FILED
MAY 18 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

No. 26-291

In the Supreme Court of the United States

BEVERLY PELLEGRINI,

Petitioner,

v.

FRESNO COUNTY PUBLIC GUARDIAN
AS TRUSTEE, ETC., ET AL.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA FIFTH APPELLATE DISTRICT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Whether the Fifth Amendment Takings Clause and Fourteenth Amendment Due Process Clause are violated when state courts, without statutory authority over the property or parties, affirm orders by materially misrepresenting evidence to liquidate a surviving spouse's revocable trust assets and transfer them to an instrument that fails as a trust by operation of law for distribution to county government employees and other non-beneficiary third parties.

2. Whether procedural due process is violated when: (i) trial court findings at close are verbatim to pre-trial findings entered on the docket; and (ii) a state appellate court intentionally misstates evidence to avoid review of threshold jurisdictional issues thereby justifying a wrongful taking of property.

3. Whether the Fourteenth Amendment Due Process Clause is violated when a state court, lacking statutory authority over the property and parties of a prior action applies forfeiture: (i) to threshold jurisdictional issues raised but never adjudicated; and (ii) against an unjoined party whose interest derives from a separate trust not at issue in the prior action when preclusion does not apply.

PARTIES TO THE PROCEEDING

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Petitioner Beverly Pellegrini is the sole fully vested beneficiary of the Lillian D. Pellegrini Revocable Living Trust dated August 31, 2011 (referred to as the LDP Trust), and the sole devisee under the will of Lillian Pellegrini, who passed away November 6, 2023. Beverly Pellegrini also served as co-trustee of the Trust, holding powers identical to those of Lillian Pellegrini as Trustor and co-trustee. Beverly Pellegrini was not joined as a party in the 2010 state court action in which Lillian Pellegrini was named as defendant, notwithstanding her status as an indispensable party to any proceeding affecting the LDP Trust or its assets.

Fresno County Public Guardian
Joshua Cochron
4460 E. Huntington Avenue
Fresno, CA 93702
Email: HKruthers@fresnocountyca.gov

Fresno County Public Guardian, Deputy, is represented by Fresno County Counsel. Both are officers in departments under the Fresno County Board of Supervisors. Fresno County acted as court-appointed trustee of the Family Trust, a failed and invalid credit shelter subtrust under the Angelo John Pellegrini Trust dated June 18, 1999 (referred to as the 1999 Trust) through its Public Guardian, pursuant to a 2015 probate court order issued by a court lacking statutory authority over the property or parties. Fresno County Public Guardian was represented by Fresno County Counsel, Heather Kruthers. In 2016, acting in that capacity, Fresno County liquidated securities and fixed income assets solely owned by Lillian Pellegrini from the LDP Trust without authorization from either co-trustee. The solely owned assets were acquired by Lillian Pellegrini from her siblings' estates in 1999 over which she maintained full control. The County deposited the proceeds into a pooled county trust account that were to be distributed to Lillian Pellegrini according to the terms of the Family Trust as the sole and final beneficiary and confirmed on the K-1 prepared by Fresno County in 2017. In March 2026, the County made a partial distribution under a trust clause that had been deleted in its entirety by valid amendment in 2004 to beneficiaries whose interest was divested in 2009.

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Beverly Pellegrini, Plaintiff, filed a survivor claim action against Fresno County, Defendant, on April 2, 2024. Claims against Fresno County are required to filed and served at the Clerk's Office at the Board of Supervisors. Personal service was rendered on April 2, 2024 at the Clerk's Office of the Board of Supervisors located at the above address. Fresno County Counsel is a department under the Fresno County Board of Supervisors and represents Fresno County and its officials in civil litigation and is counsel for Fresno County Public Guardian, Deputy, Behavioral Health Department, also a department under the Fresno County Board of Supervisors. Both the public guardian and his counsel were also served notice.

Ms. Marleen Merchant
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Respondent Marleen Merchant was made a defendant by the court in the survivor claim action brought in 2024. On appeal, Marleen Merchant was unrepresented but joined respondent Fresno County on appeal in 2025. She claimed status as a remainder beneficiary of the Family Trust when she held no present or future interest in the invalid Family Trust since 2009 and held no interest in any other trust. In 2016, she obtained a distribution of $439,497.62 and a distribution of 50% of the balance held by the County in 2026.

RELATED PROCEEDINGS

California Supreme Court, Case No. S294533, Beverly Pellegrini v. Fresno County, February 25, 2026, denied without submission to conference.

California Court of Appeal, Fifth District, Case Number F088717, Beverly Pellegrini v. Fresno

County; unpublished opinion issued November 26, 2025; Petition for Rehearing denied December 12, 2025.

California Superior Court, Probate Division, Case No. 10CEPR00683, Beverly Pellegrini v. Fresno County; Orders issued September 18, 2024 denying motion to vacate and August 13, 2024 denying survivor claim motion.

U.S. Supreme Court, Case No. 18-458, Lillian Pellegrini v. Fresno County, et al., denied January 7, 2019; Petition for Rehearing denied February 25, 2019.

United States Court of Appeals for the Ninth Circuit, Case No. 17-15735, Lillian Pellegrini v. Fresno County, et al., Memorandum July 17 2018.

United States District Court for the Eastern District of California, Case No. 16-1292, Lillian Pellegrini v. Fresno County, et. al., Memorandum Decision, April 6, 2017 (filed during State Court of Appeals Case No. F072656).

California Supreme Court, Case No. S238760, Marleen Merchant v. Lillian D. Pellegrini, denied January 11, 2017.

California Court of Appeal, Fifth District, Case No. F072656, Marleen Merchant v. Lillian D. Pellegrini, unpublished opinion issued October 31, 2016.

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JURISDICTION

The California Probate Court issued its judgment on a survivor claim on August 13, 2024. On September 18, 2024 a motion to vacate brought under Code of Civil Procedure §663 was denied under Code of Civil Procedure §1008; Fresno County's accounting containing material misrepresentations was approved without an opportunity to be heard. On November 26, 2025, the California Court of Appeal, Fifth District issued an unpublished opinion intentionally misstating evidence to affirm all orders. A petition for rehearing was denied December 12, 2025. The California Supreme Court denied review without conference February 25, 2026. This petition is filed within 90 days of that denial. This Court has jurisdiction pursuant to 28 U.S.C. §1257(a).

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

U.S. Constitution, Fifth Amendment

U.S. Constitution, Fourteenth Amendment

28 U.S.C. 1257(a)

42 U.S.C. 1983

Federal Rules of Civil Procedure, Rule 19

Full citations of Constitution provisions, federal and state statutes are provided in the Appendix.

STATEMENT OF THE CASE

Introduction

This case arises from the taking — an unauthorized liquidation of Lillian Pellegrini's solely owned securities and fixed income assets held in the Lillian D. Pellegrini Revocable Living Trust dated August 31, 2011 (LDP Trust) by Fresno County based on the 1999 Trust action brought in 2010. The state probate court, lacking statutory authority over the property and parties, issued orders depriving Lillian Pellegrini of her solely owned property to fund a trust invalid by law. Beverly Pellegrini, now a fully vested beneficiary and sole devisee of Lillian Pellegrini, who passed away on November 6, 2023, brought a survivor claim in 2024 to address those jurisdictional defects that have resulted in a systemic breakdown of due process by enforcing orders that were void ab initio.

1. The 1999 Trust, Property Characterization, and the 2004 Amendment.

Husband and wife Angelo and Lillian Pellegrini created The Angelo John Pellegrini and Lillian Dorothy Pellegrini Revocable Living Trust dated June 18, 1999 (the 1999 Trust). Solely owned inherited assets that Lillian Pellegrini, alone, contributed to the 1999 Trust (App. O) comprised roughly 95% of the 1999 Trust's portfolio value and generated nearly all of the Trust's wealth. All other assets contributed to the 1999 Trust were titled in joint tenancy with right of survivorship that included the San Francisco real property and some financial assets. No property was titled or characterized as community property, and no transmutation was intended or undertaken.

The 1999 Trust declared in Article II, Paragraph B:

> All property now or hereafter conveyed or transferred to the trustee to be held by the Trustee pursuant to his Declaration which was community property or separate property at the time of such conveyance or transfer, shall remain, respectively, community property or the separate property of the Trustor or the Trustors, as the case may be, transferring such property to the Trustee. (App. p.200a).

On the death of one spouse, the 1999 Trust provided for division into three subtrusts; the fully revocable Survivor's Trust; the Marital Trust or Q-TIP, subject to full withdrawal rights of all principal and income; and an irrevocable Family Trust, which by amendment in 2004, deleted the distribution clause on the surviving spouse's passing in its entirety, providing the distribution of a single, specific asset, the San Francisco real property, without substitute stated or intended. (App. p.220a). Angelo Pellegrini passed away on March 27, 2008.

The San Francisco real property's transfer to the 1999 Trust complied with Civil Code §683. On Angelo Pellegrini's passing, the property was confirmed as Lillian Pellegrini's sole property by title by the San Francisco County Assessor's Office, the California State Franchise Tax Board, and the State Board of Equalization.

The 1999 Trust's Residential Property clause permitted the surviving spouse to sell the real property and use the proceeds for any asset of her choice. (App. p.212a). The final sale of the real property in March 2009 generated proceeds of $684,558.25 that were transferred by the title company to the Survivor's Trust for Lillian Pellegrini's sole benefit (App. p.203a).

2. Trial Court's findings on property characterization.

The probate court's finding, entered on the docket at 7:44 a.m. before the bifurcated trial in January 2015 stated:

> The Court finds that the Family Trust was required to be funded after Mr. Pellegrini's death. The court finds that the title to the San Francisco real property did not maint[ain] its joint tenancy characterization after being transferred into the Trust. Att Corey to prepare an order after hearing no later than 013015. (App. p.233a)

At the close of trial, the court announced findings verbatim as those entered on the docket before trial:

> the Court finds that, yes, the family trust was required to be funded after Mr. Pellegrini's death; the Court finds that the title to the San Francisco real property did not maintain its joint

> tenancy characterization after being transferred into the trust; and Mr. Corey, you're to prepare an order after hearing for the Court's signature. And if you would provide that to the court by no later than – on or before January the 30th 2015, directly to this department for the Court's signature. (App. p.244a).

The issue of the Family Trust's validity was raised but not heard.

3. Threshold Jurisdictional Issues Never Heard on the Merits

Standing and the lack of jurisdiction over the parties and property were raised at the onset. No hearing on the issues occurred; the court declared Marleen Merchant had standing.

Standing was neither addressed in any court regarding the 2010 action, nor in the survivor claim action brought in 2024. The court's lack of statutory authority over the parties or property was not reviewed by any court.

4. The Liquidation and Its Circumstances

Ex parte orders were granted to freeze Lillian Pellegrini's trust accounts and liquidate assets without notice or a hearing. Because Lillian Pellegrini's financial advisor refused to undertake the liquidation, Fresno County sent a fax to the branch manager, who neither knew the Public Guardian nor Lillian Pellegrini, to undertake the transactions.

Liquidated assets totaled $1,597,788.14 (App. p.282a). A check for $1,528,271.44 drawn on the LDP

Trust account (App. 272a) was made payable to Fresno County Public Guardian for the Lillian Pellegrini Family Trust (App. 285a) and deposited in a pooled trust account under the name Lillian Pellegrini Trust. All accounts opened by Fresno County were named differently and held under seal with the court; none were named the Lillian Pellegrini Family Trust. (App. p.291a-294a)

An EIN was established May 2017 for filing a 1041 with a business operating date of January 2016 for Pellegrini Family Trust (App. p.289a). Fresno County's accountant prepared a K-1 indicating Lillian Pellegrini as sole beneficiary and due a 100% distribution. (App. p.286-287). No monies were ever distributed to Lillian Pellegrini.

No court adjudicated or reviewed the Family Trust's validity or its termination by law as a failed trust when the survivor's trust was revoked.

5. Motion to Vacate

A motion to vacate the court's ruling denying the survivor's claim was brought under Code of Civil Procedure §663 stating that the legal basis for the court's findings were unsupported by evidence submitted. The motion was denied under Code of Civil Procedure §1008, which requires new evidence for reconsideration. (App. p.55a).

6. The Final Accounting and Unserved Orders

The court examiner raised concerns also stated in Beverly Pellegrini's Opposition to Fresno County's final account. The court issued two orders without notice to Beverly Pellegrini demanding

Fresno County address the examiner's concerns. (App. F). Fresno County filed a revised accounting without notice (App. p.43a-50a). Fresno County's account was approved without a hearing on the merits or opposition arguments.

Fresno County's prepared order distributed assets under the Family Trust clause deleted in its entirety by the 2004 Amendment and described Lillian Pellegrini as a conservatee (App. E) when neither Lillian Pellegrini nor her estate was ever subject to a conservatorship or guardianship, and no such proceeding ever occurred.

The probate court signed the order on September 18, 2024. Beverly Pellegrini received no notice. When certified copies of all September 18, 2024 orders and rulings was requested on September 20, 2024, the signed prepared order was not provided.

A timely appeal was filed. The County took 165 days to file its brief, disputed no stipulated fact or law, and addressed no jurisdictional issue. With no de novo review of issues of law, the appellate court misstated facts and affirmed the lower court's order to distribute assets under the deleted clause and implied false conservatorship.

On March 13, 2026, Fresno County issued a partial distribution of the claim under the Family Trust's deleted clause. The balance of the claim as of 2026 exceeds $19 million.

REASONS FOR GRANTING THE PETITION

Introduction

Due process includes both notice and an opportunity to be heard that, together, are constitutional requirements to protect an individual's property rights and prevent a court from exceeding its statutory limitations. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950). When due process is denied, the fraudulent conversion and wrongful taking of property is made possible through the failure to address or review threshold issues regarding the court's lack of statutory authority over property and parties that were raised at the outset. What follows is a roadmap that led to a wrongful taking, not by legal error, but by a systemic failure of judicial process.

1. Federal Constitutional questions of exceptional importance

This case presents constitutional questions on the state probate court's lack of statutory jurisdiction over property and parties raised but never heard in any court, state or federal.

Lack of statutory jurisdiction over property and parties renders the orders void ab initio. Acting under those void orders, Fresno County liquidated nearly $1.6 million in Lillian Pellegrini's solely owned invested assets generating average annual returns of more than 10% annually, without authorization, notice, or a hearing. Fresno County retained the proceeds in a pooled trust account for ten years, claiming expenses that exceeded interest earned of $4,643.74. (App. p.237a;p.245a). All bank statements concerning the different accounts opened under different names, using an EIN that was acquired in May 2017 for purposes of filing IRS Form 1041 (App. p.289a), have been kept under seal with the Court. The K-1 form prepared by Fresno County's accountant in conjunction with the 1041 filing confirmed that Lillian Pellegrini was the sole beneficiary of the Family Trust and was due a 100% distribution (App. p.287a). She received no monies.

The state courts have perpetuated constitutional violations by failing to address threshold jurisdictional issues; intentionally stating the 2004 Amendment amended (App. p.154a) or revised (App. p.8a) the Family Trust, when it deleted the clause under which the Court approved the distribution in its entirety; and by applying forfeiture when preclusion does not lawfully attach to an unjoined party to evade voiding orders based on the court's lack of statutory authority over parties or property.

State courts have discretionary authority to declare judgments void under Code of Civil Procedure §473(d). The federal courts have declined jurisdiction by expanding application of the Rooker-Feldman doctrine, creating a constitutional vacuum in which void state court orders go unreviewed and an unconstitutional taking goes uncompensated. As the Court recognized in *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280 (2005), Rooker-Feldman cannot bar federal jurisdiction where the state court itself lacked jurisdiction. That principle has not been applied here, leaving petitioner without any forum for a merits-based review.

Certiorari is necessary to ensure that the Fifth and Fourteenth Amendment protections against uncompensated takings and deprivations of property without due process and without basis in law are not rendered illusory by the combined operation of state court orders void ab initio, unpublished appellate opinions that cannot be cited as precedent, and expanding Rooker-Feldman that shields unconstitutional government action from any judicial review. Without review, courts facilitate fraud in trust litigation. The systemic failure to adjudicate threshold jurisdictional issues at the outset resulting in dismissal permits void proceedings to generate void orders that are enforced, harming citizens' property rights across the state and warrants this Court's review.

2. The Probate Court's orders are void ab initio for lack of statutory jurisdiction, violating due process

The probate court lacked statutory authority to exercise jurisdiction over the property or parties, when the court conferred standing that did not exist. This was not mere error; the absence of lawful authority is a jurisdictional defect that violates due process and enabled the unconstitutional taking at issue.

Lack of jurisdiction over property; act of conversion

Probate Code §7050 limits the probate court's jurisdiction to decedent's property; it has no authority over a living person's property. *Estate of Nicholas*, 177 Cal.App.3d 1071 (1986); *Estate of Lee*, 124 Cal.App.3d 687 (1981). Probate Code §13050 bars jurisdiction over joint-tenancy property because the decedent's interest expires on death; property transfers by right of survivorship. Civil Code §683 permits joint tenants to transfer their real property to a joint revocable trust of which both joint tenants are trustors and trustees without severing the joint tenancy title or disturbing the right of survivorship. Lillian Pellegrini's solely owned inherited assets and all joint-tenancy assets were therefore outside the probate court's statutory jurisdiction.

The California Supreme Court affirmed the Legislature's intent in *In re Brace*, 9 Cal.5th 903 (2020), that assets acquired prior to 1975 are presumed separate property. Transactions on joint tenancy titled financial assets are subject to tracing under Probate Code §5305.

The court failed to review property characterization as an issue of law. Only separate characterized property was held in the 1999 Trust that expressly declared the property to remain separate both before and after transfer to the 1999 Trust. (App. p.200a).

Marleen Merchant brought an action to convert the San Francisco real property to community property to provide court jurisdiction over it when she lacked any future interest to bring an action. The real property sale in 2009 left the Family Trust void of any property that could be distributed to any remainder beneficiary on the surviving spouse's passing, leaving any remainder beneficiary void of an interest and causing a failure of the Family Trust. Neither conversion nor funding the Family Trust would provide an interest. Any property funding the Family Trust would be distributed to Lillian Pellegrini.

The California Supreme Court confirmed in *Estate of Baglione*, 65 Cal.2d 192 (1966) that the jurisdiction of superior courts sitting in probate does not encompass power to pass upon assertions of title to property by parties claiming adversely to the estate. Lacking statutory jurisdiction, the court facilitated a conversion of property whose separate characterization was expressly declared in the 1999 Trust (App. p.200a) and whose transfer to the 1999 Trust complied with Civil Code §683. The court's conversion and taking robbed Lillian Pellegrini of ownership rights the 1999 Trust expressly preserved without generating any Family Trust remainder interests upon her passing. No immunity attaches to a government entity engaged in a tortious act. *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682 (1949).

<u>The Family Trust fails with the sale of the San Francisco property</u>

Angelo Pellegrini contributed only separate characterized joint tenancy titled assets to the 1999 Trust; his ownership interest in any asset was extinguished on death. On Angelo Pellegrini's passing, Lillian Pellegrini held superior rights to her inherited property and all joint tenancy titled property by right of survivorship.

The 2025 opinion stated that the 2004 Amendment "revised" (App. p.8a) paragraph (c) of the Family Trust, an embellishment from the 2016 opinion (App. p.154a) when the 2004 Amendment states plainly on its face—paragraph (c) is deleted in its entirety (App. p.220a). The amendment distributed a single, specific asset, the San Francisco real property, without substitute stated or intended. Its sale, final in March 2009, caused the divestment of any remainder beneficiary interest, and it caused the Family Trust to fail. Mischaracterizing the 2004 Amendment allowed the courts to avoid the Family Trust's threshold defect and uphold the taking.

In 2009 sale left the Family Trust without property subject to distribution on the Surviving Spouse's passing and no designated beneficiary of any other asset that might be transferred to the Family Trust. Without a designated beneficiary on the passing of the surviving spouse, the Family Trust is invalid under Probate Code §15205.

The Family Trust was irrevocable, not subject to amendment or modification (App. p.214a). The only means to remedy the Family Trust was by modification or amendment to the fully revocable Survivor's Trust's distribution clause on the Surviving Spouse's passing (App. p.203a). That remedial pathway was terminated when the Survivor's Trust was revoked in 2011 and replaced with the LDP Trust of which Lillian Pellegrini and Beverly Pellegrini were co-trustees and from which the funds at issue were taken. The Survivor's Trust revocation solidified the Family Trust's failure and termination by law.

The Family Trust was not an issue of construction as stated in the appellate court's 2016 opinion (App. p.187a). No matter how the Family Trust was funded, Lillian Pellegrini was the sole and final beneficiary, holding both beneficial and legal title to any asset used to fund the Family Trust. With no designated beneficiary of any asset except the San Francisco property, the irrevocable Family Trust failed by law under Probate Code §15205, and its failure was subject to the 1999 Trust's Severability Clause (App. p. 211a).

Lillian Pellegrini was surviving trustee of the Family Trust (App. p.212a-213a). The court was without authority to remove her as trustee when the 1999 Trust document permitted no such removal. Nevertheless, even with her removal as trustee, Lillian Pellegrini was still the sole and final beneficiary of any and all assets used to fund the Family Trust. Any new trustee was obligated to make such distribution to Lillian Pellegrini.

The court had no authority to deny Lillian Pellegrini's sole vested interest in the Family Trust as sole beneficiary or modify the invalid, failed trust when the 1999 Trust gave no such permission. In this case, because the remainder beneficiaries' interests were divested by a power granted to the surviving spouse (App. p.212a), the divested beneficiaries held no future interest in the 1999 Trust or any subtrust upon which to solicit the court to modify a failed trust.

Lack of Standing gives Court no jurisdiction over the parties

Probate Code §17200 limits the court's authority over trust proceedings to actions brought by a trustee or beneficiary. Probate Code §24 defines a beneficiary as a person with a present or future interest, vested or contingent. A remainder beneficiary of an irrevocable trust subject to an exercised divestment power granted to the present interest holder (App. p.212a) has no standing and is outside the court's jurisdiction.

The California Supreme Court confirmed in *Barefoot v. Jennings*, 8 Cal.5th 822 (2020), that persons holding no interest in a trust have no standing to bring a claim against it, reiterating *Brock v. Hall*, 33 Cal.2d 885 (1949), that a court's primary duty in construing a trust is to give effect to the settlor's intentions. Neither principle was honored here. The court neither honored Lillian Pellegrini's ownership rights of both her separate characterized inherited assets and separate characterized joint tenancy assets preserved in the 1999 Trust (App. p.200a) or power provided to Lillian Pellegrini over the real property (App. p.212a) and all separate property (App. p.213a).

The distinction between fundamental jurisdiction and excess of jurisdiction is dispositive here. *County of San Diego v. Gorham*, 186 Cal.App.4th 1215 (2010); *Abelleira v. District Court of Appeal*, 17 Cal.2d 280 (1941). Both presume that the court's jurisdiction has been properly invoked. That presumption fails at the threshold in this case. While a probate court may determine the existence and internal affairs of a trust, it cannot reach those questions unless its authority is first invoked by a statutorily authorized party. Because that threshold requirement was never satisfied, the court had no lawful authority whatsoever to exercise any jurisdiction. The orders are void ab initio.

Standing, an issue raised at the outset, is a statutory requirement under Probate Code §17200.

The probate court declared Marleen Merchant had standing without requiring the petitioner to prove standing, a burden she would have been unable to meet.

Neither appellate opinion in 2016 or in 2025 addressed standing. Instead, the court conflated revocability of the 1999 Trust with jurisdiction to avoid the threshold issue of standing required by Probate Code §17200 (App. M, p.172 et seq.). Marleen Merchant brought an action asking the court to fund the Family Trust. Funded or unfunded, Marleen Merchant lacked standing when her only interest was divested in 2009.

Revocability of the 1999 Trust during the survivorship period is irrelevant to property control. The 1999 Trust provided revocability power over property contributed by a single trustor (App. p.213a). Lillian Pellegrini contributed all separate property as sole owner or by title in joint tenancy (App. O); on Angelo Pellegrini's passing, Lillian Pellegrini was sole owner of all separate characterized assets. Probate Code §7050 confers the court no authority to exercise jurisdiction over a living person's property. The court's exercising jurisdiction beyond its statutory limitations is a violation of due process.

Marleen Merchant's remainder interest was contingent on Lillian Pellegrini's ownership and power of alienation and a power to sell and use the proceeds under the 1999 Trust (App. p.212a), both of which controlled the viability of the Family Trust and remainder interests. The sale of the residential property in 2009 divested any remainder interest and rendered the Family Trust a nullity by law, providing Marleen Merchant with no standing.

Because the power of a probate court is strictly limited by statute, the absence of an authorized petitioner is a threshold defect that cannot be waived, is not subject to a limitation period, and renders all orders and subsequent proceedings void.

3. Due process violations permitted the court to issue a taking of property

Unresolved Issue of Due Process Violation

On January 14, 2015, the court concluded a trial with findings (App. p.234a) verbatim to those findings entered on the docket at 7:44 a.m. before trial (App. p.233a).

In 2025, the County's brief failed to dispute any fact or law or jurisdictional issue raised by appellant; the County failed to appear for oral argument. Despite questions being solicited by the appellant at oral argument, the court was silent. In its 2025 opinion, the state appellate court repeated the same intentional falsification of the 2004 Amendment as it had in 2016 to justify its findings that included upholding material misrepresentations in a fiduciary account distributing assets under the Family Trust clause that had been deleted by valid amendment in 2004 and a false implied conservatorship.

These actions are not examples of bias or legal error. The actions represent engineered procedural defects to avoid addressing a lower court's lack of statutory authority over the parties or property resulting in the wrongful taking of Lillian Pellegrini's rightfully owned property of which Beverly Pellegrini's interest has now fully vested.

This Court has not reviewed circumstances in which (i) a trial court's findings at the close of trial appear verbatim as findings entered on the docket before trial began; or (ii) an appellate court, in both its 2016 and 2025 opinions, intentionally distorting a valid amendment to preserve a distribution clause that the amendment has unambiguously deleted in its entirety on its face. Both procedural defects raise serious due process concerns and abuses of authority.

Lack of Standing and Impossible Joinder

Code of Civil Procedure §389, which was amended in 1971 to mirror Federal Rules of Civil Procedure, Rule 19, requires joinder of a party subject to process if that person will not deprive the court of subject matter jurisdiction. Neither Marleen Merchant nor unjoined party Beverly Pellegrini had standing as neither held a vested or contingent interest in the 1999 Trust or any subtrust as of 2009. A mere expectancy subject to divestiture by the surviving spouse's ownership rights or by powers granted under the 1999 Trust provides no beneficiary interest sufficient to confer standing. Therefore, the court was void of statutory jurisdiction over the parties from the outset.

The Court proclaimed standing for Marleen Merchant, but failed its obligation to determine feasibility of joinder that would have forced the court to consider its statutory jurisdiction limitations. Beverly Pellegrini's future vested interest, now fully vested, under the LDP Trust, of which she shared equal powers with Trustor Lillian Pellegrini as co-trustee was not subject to litigation but would be subject to a taking through orders issued without statutory jurisdiction, violating her due process rights. The court further impeded Beverly Pellegrini's due process rights by attaching forfeiture when an unjoined party not in privity with the other parties cannot be bound by judgments in the previous action. *Lungren v. Community Redevelopment Agency of Palm Springs*, 56 Cal.App.4th 868 (1997); *Taylor v. Sturgell*, 553 U.S. 880 (2008).

The court, lacking statutory authority over the parties, was required to dismiss the action at the outset. Failure to issue the required dismissal does not legitimize its orders and cannot permit taking of Lillian Pellegrini's solely owned property. The orders are void ab initio.

4. Court attaches forfeiture to an unjoined, indispensable party without addressing preclusion

In the 2025 opinion, the court expanded the *In re Baycol Cases I & II*, 51 Cal.4th 751 (2011) beyond their holdings claiming that Lillian Pellegrini's untimely appeal permitted the court to attach forfeiture to Beverly Pellegrini's survivor claim action. Threshold issues that go to the court's jurisdiction, however, cannot be forfeited but can be raised at any time. *Ruhrgas Ag v. Marathon Oil Co.*, 526 U.S. 574 (1999). The California Supreme Court addressed interlocutory judgments in *Morehart v. County of Santa Barbara*, 7 Cal.4th 725 (1994), stating that when issues remain outstanding, the interlocutory judgment is not subject to appeal.

The threshold issues of the Family Trust's validity and standing determine the court's statutory authority to exercise jurisdiction over the parties. A court acting without statutory authority to exercise jurisdiction violates due process protections.

The *In re Baycol Cases I and II*, 51 Cal.4th 751 (2011) ruling pertained to how class action judgments were applied, stating that if the judgment included both the class and the individual, the judgment is final for both, but if the judgment is only for the class, the individual suits may go forward. This is correct because the judgment cannot expand to parties not included in the judgment or cause parties not included to give up a right. The state appellate court, however, expanded this ruling to apply to an unjoined party in the first action by claiming that the previous defendant had forfeited her rights for lack of a timely appeal. (App. 29a). Orders issued without statutory authority are not subject to time limitations. Orders failing to address threshold issues that determine the court's statutory limitations are interlocutory.

The Court applied a class-action death-knell finality analysis to a non-class context, treating the January 2015 ruling as final and binding notwithstanding its interlocutory character. The ruling depended on the Family Trust's validity — a threshold issue raised but never adjudicated. The January 2015 ruling, therefore, could not be final, and forfeiture for failure to appeal it cannot attach.

Forfeiture cannot stand for two reasons: (i) the court never acquired jurisdiction over property or parties; (ii) preclusion cannot attach to an unjoined party when the court lacked subject matter jurisdiction over the parties and property. Beverly Pellegrini, whose interest was derived from Lillian Pellegrini's solely owned assets held in the LDP Trust, cannot be bound to a judgment of which she was not joined. *Lungren v. Community Redevelopment Agency of Palm Springs*, 56 Cal.App.4th 868 (1997); *Taylor v. Sturgell*, 553 U.S. 880 (2008).

The state appellate court claimed that issues of joinder, standing, and the January 2015 ruling requiring funding of the Family Trust were final under the law of the case doctrine stated in *Joyce v. Simi Valley Unified School District*, 110 Cal.App.4th 292 (2003). The court claimed that a party may not reinvent a claim that was resolved against them. (App. 28a). The law of the case doctrine, however, does not apply where there is a manifest misapplication of principles resulting in substantial injustice. *People v. Stanley*, 10 Cal.4th 764 (1995). A lower court's lack of statutory authority qualifies as a misapplication resulting in substantial injustice. Here the court failed to address the Family Trust's invalidity due to a divestiture of the remainder interests and a lack of any designated beneficiary of any other asset on the surviving spouse's passing.

<u>Preclusion under California Precedent</u>

Preclusion was not raised by any party or discussed by the court. The appellate court by-passed the issue of preclusion by adopting forfeiture.

When a federal court considers the preclusive effect of a state court judgment, it applies the preclusion law of the rendering state. In *Allen v. McCurry*, 449 U.S. 90, 96 (1980), citing *Montana v. United States*, 440 U.S. 147 (1979), the court has consistently held that issue preclusion, or in this case, forfeiture, cannot apply when a party against whom the earlier decision is asserted was not joined and therefore had no opportunity to litigate the issue. *Marrese v. American Academy of Orthopedic Surgeons*, 470 U.S. 373 (1985); see *Miroth v. County of Trinity*, 136 F.4th 1141 (9th Cir. 2025).

California relies on California Supreme Court rulings that included a discussion of claim and issue preclusion in *DKN Holdings LLC v. Faerber*, 61 Cal.4th 813 (2015) subject to a five-part threshold test provided in *Lucido v. Superior Court*, 51 Cal.3d 335 (1990). Issue preclusion applies when all of the following threshold requirements are fulfilled:

(i) The issue subject to preclusion must be identical to that in the former proceedings. Here, the issue in the first action concerned property ownership; the second involved a survivor claim on the property taken, over which the court lacked statutory authority.

(ii) The issues must have been actually litigated in the former proceeding. Here there was no litigation concerning issues of statutory authority over the property or parties, standing, or the validity of the Family Trust.

(iii) The issue must have been necessarily decided in the former proceeding. The above issues were never heard and never decided.

(iv) The decision in the former proceeding must be final on the merits. The decision could not be final because the rulings and orders were void ab initio for lack of the court's statutory authority to convert property to exercise jurisdiction over it.

(v) The party against whom preclusion is sought must be the same as, or in privity with, the party to the former proceeding. Privity cannot attach when the court had no statutory authority over the parties of the first action. Beverly Pellegrini was not joined in the first action. Her claim derives from the LDP Trust of which she was co-trustee and sole beneficiary; the LDP Trust was not subject to litigation. Moreover, all assets held in the LDP Trust were Lillian Pellegrini's solely owned assets over which the 1999 Trust had given her full control (App. 213a).

A possible sixth factor is used to determine if public policy warrants preclusion. Here, preclusion is not warranted because the court lacked subject matter jurisdiction by law over the parties and property. Public policy cannot be justified to apply to this case if equal protection and due process rights are, indeed, guaranteed constitutional rights.

Prior denials of certiorari are not decisions on the merits and create no preclusive effect. A lack of the court's subject matter jurisdiction over the property and parties as described does not create preclusion as the orders are void.

5. Private property taken under void orders

The U.S. Supreme Court has repeatedly held that property interests extend beyond physical assets to legally recognized financial interests. *Horne v. Department of Agriculture*, 576 U.S. 350 (2015). At issue is the taking of Lillian Pellegrini's rightfully owned invested assets held in the LDP Trust.

Property taking by fraud

This Court is presented with a claim for violation of the Takings Clause under the Fifth and Fourteenth Amendments. Lillian Pellegrini's solely owned investment assets were ordered liquidated without due process by a state court lacking statutory authority over the property and parties. The court's order favored a party claiming a remainder beneficiary interest that was divested by Lillian Pellegrini's exercise of powers granted to the surviving spouse under the 1999 Trust. Courts have never ruled against the present interest holder in favor of a remainder that might never transpire. *Gannon v. Peterson*, 193 Ill. 372 (1901); *Fifer v. Allen*, 228 Ill. 507 (1907); *Estate of Giraldin*, 55 Cal.4th 1058 (2012).

All property taken was Lillian Pellegrini's inherited assets that comprised roughly 95% of the 1999 Trust's portfolio value and generated nearly all the portfolio's compounded wealth. Fresno County generated no income, and distributed no monies to Lillian Pellegrini. All monies were used for the benefit of the County and other third parties.

The Takings Clause protects property interests including financial value, surplus equity, and the right to retain assets and their growth potential. *Tyler v. Hennepin County*, 598 U.S. 631 (2023). It also recognizes takings when action by the state appropriates property for the government's benefit by applying the legal framework of essential property rights discussed in *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982) as follows:

i. A denial of an owner's property is a taking. The property at issue was Lillian Pellegrini's solely owned financial assets over which the court lacked jurisdiction under Probate Code §7050.

ii. Denial of control over the assets. Lillian Pellegrini held full dominion and control over the assets at all times through the 1999 Trust (App. p.213a), the Survivor's Trust before its revocation (App. p.203a), and the LDP Trust. The unauthorized liquidation of Lillian Pellegrini's solely owned assets controlled by co-trustees of the LDP Trust terminated that control to place the proceeds in a pooled account controlled by Fresno County.

iii. Denial of use of the assets. Lillian Pellegrini's invested assets generated approximately 10% annual returns before the 2016 liquidation. After liquidation, the proceeds held by the Public Guardian generated $4,643.74 in total interest since 2018 (App. 245a). Lillian Pellegrini was denied actively investing her property to generate wealth.

iv. Lillian Pellegrini owned both sole beneficial and legal title to all assets. Her solely owned property was liquidated without her authorization by Fresno County. The court was without statutory authority to confer legal title to an appointed trustee who owed a duty to distribute all assets to the sole and final beneficiary of the Family Trust, Lillian Pellegrini. The taking occurred as an illegal, unauthorized sale of invested assets under the color of state law when the court was without statutory authority to grant the liquidation of a living person's property under Probate Code §7050.

A second taking occurred when Fresno County failed to distribute the liquidated holdings to Lillian Pellegrini as the final beneficiary under the Family Trust, confirmed the K-1 prepared in 2017 (App. p.286a-287a) A third taking occurred after Lillian Pellegrini's passing. Beverly Pellegrini, as personal representative under Lillian Pellegrini's will, brought a survivor claim in April 2024 seeking the return of the estate's property that was to be distributed to Beverly Pellegrini as sole beneficiary of the LDP Trust from which trust the property was taken, or as sole devisee under Lillian Pellegrini's will. In its 2025 opinion, the state appellate court affirmed the distribution under a Family Trust clause deleted in its entirety by the 2004 Amendment, thereby perpetuating the prior takings and preventing the return of the property. Failure to restore the property is the third taking.

Taking without remedy in state court

The taking was directly caused by government action under void judicial orders. The state court lacked statutory authority to exercise any jurisdiction over a living person's property, and the court has no authority to interfere with the present interest holder's right of ownership.

A state court exceeding its statutory limitations issues void orders. Yet under Code of Civil Procedure §473(d), a state court has discretionary authority to set aside a void judgment. The property owner is therefore left without a mandate to void ultra vires orders that are void ab initio. Where, as here, a state appellate court acts under color of state law to intentionally misrepresent the 2004 Amendment (App. p.154a; p.8a) and expand precedent beyond its limitations (App. p.29a;32a) without addressing its statutory constraints, the taking occurs without redress.

<u>Immediate action under 42 U.S.C. §1983 permitted by the U.S. Supreme Court</u>

This Court held in *Knick v. Township of Scott*, 588 U.S. 180 (2019), that a property owner may bring an immediate §1983 action for a taking — without first exhausting state remedies — when the deprivation occurs under color of state law. The compensation due is not merely the value of the taking, but the full equivalent value of which interest is a proper measure. *Jacobs v. United States*, 290 U.S. 13 (1933). State law under Probate Code §16440, §13110, and §850 independently provide restitution, interest, and damages for the breach of trust and wrongful taking.

<u>The Rooker-Feldman Vacuum</u>

Despite the U.S. Supreme Court's ruling in *Knick, supra*, federal courts continue applying the Rooker-Feldman doctrine to bar 42 U.S.C. §1983 claims. *Miroth v. County of Trinity*, 136 F.4th 1141 (9th Cir. 2025).

In *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005), this Court stated Rooker-Feldman could not bar a claim that the state court lacked jurisdiction. The purpose of 42 U.S.C. §1983 is to provide a federal cause of action when state actors deprive citizens of constitutional rights, including property rights protected by the Takings Clause. Where a state court lacks jurisdiction over the property and parties by law, its orders are void ab initio, and federal district courts retain jurisdiction over constitutional claims and claims under federal statutes arising from those void orders.

A federal court is not acting as an appellate court when it is asked to uphold a constitutional right over property that has been taken from the rightful owner, not by law, but by a court exceeding its statutory limitations that has been induced to uphold fraud. Federal courts provide these forums to protect rights over property when state courts fail.

Federal courts' dismissal of 42 U.S.C. §1983 claims leaves a citizen with an enforced void judgment without legal basis and no forum to remedy fraudulent takings. Federal courts refuse jurisdiction under Rooker-Feldman, and the property owner is left with a state court without statutory authority to issue the takings order and discretionary authority to rectify the void ab initio order and no Fifth and Fourteenth Amendment guaranteed protections.

6. Lack of jurisdiction cannot be cured and failure to address statutory limitations cannot validate ex parte orders to take property

When a court that exceeds its statutory limitations to exercise jurisdiction, its orders are void ab initio.

Lack of jurisdiction cannot be cured

A probate court's jurisdiction is limited by statute. The California Supreme Court established in *Texas Co. v. Bank of America Nat'l Trust & Savings Ass'n*, 5 Cal.2d 35 (1935), that "a total lack of jurisdiction due to absence of notice sufficient to constitute due process of law cannot be cured by a curative statute." The California Legislature confirmed this principle in the Law Revision Commission Comments to Probate Code §9923, §9948(d), §9966, §9983, §10264, and §10316, each of which cites *Texas Co.*, supra for the proposition that where a court lacks jurisdiction the curative statute does not cure the defect.

A probate court has jurisdiction over the decedent's estate under Probate Code §7050; it has no jurisdiction over a living person's separate property. It has no jurisdiction over the surviving spouse's separate property or a decedent's joint tenancy with right of survivorship assets under Probate Code §13050. The California Supreme Court in *In re Brace*, 9 Cal. 5th 903 (2020) upheld the Legislature's intent that joint tenancy assets acquired prior to 1975 are characterized as separate and are distributed on death by right of survivorship. All property held in the 1999 Trust was separate (App. O), and its separate characterization was maintained by express declaration (App. p.200a).

While a probate court has jurisdiction over the internal affairs of a trust and can determine its existence, Probate Code §17200 permits exercise of that jurisdiction if and only if an action is brought by a trustee or beneficiary. Marleen Merchant was not a trustee and held no beneficiary interest as of 2009 when the real property was sold. The Family Trust could not be remedied to provide any interest when the Survivor's Trust was revoked in 2011. No court order can remedy a lack of valid trust or the lack of any present or future interest provided by that trust. The Court was without authority to exercise any jurisdiction over the Family Trust, Lillian Pellegrini, Lillian Pellegrini's property, or Marleen Merchant.

<u>Ex Parte Orders Issued Without Jurisdiction Are Void Ab Initio</u>

Fresno County solicited the court to issue ex parte orders without notice to acquire statements of accounts under Lillian Pellegrini's individual name (App. p.297a), freeze these accounts (App. p.307a), and liquidate assets held in these accounts (App. p.321a) when it was known that these were trust accounts. Neither Probate Code §856 and Probate Code §857 can confer jurisdiction when the court lacked statutory authority to exercise jurisdiction.

Probate Code §850 et seq. requires an interested person, as defined under Probate Code §48, to be an heir or other person having a property right in the trust estate. Marleen Merchant was an heir whose interest in the Family Trust had been divested by the March 2009 sale. She held no property right, future interest, or any expectancy in the 1999 Trust or any subtrust under the 1999 Trust, funded or unfunded. Therefore, the statutory predicate for the order did not exist.

Funding the trust would not create any future interest and could not convey any right to Fresno County. The defects—lack of notice, lack of hearing, reliance on false allegations—only compound the jurisdictional nullity from an absence of statutory authority over property and parties.

7. Jurisdiction lacking by statute cannot be obtained by fraud

This Court has held that judgments procured through material misrepresentations and fabricated evidence constitute a fraud upon the court itself and cannot be sustained. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944). In California, extrinsic fraud extends to material misrepresentations in a fiduciary account and constitutes a denial of due process. *Hudson v. Foster*, 68 Cal.App.5th 640 (2021).

The fraud began when the action was filed by petitioner Marleen Merchant and her attorney who knowingly misrepresented Marleen Merchant as a beneficiary when, at the time of filing, Marleen Merchant held no present or future interest in the 1999 Trust or the Family Trust or any subtrust subject to revocation or full withdrawal rights. The remainder interest held by Beverly Pellegrini and Marleen Merchant was subject to an exercised power granted to the surviving spouse under the 1999 Trust.

The final sale of the San Francisco real property in 2009 terminated any remainder interest. Termination of the Survivor's Trust by revocation, terminated the invalid Family Trust and the 1999 Trust. Funding the Family Trust by conversion and the taking of Lillian Pellegrini's separate property from the LDP Trust of which Beverly Pellegrini was co-trustee and held a vested future interest, would not generate any remainder interest in the Family Trust.

The fraud would have ended had the court been willing to hear the issue of its lack of statutory authority over the property or parties including the issue of Marleen Merchant's lack of standing. Failure of an opportunity to be heard at the outset facilitated fraud.

Appointing Fresno County as trustee of the Family Trust, a nullity by law, would not and could not provide an interest to anyone except Lillian Pellegrini; Lillian Pellegrini remained the sole and final beneficiary of the Family Trust. Instead, Fresno County has engaged in extrinsic fraud through material misrepresentations in every filing and has engaged in actions of concealment, resulting in harm to Lillian Pellegrini and Beverly Pellegrini through breaches of trust.

Fresno County solicited the court for three consecutive ex parte orders for Marleen Merchant's benefit: for statements of accounts in Lillian Pellegrini's individual name (App. p.297a); freezing these accounts (App. p.298a); and liquidating assets from the individual accounts (App. p.304a). Fresno County knew that the statements showed there were no accounts in Lillian Pellegrini's individual name; Lillian Pellegrini's only accounts were the revocable LDP Trust of which Lillian Pellegrini and Beverly Pellegrini were co-trustees, from which the assets taken were liquidated without authorization (App. p.275a-277a) and an irrevocable trust for Lillian Pellegrini's benefit.

Fresno County acted on behalf of Marleen Merchant by diverting $439,497.62 to Marleen Merchant and her attorney when neither had an interest in the monies, and the 1999 Trust prohibited such transfer until a gift was actually received (App. p.211a). The transfer harmed both Lillian Pellegrini's present interest and Beverly Pellegrini's future interest and represents a breach of trust.

Fresno County intentionally concealed account information from Lillian Pellegrini by opening accounts at different institutions under different names (App. BB,p.291a) The banks' statements were under seal with the court. An EIN was procured upon filing a 1041 and claimed to retroactively be attached to a trust account (App. p.289a). Nevertheless, after depositing the check in a pooled trust account (not the name on the check), the County opened the first account through the unauthorized use of Lillian Pellegrini's social security number (App. p.292a), which the Federal Reserve Bank of Dallas did not address when Comerica Bank claimed that Lillian Pellegrini was not a bank client. When Lillian Pellegrini identified herself with a copy of the trust, banks, upon contacting Fresno County, divulged no information.

Since 2018, Fresno County earned interest totaling $4,643.74 (App. p.237a;p245a). No interest or principal was provided to Lillian Pellegrini. Fresno County required Wells Fargo to withhold earnings for tax purposes even though interest income was insufficient to generate any tax liability (App. p.247a). The court was aware of the misrepresentations including claiming that Lillian Pellegrini was a conservatee (App. p.41a), when neither Lillian Pellegrini nor her estate were ever subject to a conservatorship or guardianship.

The appellate court does not commit error but rather abuses its authority when materially misrepresenting what the 2004 Amendment states plainly on its face—the distribution clause of the Family Trust on the surviving spouse's passing is deleted in its entirety (App. p.220a) and affirms a distribution under the deleted clause (App. p.250a) and a false implied conservatorship (App. p.41a). The court exceeds and abuses its authority, constituting a violation of due process by affirming known material and fraudulent misrepresentations. *Hudson v. Foster*, 68 Cal.App.5th 640 (2021).

<u>State Court lacking statutory authority can issue no valid order</u>

No court, state or federal, and no agency or department has reached the merits of this case, based on threshold issues raised but never heard that would have resulted in dismissal for lack of statutory authority to exercise jurisdiction over the parties or property.

There is no statute and no precedent that permits any order, ruling, or judgment issued when statutory jurisdiction is lacking to be upheld; the orders, rulings, or judgments are void ab initio. Absence of authority by law renders all orders void. The elements of fraud or extrinsic fraud or fraud on the court do not generate a valid order, and cannot cure the jurisdictional defect.

8. Remedy: Full Restitution, Damages, and Statutory Interest

Fresno County as counsel and court-appointed trustee, engaged in fraud to obtain ex parte orders to take property from the rightful owner and perpetuated the fraud to deny sole and final beneficiary, Lillian Pellegrini, the distribution due under the Family Trust. The monies and damages claimed in 2016 were to be returned to the LDP Trust; the claim for restitution and damages is now due Beverly Pellegrini as the sole beneficiary under the LDP Trust and sole devisee under Lillian Pellegrini's will.

Fresno County never disputed any issue of fact or law, or disputed the lack of statutory authority of the Probate Court over this matter. It has not disputed that fraud was undertaken to obtain court orders. The appellate court's opinion stating the 2004 Amendment revised the distribution clause is fabrication when it clearly states paragraph (c) is deleted in its entirety.

This Court has the authority to issue a ruling that all the ultra vires orders issued by the state courts are void ab initio, all actions taken under those void orders are void, and that full restitution and payment of the claim is ordered. This Court has authority since *United States v. Lee,* 106 U.S. 196

(1882), and later in *Jacobs v. United States,* 290 U.S. 13 (1933), and under *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), to issue the necessary orders, including an order of payment requested. Without this Court's intervention, the Fifth and Fourteenth Amendment protections at issue have no enforcement mechanism in this case.

As of 2024, the claim rests on the taking of property totaling ***$1,597,788.74*** (App. p.282a) that has been distributed by a signed, yet unserved order (App. E), under the Family Trust's deleted clause that cannot make such distribution. Damages under Probate Code §850 total **$3,195,576.28**. Damages for fraudulent conversion and transfer under Probate Code §13110 total **$9,468,856.78**. Breach of trust damages under Probate Code §16440 total **$3,755,399.03**. Statutory interest under Code of Civil Procedure §685.010 is 10% annually as of January 2016 until payment of the claim is rendered in full. To date, that interest is calculated at **$1,757,567.61**. The total claim due with interest calculated totals **$19,775,186.44** less the amount already remitted of **$527,207.24**.

Petitioner asks this Court to recognize a systemic failure of due process and application of law through a probate court that exceeded its statutorily limited authority, a trial court that entered its pre-determined findings on the docket prior to trial, an appellate court that falsified evidence, and the failure of any court to address the threshold jurisdictional issues that should have ended this case at the outset. The result is a series of orders procured by intentional fraud without review and harm resulting from the taking of Lillian Pellegrini's rightfully owned property held in the LDP Trust of which Beverly Pellegrini holds a fully vested interest.

Remand to a state court system, whose actions strike at the integrity of the judicial process, is not feasible. This Court has the authority to make any order necessary to render the state courts' ultra vires orders and judgments void ab initio and order payment of the claim due. Petitioner requests that order.

CONCLUSION

This case continues with no hearing ever on its merits in any forum when the state court lacked statutory authority over the property and parties since the outset. It is not mere legal error. It is fraud engineered through state courts with no obligation under state law to determine the limits of its statutory authority or to reverse orders void for lack of jurisdiction. The appellate court refuses de novo review on issues of law and affirms on its own misrepresentations of evidence and precedents extended beyond their scope. It resulted in a taking of $1.6 million by liquidating invested assets that were Lillian Pellegrini's rightfully owned sole and separate property. The taking has occurred three times—the initial fraudulent liquidation; the refusal to distribute assets according to the K-1 directive; and the denial of the fully vested beneficiary's interest in this property.

The Ninth Circuit permitted the claim to be reasserted in a competent court, citing *Frigard v. United States*, 862 F.2d 201 (9th Cir. 1988) (App.

p.85a). This Court is that court. The claimant is asking this Court to address whether property can be taken by state court orders issued without statutory authority over the property or parties and without due process. State courts, with wide discretionary authority to reverse void orders, cannot be relied upon to uphold constitutional protections.

This Court's intervention is essential to safeguard the fundamental right of property ownership guaranteed under the Fifth and Fourteenth Amendments when state courts exceed their statutory limitations. The petition for a writ of certiorari should be granted.

Respectfully submitted,

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