deprivation resulting from a government search is determined by lack of visibility (lack of plain view) of the property searched, as this Court has held in *Marshall*, *Ciraolo*, and *Dow*, or by deprivation of the right to exclude others, a fundamental component of property ownership, as this Court has held in *Boyd*, *Mapp*, *Griswold*, *Katz*, *United States v. United States Dist. Court for Eastern Dist. of Mich.*, 407 U. S. 297 (1972), *Horton*, and *Kyllo*.

2. Whether the fact that a government search occurred can be negated by the location of the search or by the type of property seized, as this Court has held in *Marshall*, *Ciraolo*, and *Dow*, or whether the fact that a government search occurred is independent of the location of the search and the type of property seized, as this Court has held in *Boyd*, *Mapp*, *Griswold*, *Katz*, *United States v. United States Dist. Court for Eastern Dist. of Mich.*, 407 U. S. 297 (1972), *Horton*, and *Kyllo*.

PARTIES TO THE PROCEEDING

Petitioner, plaintiff-petitioner below, is Mihal Emberton.

Respondent, and respondent below is the Superior Court of California, San Francisco County. Respondent, and defendant-respondent below, is the City and County of San Francisco.

RELATED PROCEEDINGS

Superior Court of California (San Francisco Cnty):

Mihal Emberton v. San Francisco City Government, (No. CGC-22-601288 (Aug. 27, 2025) (order sustaining demurrer).

Court of Appeal of California (1st App. Dist.):

Mihal Emberton v. Superior Court of the City and County of San Francisco, No. A175551 (Feb. 9, 2026) (petition denied).

Supreme Court of California:

Mihal Emberton v. Superior Court of the City and County of San Francisco, No. S295215 (Mar. 25, 2026) (petition for review denied).

United States District Court (ND Cal.):

Mihal Emberton v. San Francisco City Government, No. 22-cv-05440-TSH (Feb. 15, 2023) (judgment on the pleadings).

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PETITION FOR WRIT OF CERTIORARI

Petitioner Mihal Emberton seeks this Court's intervention to settle an important Fourth Amendment conflict used by trial courts to legalize "unreasonable searches and seizures" that (a) lack trespass, (b) seize knowledge of property, and (c) rely on discretion to violate constitutional provisions, thereby extinguishing Fourth Amendment protections.

OPINIONS BELOW

The order of the Supreme Court of California denying discretionary review is reproduced in the appendix at App. 1. The order of the California Court of Appeal, First Appellate District, is reproduced in the appendix at App. 2. The order of the Superior Court of California, County of San Francisco, is reproduced in the appendix at App. 3-9.

JURISDICTION

The California Court of Appeal's decision was entered on February 9, 2026. The Supreme Court of California denied discretionary review on March 25, 2026. This Court has jurisdiction under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U. S. Const., Amdt. IV:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants [procedural due process] shall issue, but upon probable cause [substantive due process], supported by Oath or affirmation,

and particularly describing the place to be searched, and the persons or things to be seized.

U. S. Const., Amdt. V: "No person shall be deprived of property without due process of law; nor shall private property be taken for public use, without just compensation."

U. S. Const., Amdt. XIV: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor deny to any person within its jurisdiction the equal protection of the laws."

18 U. S. C. § 242:

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.

18 U. S. C. § 1964:

Any person injured in his business or property by reason of a violation of section 1962 of this chapter [it shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise] may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.

42 U. S. C. § 1981

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.

42 U. S. C. § 1982: "All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property."

42 U. S. C. § 1983:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

42 U. S. C. § 1985:

If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

Cal. Civ. Code § 52.1:

Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (b) [If a person or persons, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state], may institute and prosecute in their own name and on their own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b).

Cal. Civ. Code § 654: "The ownership of a thing is the right of one or more persons to possess and use it [dominion] to the exclusion of others [privacy]. In this Code, the thing of which there may be ownership is called property." (Enacted in 1872.)

Cal. Bus. & Prof. Code § 6068:

It is the duty of an attorney (a) To support the Constitution and laws of the United States and of this state; (c) To counsel or maintain those actions,

proceedings, or defenses only as appear to him or her legal or just; (d) To employ those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law; (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest; [and] (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.

Cal. Bus. & Prof. Code § 6106:

The commission of any act involving moral turpitude, dishonesty or corruption, whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or suspension. If the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding is not a condition precedent to disbarment or suspension from practice therefor.

Cal. Evid. Code § 668: "An unlawful intent is presumed from the doing of an unlawful act."

Cal. Evid. Code § 669:

The failure of a person [attorney or enforcement agent] to exercise due care is presumed if: (1) He violated a statute; (2) The violation proximately caused injury to person or property; (3) The injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) The person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted.

Cal. Evid. Code § 669.

Cal. Govt. Code § 815.6: "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty."

Cal. Govt. Code § 822.2: "A public employee acting in the scope of his employment is [] liable for an injury caused by his misrepresentation [when] he is guilty of actual fraud, corruption or actual malice."

Cal. Penal Code § 829.5: Code Enforcement Officers have "enforcement authority for health, safety, and welfare requirements" to conduct constitutional searches and seizures for probable cause of unsafe property and to issue lawful violation notices for evidence of unsafe property. (Emphasis added.)

San Francisco Administrative Code Chapter 80—ANTI-BLIGHT ENFORCEMENT PROCEDURE: "Any thing or condition...that threatens injury or damage to the health, safety, welfare or property of members of the public, that obstructs the free use of property of others or of the public way or commons, or otherwise interferes with the comfortable enjoyment of life or property."

San Francisco Building Code § 102A—Unsafe Buildings, Structures or Property:

All buildings, structures, property, or parts thereof [] that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, safety, or health of the occupants or the occupants of adjacent properties or the public by

reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

San Francisco Building Code § 102A.

STATEMENT OF THE CASE

A. Introduction

San Francisco Code Enforcement, managed by the City Attorney, maintains a categorical deficiency of substantive and procedural due process, establishing a program centered not on the public interest in safety, but on generating income by criminalizing safe property. That program allegedly justifies gratuitous and unlawful mandates for permits, variances, hearings, and abatements despite safe, code-compliant property, irreparably harming the public interest in safe property and civil rights. This corruption not only deprives the public of constitutional rights of substantive and procedural due process and equal protection, but also deprives citizens of fundamental interests in liberty and property (dominion and privacy) without any public benefit from that deprivation. That exploitation condemns citizens as guilty until proven innocent, without any ability to prove innocence—a catastrophic failure of democracy.

B. Statement of Facts

The San Francisco City Attorney manages Code Enforcement (<https://sfcityattorney.org/code/>).¹ The

¹ The Office of the City Attorney coordinates the efforts of the Building, Health, Planning, Public Works, Fire, and Police Departments to identify and respond effectively to health and safety threats and other public nuisance issues in San Francisco's neighborhoods. When a code violation is reported, the Code

purpose of Code Enforcement is to fulfill the public interest in safe property to prevent disease, injury, and death, which is the substantive due process mandatory-provision of the Fourth, Fifth, and Fourteenth Amendments, and Cal. Const., Art. I, § 7. And in order to fulfill the public interest in safe property, Cal. Penal Code § 829.5 endows the City's Code Enforcement Officers with "enforcement authority for health, safety, and welfare requirements," to conduct Constitutional searches and seizures for probable cause of unsafe property² and to issue lawful violation notices for evidence of unsafe property.³

Enforcement Team at the City Attorney's Office responds by coordinating the investigation and abatement process by the relevant city agencies and, when necessary, pursuing additional remedies against violators through court action.

² San Francisco Administrative Code Chapter 80—ANTI-BLIGHT ENFORCEMENT PROCEDURE: "Any thing or condition...that threatens injury or damage to the health, safety, welfare or property of members of the public, that obstructs the free use of property of others or of the public way or commons, or otherwise interferes with the comfortable enjoyment of life or property."

San Francisco Building Code § 102A – UNSAFE BUILDINGS, STRUCTURES OR PROPERTY:

All buildings, structures, property, or parts thereof [] that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, safety, or health of the occupants or the occupants of adjacent properties or the public by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

³ San Francisco Administrative Code § 80.5 prescribes that evidence of unsafe property is a mandatory provision of a violation notice: "Where the Director determines that any condition constitutes a blighted property, the Director shall issue a notice of

However, in 2017, petitioner repaired or replaced a blighted, 4-foot wooden fence along her property line, following local codes regarding blight and sidewalk safety and Cal. Civ. Code § 1714, App. 33–34. A neighbor then filed a music complaint:⁴⁵

violation to the property owner. At the time the notice of violation is issued, the Director shall take one or more photographs of the property showing the blighted conditions... The photographs shall be dated and retained as a part of the file for the violation... The burden of proof to establish that the property is blighted shall be on the City. The owner shall be entitled to present evidence and demonstrate that his or her property is not blighted."

And San Francisco Building Code § 102A further prescribes that evidence of unsafe property is a mandatory provision of a violation notice: "When the Building Official observes or otherwise determines any condition which renders the building, structure or property unsafe, the Building Official shall, within 15 days, serve a Notice of Municipal Code Violation ("NOV") upon the building owner... The NOV shall identify [] the violations which render the building, structure or property unsafe," San Francisco Building Code § 102A.4.

⁴ Removing blight is mandated by San Francisco Administrative Code Chapter 80, San Francisco Public Works Code § 723.2(a), San Francisco Housing Code Chapter 10 § 1001, and San Francisco Building Code § 102A. The addition of safety lighting to enhance nighttime pedestrian safety along the sidewalk is supported by San Francisco Public Works Code Article 15 § 706. The style of the fence to prevent "nuisance," "vegetable matter," "grass," "weeds," and "vegetation overgrowth" from impinging the sidewalk is supported by San Francisco Public Works Code Article 5.1 § 174. The increased visibility and safety of the repaired fence also protects the Ingleside Terraces Landmark Pillars in alignment with San Francisco Planning Code Article 10 § 1008.

⁵ "Everyone is responsible for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property."

The resident at this address has been consistently doing construction and playing loud music from 10am-6pm/7pm most days of the week. I would like to request the music volume be lowered or turned off. I can hear it in my apartment all day.

The City used this music complaint to authorize DBI (Department of Building Inspection), Planning, and DPW (Department of Public Works) to conduct individual, very personal, unlimited in scope, searches for evidence of a crime without consent (or warrant), probable cause, nor any process to appeal the decision to search.⁶ No evidence of unsafe property was identified during these searches. Only evidence of safe (and code-compliant) property was seized from these searches, invoking the no-evidence rule.⁷ The seizure

⁶ Upon asking DPW to participate in an San Francisco Superior Court Alternative Dispute Resolution (ADR) process to appeal Code Enforcement searches and violation notices, Nicolas Huff, DPW Bureau Manager of Street-Use & Mapping, emphasized the categorical deficiency of due process to challenge Code Enforcement searches and violation notices with his June 13, 2022, email reply:

The application of the codes has been long established and isn't open to mediation. If you would like to pursue a legal avenue you can reach out to your representative with the Board of Supervisors for special Major Encroachment legislation. If legislation is not possible you can file for litigation with the City.

⁷ Not only did *Thompson v. Louisville*, 362 U. S. 199 (1960) rule that "[j]ust as 'Conviction upon a charge not made would be sheer denial of due process,'[12] so is it a violation of due process to convict and punish a man without evidence of his guilt.[13]," but also nearly 20 years later *Jackson v. Virginia*, 443 U. S. 307 (1979) upheld "conviction based upon a record wholly devoid of

of evidence of only safe property was falsified to issue legally irrational ⁸, ⁹ violation notices (allegation-

any relevant evidence of a crucial element of the offense charged is constitutionally infirm." no-evidence rule.

⁸ Legally irrational because only evidence of safe property benefiting the public was seized: (Exhibit BB) 57 public signatures attesting:

I am a neighbor of Mihal Emberton and Raelyn Ruppel, who own 201 Ashton Avenue, San Francisco, and I support their repair of the 30-year old, dilapidated, hazardous, 4-foot wooden fence surrounding their front yard as the repairs are architecturally pleasing, decrease crime, improve property values, improve pedestrian safety, and encourage neighbors to spend time outside, participating in community engagement,

(Exhibit AA) 10 written public comments regarding the public benefit of the 2017 repair of the dilapidated 4-ft fence,

(Exhibit AI) oral testimony from 3 members of the public regarding the public benefit of the safe fence for the Planning Department Variance Hearing on July 25, 2018, and

(Exhibit Z) 26 written public comments received up to October 6, 2024, regarding the public benefit of the trellis/arbor including its compliance with Planning's Residential Design Guidelines and the Recreational and Open Space Element of Planning's San Francisco General Plan, an absence of unsafe property, and evidence that the arbor does not obstruct any public right-of-way.

⁹ Legally irrational because the alleged code violations are false: DBI Carl Weaver falsely alleged that San Francisco Building Code § 103A requires a permit to maintain a safe 4-ft fence, when in fact San Francisco Building Code § 103A merely recommends that property adhere to the building code, which our fence does. Planning Ada Tan falsely alleged that our trellis/solarium violates Planning Code § 136 "because the trellis is not attached to the home" and Planning Code § 175 because it does not have a building permit, when in fact (1) the trellis/solarium is credited as "private usable open space" defined and beholden to Planning Code § 135, not § 136, (2) San Francisco Building Code § 106A.2 exempts this open-air structure without a roof from needing a

conviction-sentencing for safe property) mandating gratuitous and unlawful permits, variances, hearings, and abatements without evidence of unsafe property or violation of code,¹⁰ nor any appeal process, condemning citizens guilty until proven innocent with no opportunity to prove innocence causing profound

building permit, and (3) Planning Code § 175 does not create any permit requirement for the trellis/solarium but rather guides Planning in their work. And DPW falsely alleged that the City owns our private property easement (claims themselves that violate CA Building Code, San Francisco Public Works Code, and San Francisco Administrative Code governing sidewalks as well as violate Adverse Possession & Property Law), when in fact, we (and all of the property owners in Ingleside Terraces) own our public utility easement.

¹⁰ (1) ORDERS OF ABATEMENT for safe property, (2) conversion of a private easement to a City-owned unpaved sidewalk leading to nowhere, and (3) extortion of \$165,354.25 for maintaining safe property violate substantive due process (the public interest in safe property), the no-evidence rule, Cal. Penal Code § 871's mandate for dismissal when "no public offense has been committed," San Francisco Planning Code § 101.1's requirement that City decisions comply with the San Francisco General Plan, and Cal. Const., Art. XI, § 7, "A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws," exploiting the innocent.

harm.¹¹ See *Katzberg* referencing *Board of Regents of State Colleges v. Roth*, 408 U. S. 564 (1972).¹²

And the administrative proceedings available (1) lack jurisdiction¹³ to cure unlawful searches and

¹¹ Innocence is a "protected class" as held by this Court in *In re Winship*, 397 U. S. 358 (1970), "that the due process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged," and as established by statute:

(1) Cal. Penal Code § 1096: "A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether his or her guilt is satisfactorily shown, he or she is entitled to an acquittal, but the effect of this presumption is only to place upon the state the burden of proving him or her guilty beyond a reasonable doubt;"

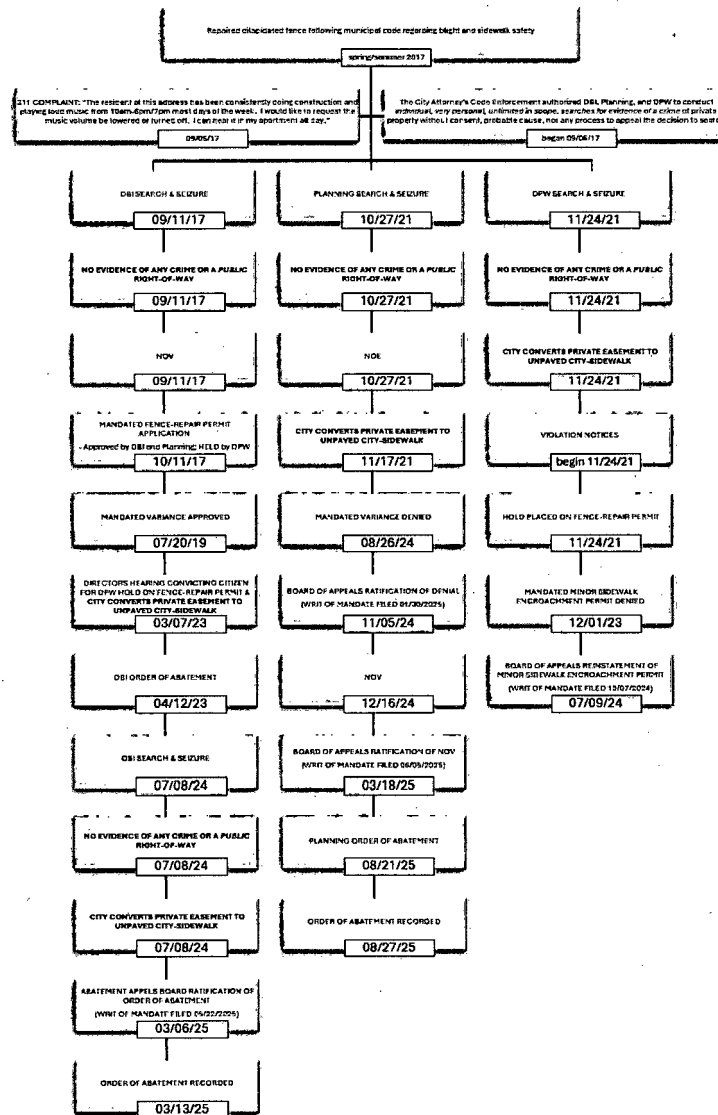
(2) Cal. Penal Code § 871: "If, after hearing the proofs, it appears either that no public offense has been committed or that there is not sufficient cause to believe the defendant guilty of a public offense, the magistrate shall order the complaint dismissed and the defendant to be discharged.""

¹² "[w]here a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential" [Citations.] In such a case, due process would accord an opportunity to refute the charge before University officials." (*Ibid.*) [3] The Court of Appeal stated that it would assume for purposes of analysis that a similar liberty interest exists under article I, section 7(a) of the state Constitution.

¹³ Board of Appeals answers questions about permits and Zoning Administrator decisions, San Francisco City Charter § 4.106, Abatement Appeals Board answers questions about abatements, San Francisco Building Code § 105A.2, and DBI Director's hearings answer questions about why mandated permits remain unresolved, San Francisco Building Code § 102A.5. None of these hearings have jurisdiction to determine if City searches are constitutional nor if violation notices are lawful.

unlawful violation notices, and (2) lack essential elements of a "fair hearing" barring any hope of justice, reinforcing categorical deficiencies of constitutional and ministerial safeguards causing profound harm.

Timeline of Code Enforcement Actions



See App. 35-38.

Because administrative proceedings lack jurisdiction, Cal. Civ. Proc. Code § 1094.5,¹⁴ to determine the constitutionality of City searches and lawfulness of violation notices, the proceedings assume constitutional the City's searches/seizures and assume lawful violation notices, "predisposing the arbiter against the citizen to deprive them of their interests" (*Marshall v. Jerrico, Inc.*, 446 U.S. 238 (1980)), and establishing decisions ignorant of evidence, Cal. Civ. Proc. Code § 1094.5,¹⁵ for which Writs of Mandate, CPF-24-518717 | CPF-25-518888 | CPF-25-519122 | CPF-25-519138, have been filed.

And because the City Attorney's management of and participation in Code Enforcement places the City Attorney as respondent and judge for City Claims, as respondent and judge during Board of Appeals hearings, and as respondent and judge during Abatement Appeals Board hearings, the City Attorney occupies two practically and seriously inconsistent positions further negating due process, *Tumey v. Ohio*, 273 U.S. 510 (1927),¹⁶ Cal. Civ. Proc. Code § 1094.5,¹⁷ and

¹⁴ "The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of, jurisdiction."

¹⁵ "Abuse of discretion is established if the order or decision is not supported by the findings, or the findings are not supported by the evidence."

¹⁶ "A situation in which an official performs two practically and seriously inconsistent positions, one partisan and the other judicial, necessarily involves a lack of due process of law in the trial of defendants charged with crimes before him."

¹⁷ "The inquiry in such a case shall extend to the questions whether there was a fair trial and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law."

maintains a financial interest in both claims' decisions and administrative proceeding outcomes even further negating due process, Cal. Govt. Code § 87100,¹⁸ 87103.¹⁹

The City's categorical deficiency of due process to challenge searches/seizures and appeal violation notices prescribes the courts as the only purveyor of procedural due process. However, the City Attorney's management of and defense of Code Enforcement establishes as client in this litigation both the City Attorney's management of Code Enforcement and their interest to criminalize safe property to deprive fundamental rights of liberty, property (dominion | privacy), due process, and equal protection, and the City and County of San Francisco and its interest to maintain safe property and prevent human disease, injury, and death, clients with directly adverse interests even further negating due process, *Flatt v. Superior Court*, 885 P.2d 950 (Cal. 1994),²⁰ as referenced by *City and*

¹⁸ A public official at any level of state or local government shall not make, participate in making, or in any way attempt to use the public official's official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest.

¹⁹ A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on any business entity in which the public official holds any position of management.

²⁰ It is also an attorney's duty to protect his client in every possible way, and it is a violation of that duty for him to assume a position adverse or antagonistic to his client []. By virtue of this rule an attorney is precluded from assuming any relation which would prevent him from devoting his entire energies to his client's interests.

County of San Francisco v. Cobra Solutions, Inc., 135 P.3d 20 (Cal. 2006).²¹

This unwaivable conflict of interest violates State Bar of California Rules of Professional Conduct because (A) competent and diligent representation cannot be provided to each client, CRPC 1.7(d)(1),²² as held by *Klemm v. Superior Court*, 75 Cal. App. 3d 893 (Cal. App. 1977);²³ (B) the representation of the City Attorney's Code Enforcement interest to deprive fundamental rights of liberty, property (dominion | privacy), due process, and equal protection is prohibited by law Cal. Bus. & Prof. Code § 6068,²⁴ CRPC

²¹ "An attorney who seeks to simultaneously represent clients with directly adverse interests in the same litigation will be automatically disqualified."

²² "Representation is permitted under this rule only if the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client."

²³ As a matter of law a purported consent to dual representation of litigants with adverse interests at a contested hearing would be neither intelligent nor informed. Such representation would be per se inconsistent with the adversary position of an attorney in litigation, and common sense dictates that it would be unthinkable to permit an attorney to assume a position at a trial or hearing where he could not advocate the interests of one client without adversely injuring those of the other.

²⁴ It is the duty of an attorney (a) To support the Constitution and laws of the United States and of this state; (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just; (d) To employ those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law; (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest; [and] (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.

1.7(d)(2);²⁵ and (C) this representation involves the City and County of San Francisco's claim that Code Enforcement should maintain safe property to prevent human disease, injury, and death, which fundamentally contradicts the City Attorney's claim that their Code Enforcement can deprive fundamental rights of liberty, property (dominion | privacy), due process, and equal protection to criminalize safe property, CRPC 1.7(d)(3).²⁶

This unwaivable conflict of interest further breaches the City Attorney's legal duty by mandating that opposing counsel (this Plaintiff/Petitioner), rather than the City Attorney, represent City and County of San Francisco's interest in public safety and due process, causing profound harm.

C. Procedural History

1. Proceedings in the Trial Court

Whereas this case is seeking to restore civil rights of liberty, property (dominion | privacy), due process, and equal protection from San Francisco Code Enforcement, such justice is barred by the conflict among lower courts over Fourth Amendment protections. While *Bonivert v. City of Clarkston*, 883 F.3d 865 (CA9 2018) holds that "it is a 'basic principle of Fourth Amendment law' that warrantless searches of the home or the curtilage surrounding the home "are presumptively unreasonable," our trial courts' Fourth

²⁵ "Representation is permitted under this rule only if the representation is not prohibited by law."

²⁶ "Representation is permitted under this rule only if the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal."

Amendment conflict results in incompatible rulings that not only (1) eradicate Fourth Amendment protections for government searches of property including the curtilage, and (2) legalize government searches of the curtilage void substantive due process of probable cause of a valid public interest in safety, void procedural due process of a warrant or consent, and void due process confines in area and duration, but also (3) strike Fourth Amendment claims at the pleading stage further violating Fifth and Fourteenth Amendments' procedural due process right to challenge the lawfulness of government searches and seizures, our judiciary's catastrophic failure of democracy.

2. Proceedings in the California Court of Appeal and the Supreme Court of California

Petition for Review to settle this profoundly harmful conflict of Fourth Amendment law which abolishes Fourth Amendment protections for government searches (a) lacking trespass (b) to seize data (knowledge) (c) using discretion to violate constitutional provisions, was requested from the First Appellate District in No. A175551 but was denied February 9, 2026, after which this petition for review was timely submitted to the Supreme Court of California in No. S295215, but was denied March 25, 2026, leaving this Court as the only champion of the Fourth Amendment.

REASONS FOR GRANTING THE PETITION

I. The Lower Courts' Conclusions Are Erroneous

This Court's divided Fourth Amendment precedents allow trial courts to hold, as in this case, that

the location of a government search lacking trespass and the type of evidence seized from a search somehow erase the fact that a search occurred, which bars Fourth Amendment protections for these government searches, which is legal error.

(1 of 4) Whether or not a search occurred is a question of fact to be decided (by jury) at trial. The trial courts' conclusion-of-fact that "no search occurred," made (1) without the benefit of a trial²⁷ (2) to establish grounds for dismissal, is not only a fundamental deprivation of due process which is legal error, but it is also a factual error as a search is "to intentionally look for something" which code enforcement agents confirmed that they were doing on their opening violation notice (Exhibit A), "a complaint investigation has revealed," a fundamental defiance of due process.

(2 of 4) A search, "to intentionally look for something," is an act which may or may not include

²⁷ the courts' duty to "assume the truth of the facts alleged in the complaint and the reasonable inferences that may be drawn from those facts," *Miklosy v. Regents of Univ. of Cal.*, 188 P. 3d 629 (Cal. 2008), is what prevents "predisposition of the arbiter against the citizen to mistakenly deprive them of their interests denying due process," as held by *Marshall v. Jerico, Inc.*, 446 U.S. 238 (1980):

The due process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. This requirement of neutrality in adjudicative proceedings safeguards the two central concerns of procedural due process, the prevention of unjustified or mistaken deprivations and the promotion of participation and dialogue by affected individuals in the decisionmaking process... ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him.

trespass, "breaking of doors and rummaging through drawers," *Boyd v. United States*, 116 U.S. 616 (1886), as held by *Katz v. United States*, 389 U.S. 347 (1967), "the "trespass" doctrine [] can no longer be regarded as controlling," and *Kyllo v. United States*, 533 U.S. 27 (2001), "the use of a thermal-imaging device aimed at a private home from a public street [void any trespass] to detect relative amounts of heat within the home constitutes a "search" within the meaning of the Fourth Amendment."

(3 of 4) When one does not own the thing one is looking for, whether it be knowledge of something or a physical item, a seizure occurs when that knowledge or physical item is acquired, *Horton v. California*, 496 U.S. 128 (1990). *Katz v. United States*, 389 U.S. 347 (1967) held that government's eavesdropping constituted a search and the "thing" or "evidence" that was retrieved was the citizen's speech and the citizen owned that speech. *United States v. Karo*, 468 U.S. 705 (1984) held that government's use of a beeper tracking device constituted a search and the "thing" or "evidence" that was retrieved was the tracking-device disclosure of the location of a citizen's property and the citizen owned that tracking device data of the location of their property. *Kyllo v. United States*, 533 U.S. 27 (2001) held that government's use of a thermal imaging device to collect heat data constituted a search and the "thing" or "evidence" that was retrieved was the heat data of the citizen's property and the citizen owned that heat data of their property. And *Florida v. Jardines*, 569 U.S. 1 (2013) held that government's use of a drug-sniffing dog to collect drug-scent data constituted a search and the "thing" or "evidence" that was retrieved was the drug-scent data of

the citizen's property (curtilage) and the citizen owned that drug-scent data of their property (curtilage). The type of evidence, physical or non-physical, seized from a search does not negate the fact that a search occurred, which is well-established law. It is the deprivation of the right of control (to the exclusion of others) of the item or information that determines a seizure.

(4 of 4) And this Court's divided Fourth Amendment precedents allow trial courts to hold that the discretion of a government agent to conduct or not conduct a search somehow includes the discretion to conduct an unconstitutional search without substantive due process of probable cause of a valid government interest in public safety, without confines in area and duration, without procedural due process of a warrant or consent, and without any mechanism to challenge the decision to search, further depriving Fourth Amendment protections for these government searches, which is legal error. Code Enforcement agents are given discretion by Substantive Due process, the public interest in safe property,²⁸ to search or not search private property (and to issue or not issue violation notices). Code Enforcement agents do not have discretion to violate the Constitution or State law because "everything done in violation of the mandatory provisions of our Constitutions is void," *Katzberg v. Regents of Univ. of Cal.*, 58 P. 3d 339 (Cal. 2002). If Code Enforcement agents exercise their discretion to search

²⁸ *Camara*, "The primary governmental interest at stake is to prevent even the unintentional development of conditions which are hazardous to public health and safety."

Cal. Penal Code § 829.5 endows the City's Code Enforcement Officers with "enforcement authority for health, safety, and welfare requirements."

private property, they then have a "mandatory duty" (*Morris v. County of Marin*, 559 P.2d 606 (Cal. 1977)) to follow Constitutional provisions by conducting Constitutionally compliant searches, Cal. Govt. Code § 815.6.²⁹

The City's Code Enforcement searches of private property to seize knowledge (evidence) of conditions of that property, knowledge which is owned by the citizen, is a factual deprivation of property (dominion | privacy) requiring Constitutional safeguards to ensure a lawful government interest in the deprivation prior to the deprivation. Code Enforcement searches void probable cause of unsafe property in violation of the mandatory provision of substantive due process are Code Enforcement searches that irreparably harm the public interest by depriving fundamental rights of property (dominion | privacy) without any valid government interest in the deprivation because there is no public safety concern, for which "everything done in violation of Constitutional provisions is void," *Katzberg v. Regents of Univ. of Cal.*, 58 P.3d 339 (Cal. 2002) and for which *People v. Cahan*, 282 P.2d 905 (Cal. 1955) prescribes necessary accountability.³⁰

²⁹ Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty.

³⁰ we have concluded, as Justice Carter and Justice Schauer have consistently maintained,[*****] that evidence obtained in violation of the constitutional guarantees is inadmissible *People v. Le Doux*, 155 Cal. 535; *People v.*

II. The Lower Courts Have Expressed Conflicting Views on This Issue

It is a fact that San Francisco Code Enforcement searches are individual, very personal, *Village of Willowbrook v. Olech*, 528 U.S. 562 (2000),³¹ *People v. Hofsheier*, 129 P.3d 29 (Cal. 2006),³² unlimited in

Mayen, 188 Cal. 237, and the cases based thereon are therefore overruled.[†] We have been compelled to reach that conclusion because other remedies have completely failed to secure compliance with the constitutional provisions on the part of police officers with the attendant result that the courts under the old rule have been constantly required to participate in, and in effect condone, the lawless activities of law enforcement officers.

When, as in the present case, the very purpose of an illegal search and seizure is to get evidence to introduce at a trial, the success of the lawless venture depends entirely on the court's lending its aid by allowing the evidence to be introduced... It is morally incongruous for the state to flout constitutional rights and at the same time demand that its citizens observe the law. The end that the state seeks may be a laudable one, but it no more justifies unlawful acts than a laudable end justifies unlawful action by any member of the public. Moreover, any process of law that sanctions the imposition of penalties upon an individual through the use of the fruits of official lawlessness tends to the destruction of the whole system of restraints on the exercise of the public force that are inherent in the "concept of ordered liberty."

³¹ "Our cases have recognized successful equal protection claims brought by a "class of one," where the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment."

³² "The first prerequisite to a meritorious claim under the equal protection clause is a showing that the state has adopted a

scope, *Stanley v. Georgia*, 394 U.S. 557 (1969),³³ searches for evidence of a crime violating the substantive and procedural due process standard that “unconfined searches are unreasonable because a “search for evidence” confounds the innocent with the guilty, a cruelty and injustice that is disallowed upon that principle,” *Boyd v. United States*, 116 U.S. 616 (1886), referencing Lord Camden in *Michaelmas Term 1765*.

(1 of 2) The trial courts’ ratification of unconfined searches is clearly erroneous as a matter of law as it contradicts *Bonivert v. City of Clarkston*, 883 F.3d 865 (CA9 2018)’s holding that “warrantless searches of the curtilage surrounding the home are presumptively unreasonable,”³⁴ contradicts *Camara v. Municipal Court of City and County of San Francisco*, 387 U.S. 523 (1967)’s holding that “one governing principle, justified by history and by current experience, has consistently been followed: except in certain carefully defined classes of cases, a search of private property

classification that affects two or more similarly situated groups in an unequal manner.”

³³ Even in the much-criticized case of *United States v. Rabinowitz*, 339 U.S. 56, the Court emphasized that “exploratory searches... cannot be undertaken by officers with or without a warrant.” *Id.*, at 62. This record presents a bald violation of that basic constitutional rule. To condone what happened here is to invite a government official to use a seemingly precise and legal warrant only as a ticket to get into a man’s home, and, once inside, to launch forth upon unconfined searches and indiscriminate seizures as if armed with all the unbridled and illegal power of a general warrant.

³⁴ 2026 Judicial Council of California Civil Jury Instructions’ Source and Authority for Unreasonable search or seizure, CACI No. 3023.

without proper consent is "unreasonable" unless it has been authorized by a valid search warrant," contradicts *Johnson v. United States*, 333 U. S. 10 (1948)'s holding that "When the right of privacy must reasonably yield to the right of search is, as a rule, to be decided by a judicial officer, not by a policeman or government enforcement agent," and further contradicts *Camara's* holding "the discretion of the official in the field [] is precisely the discretion to invade private property which we have consistently circumscribed by a requirement that a disinterested party warrant the need to search."

The trial courts' ratification of unconfined searches substantially prejudices petitioner's case by establishing-as-lawful individual, very personal, unlimited in scope, searches for evidence of a crime without probable cause of a public interest (substantive due process), without consent or warrant (procedural due process), without any confines in area and duration (substantive and procedural due process), and without any due process to challenge the decision to search harming the petitioner and public and causing prejudice in a manner that cannot be corrected on appeal.

(2 of 2) A search, by definition, is intentional as "violation of the Fourth Amendment requires an intentional acquisition of physical control," *Brower v. County of Inyo*, 489 U. S. 593 (1989), The "plain-view" doctrine, the common law principle that "City agents need not "shield their eyes when passing by a home on public thoroughfares," *California v. Ciraolo*, 476 U. S. 207 (1986), describes not a search, but rather an accidental seizure of "knowledge of conditions of private property" without a search. Using the "plain view" doctrine, a doctrine describing the absence of a search,

to legalize government searches without probable cause of a valid government interest in the deprivation of privacy/property and without due process of a warrant or consent is legal error. Furthermore, an accidental seizure of "knowledge of conditions of private property" is unconstitutional when it derives from an unconstitutional search as "an essential predicate to any valid warrantless seizure of incriminating evidence that the officer did not violate the Fourth Amendment in arriving at the place from which the evidence could be plainly viewed... the officer [must] be lawfully located in a place from which the object can be plainly seen," *Horton v. California*, 496 U.S. 128 (1990).

If the "plain-view" theory that, "what a person knowingly exposes to the public, even in their own home or office, is not a subject of Fourth Amendment protection" (*Katz v. United States*, 389 U.S. 347 (1967); *Marshall v. Barlow's, Inc.*, 436 U.S. 307 (1978)), was legally sound, then in order to secure Fourth Amendment protection for the outdoor spaces around a home, a homeowner would need to build a 10-ft (or taller) fence and a dome over their property to shield their property from street and Google Earth views, which would place Fourth Amendment protections in direct conflict with the City General Plan to make green spaces visible to the public (see Recreation and Open Space Element of San Francisco General Plan), creating inconsistency within the law which is a violation of *juris prudentia*. The 1986 Supreme Court dissent of Justice Powell, with Justice Brennan, Justice Marshall, and Justice Blackmun in *Dow Chemical Co. v. United States*, 476 U.S. 227 (1986), emphasizes the legal irrationality of the City's argument that the

absence of any physical trespass is what makes a search no longer a search:

The Court's holding that the warrantless photography does not constitute an unreasonable search within the meaning of the Fourth Amendment is based on the absence of any physical trespass—a theory disapproved in a line of cases beginning with the decision in *Katz v. United States*. E.g., *United States v. United States Dist. Court*, 407 U. S. 297 (1972). These cases have provided a sensitive and reasonable means of preserving interests in privacy cherished by our society. The Court's decision today cannot be reconciled with our precedents or with the purpose of the Fourth Amendment.

And the public interest in the “plain view” of property is not endowed with lawful power to deprive fundamental rights, but the Code Enforcement interest in Searching private property is endowed with power to deprive fundamental rights and such power requires Constitutional protection from corruption, “from the arbitrary exercise of government power to oppress,” *DeShaney v. Winnebago County Dept. of Social Servs.*, 489 U. S. 189 (1989). Constitutional provisions are necessary “to protect the people from the State, not to ensure that the State protected them from each other,” *id.* at 196.

This erroneous use of the “plain-view’s absence-of-a-search to abolish Fourth Amendment protections requires a resolution of the conflict to establish and protect fundamental rights of property (dominion | privacy) from government searches (a) lacking trespass (b) to seize knowledge (c) using discretion to violate

constitutional provisions. *Omaha Indemnity Co. v. Superior Court*, 209 Cal.App.3d 1266 (Cal. App. 1989).

III. This Issue Is of Great Legal or National Significance

The trial courts' denial of Fourth Amendment claims against government searches (a) lacking trespass, (b) seizing knowledge, and (c) using discretion to violate constitutional provisions not only deprives petitioner of an opportunity to present a fundamental portion of her case against San Francisco Code Enforcement, thereby abrogating any due process (Fifth and Fourteenth Amendments) to challenge the lawfulness of government searches, but also presents a significant and novel constitutional issue of widespread interest: the deprivation of fundamental rights of liberty, property (dominion and privacy), due process, and equal protection as a result of trial courts' unlawful eradication of the Fourth Amendment. *Omaha Indemnity Co. v. Superior Court*, 209 Cal. App. 3d 1266 (Cal. App. 1989).

IV. This Is a Landmark Fourth Amendment Case

While government may be well-intentioned to protect democracy, intention does not and cannot implement or maintain democracy. It is a fact that we and all citizens have a constitutionally protected interest in safeguarding our private real and moveable property (our 9-ft easement listed on the Title to our property (Exhibit B), our arbor/solarium, fence, fire table, (Exhibit M), and personal finances) from unlawful government deprivation without any valid

government interest in public safety.³⁵ It is also a fact that our property is safe and code-compliant and benefits the public. And it is furthermore a fact that we have "a clearly established constitutional due process right not to be subjected to criminal charges on the basis of false evidence that was deliberately fabricated by the government," *Devereaux v. Abbey*, 263 F.3d 1070 (CA9 2001). It is well-established law that due process is violated when:

[a] State has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a State to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation,

Mooney v. Holohan, 294 U. S. 103 (1935).

This case demonstrates not merely one deprivation of property (dominion | privacy) from a government search & seizure void substantive due process of a probable cause of unsafe property, void procedural due process of a warrant or consent, void due process confines in area and duration, and void any procedural due process hearing to challenge the lawfulness of such a search/seizure, but more profoundly demonstrates a pattern of Code Enforcement deprivation of

³⁵ *Camara*: "The primary governmental interest at stake is to prevent even the unintentional development of conditions which are hazardous to public health and safety."

property (dominion | privacy) from searches & seizures by multiple agencies on more than one occasion that defy the public interest in safe property by falsifying evidence from the search/seizure to convict innocent citizens maintaining safe property of non-existent crime, depriving/defying the mandatory provision of due process and Code Enforcement Officers' legal duty to protect the public from unsafe property, Cal. Evid. Code § 668,³⁶ Cal. Evid. Code § 669,³⁷ 18 U. S. C. § 242,³⁸ 42 U. S. C. § 1983,³⁹ 42 U. S. C. § 1981,⁴⁰ 42

³⁶ "An unlawful intent is presumed from the doing of an unlawful act."

³⁷ The failure of a code enforcement agent to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted.

³⁸ Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.

³⁹ Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

⁴⁰ "All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens."

U.S.C. § 1985,⁴¹ 18 U.S.C. § 1964,⁴² and Cal. Civ. Code § 52.1.⁴³

And the City Attorney's management of, participation in, and defense of this pattern of Code Enforcement deprivation of property (dominion | privacy)

⁴¹ If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

⁴² Any person injured in his business or property by reason of a violation of section 1962 of this chapter [it shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise] may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.

⁴³ Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (b) [If a person or persons, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state], may institute and prosecute in their own name and on their own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b).

from government searches & seizures by multiple agencies on more than one occasion that defy the public interest in safe property and falsify evidence from the search/seizure to convict innocent citizens maintaining safe property of non-existent crime, deprives/defies the mandatory provision of due process and attorneys' legal duty "to prevent corrupt proceedings," Cal. Bus. & Prof. Code § 6068,⁴⁴ Cal. Evid. Code § 668,⁴⁵ Cal. Evid. Code § 669,⁴⁶ 18 U. S. C. § 242,⁴⁷ 42

⁴⁴ It is the duty of an attorney (a) To support the Constitution and laws of the United States and of this state; (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just; (d) To employ those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law; (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest; [and] (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.

⁴⁵ "An unlawful intent is presumed from the doing of an unlawful act."

⁴⁶ The failure of an attorney to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted.

⁴⁷ Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.

U.S.C. § 1983,⁴⁸ 42 U.S.C. § 1981,⁴⁹ 42 U.S.C. § 1985,⁵⁰ 18 U.S.C. § 1964,⁵¹ and Cal. Civ. Code § 52.1.⁵²

⁴⁸ Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

⁴⁹ "All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens."

⁵⁰ If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

⁵¹ Any person injured in his business or property by reason of a violation of section 1962 of this chapter [it shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise] may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.

⁵² Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (b) [If a person or persons, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of

And the trial courts' ratification of both the pattern of Code Enforcement deprivation of property (dominion | privacy) from government searches & seizures by multiple agencies on more than one occasion that defy the public interest in safe property and falsify evidence from the search/seizure to convict innocent citizens maintaining safe property of non-existent crime, and the City Attorney's management of, participation in, and defense of this pattern of Code Enforcement deprivation of property (dominion | privacy) from unlawful government searches & seizures, deprives/defies the mandatory provision of due process and judicial duty "to further justice," Canon 3B(2),⁵³ Canon 2A,⁵⁴ Canon 3B(7),⁵⁵ Canon 3B(8),⁵⁶ and Canon 3D(2).⁵⁷

rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state], may institute and prosecute in their own name and on their own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b).

⁵³ "A judge shall be faithful to the law."

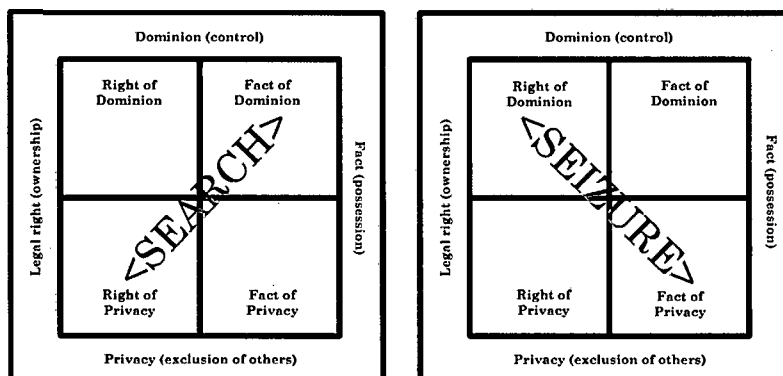
⁵⁴ "A judge shall respect and comply with the law [and] shall not make statements [] that are inconsistent with the impartial performance of the adjudicative duties of judicial office."

⁵⁵ "A judge shall accord to every person who has a legal interest in a proceeding the full right to be heard according to law."

⁵⁶ "A judge shall manage the courtroom in a manner that provides all litigants the opportunity to have their matters fairly adjudicated in accordance with the law."

⁵⁷ "Whenever a judge has personal knowledge, or concludes in a judicial decision, that a lawyer has committed misconduct or has violated any provision of the Rules of Professional Conduct,

Science of Property and Deprivation of Property



- Search is the *fact* of intentional exertion of dominion to deprive the *right* of privacy (the exclusion of others).
- Seizure is the *fact* of inclusion of others to deprive the *right* of dominion (to control it).

"A search compromises the individual interest in privacy; a seizure deprives the individual of dominion over his or her person or property," *Horton v. California*, 496 U. S. 128 (1990).

"Violation of the Fourth Amendment requires an intentional acquisition of physical control," *Brower v. County of Inyo*, 489 U. S. 593 (1989).

CONCLUSION

For the foregoing reasons, this Court should grant this petition for a writ of certiorari to resolve the judicial conflict that abolishes the Fourth Amendment. As this Court has explained, "It is the duty of courts to be watchful for the constitutional rights of the citizen,

the judge shall take appropriate corrective action, which may include reporting the violation to the appropriate authority."

and against any stealthy encroachments thereon.”
Mapp v. Ohio, 367 U.S. 643, 647 (1961) (quoting *Boyd*
v. United States, 116 U.S. 616, 635 (1886)).

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JUNE 2026

Pro Se Petitioner

APPENDIX

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Appendix A

[Filed: Mar. 25, 2026]

Court of Appeal, First Appellate District,
Division Five – No. A175551

S295215

IN THE SUPREME COURT OF CALIFORNIA

En Banc

MIHAL EMBERTON, Petitioner,

v.

SUPERIOR COURT OF THE CITY AND COUNTY
OF SAN FRANCISCO,
Respondent;

CITY AND COUNTY OF SAN FRANCISCO,
Real Party in Interest.

The petition for review is denied.

GUERRERO
Chief Justice

App-2

Appendix B

[Filed: Feb. 9, 2026]

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

MIHAL EMBERTON,
Petitioner,

v.

THE SUPERIOR COURT OF THE CITY AND
COUNTY OF SAN FRANCISCO,

Respondent;

CITY AND COUNTY OF SAN FRANCISCO,

Real Party in Interest.

A175551

San Francisco County No. CGC22601288

BY THE COURT:*

The petition for writ of certiorari/supersedeas/stay is denied.

While not being denied on this basis, the petition appears to exceed the word count limitations of California Rules of Court, rule 8.204(c)(1), and the petition and exhibits do not contain electronic bookmarks as required by rule 8.74(a)(3). Future petitions that fail to comply with the foregoing requirements may be rejected.

Date: 02/09/2026 Bruns, J., Acting P.J.

*Before Burns, Acting P.J. and Chou, J.

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Appendix C

[Filed: Aug. 27, 2025]

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(Erroneously sued and served as San Francisco City
Government)

EXEMPT FROM FILING FEES PURSUANT TO GOVERNMENT CODE SECTION 6103
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**Additional material
from this filing is
available in the
Clerk's Office.**