

No. 26–95

In the Supreme Court of the United States

JOHN ZHONG, ET AL.,

Petitioners,

v.

SUPERIOR COURT OF CALIFORNIA,
LOS ANGELES COUNTY, ET AL.,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEAL OF CALIFORNIA
SECOND APPELLATE DISTRICT

REPLY TO BRIEF IN OPPOSITION

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TABLE OF CONTENTS

Table of Authorities.....	i
Reply to Brief in Opposition	1
Introduction and Clarifications	1
I. The Completed Section 170.3(d) Writ Proceeding Is Final for Review of the Federal Issue.....	2
II. The City Overstates the Preservation Objection.....	3
III. The Asserted State Grounds Do Not Eliminate the Federal Question	5
IV. The Petition Presents a Role-Conflict Question, Not a Claim That Adverse Rulings Alone Prove Bias	7
V. The Record Omissions Do Not Justify Denial, and the City’s Own Appendix Confuses the Two Sets of Proceedings.....	8
Conclusion	10

TABLE OF AUTHORITIES

Cases

<i>Adams v. Robertson</i> , 520 U. S. 83 (1997).....	5
<i>Aetna Life Insurance Co. v. Lavoie</i> , 475 U. S. 813 (1986).....	4
<i>Atlantic Richfield Co. v. Christian</i> , 590 U. S. 1 (2020).....	2
<i>Brinkerhoff-Faris Trust & Savings Co. v. Hill</i> , 281 U. S. 673 (1930).....	5–6

<i>Caperton v. A. T. Massey Coal Co.</i> , 556 U. S. 868 (2009)	4, 7
<i>Cox Broadcasting Corp. v. Cohn</i> , 420 U. S. 469 (1975)	2
<i>Howell v. Mississippi</i> , 543 U. S. 440 (2005)	5
<i>In re Murchison</i> , 349 U. S. 133 (1955)	7
<i>Jefferson v. City of Tarrant</i> , 522 U. S. 75 (1997)	3
<i>Liteky v. United States</i> , 510 U. S. 540 (1994)	7
<i>Moore v. Harper</i> , 600 U. S. 1 (2023)	3
<i>Tumey v. Ohio</i> , 273 U. S. 510 (1927)	4
<i>Ward v. Monroeville</i> , 409 U. S. 57 (1972)	4, 6, 8
<i>Williams v. Pennsylvania</i> , 579 U. S. 1 (2016)	7
Constitutional Provisions, Statutes, and Rules	
U. S. Const. Amdt. XIV, §1	1, 4, 6
28 U. S. C. §1257(a)	2
Cal. Code Civ. Proc. §170.3	2–3, 7
Cal. Code Civ. Proc. §170.4	6–7
S. Ct. R. 10	8
S. Ct. R. 14	5, 8

REPLY TO BRIEF IN OPPOSITION

INTRODUCTION AND CLARIFICATIONS

The City’s opposition raises threshold objections and identifies imprecise language in the petition. Petitioners address those points directly and candidly.

First, the October 2, 2025 Verified Statement of Disqualification invoked California’s objective impartiality standard but did not cite the Fourteenth Amendment or this Court’s constitutional-bias cases by name. The petition’s statement that the initial filing “expressly invoked” those authorities was imprecise. But the distinct federal role-conflict claim arose from what happened next: the challenged judge struck the statement, decided contested questions of timeliness and sufficiency, and simultaneously filed a verified answer defending his impartiality. Pet. App. 3–9. Petitioners’ October 6 writ challenged the displacement of referral by “self-adjudication via striking,” Br. in Opp. App. 32–33, and their October 20 petition for review expressly invoked the Fourteenth Amendment and this Court’s neutral-tribunal decisions. Br. in Opp. App. 73–81.

Second, the Superior Court did issue written state-law reasons, and the Court of Appeal’s short order cited section 170.4(b) and two California decisions. Pet. App. 2–8. Petitioners therefore clarify that the state courts did not “write nothing.” The petition’s reference to an absence of reasoned analysis was directed to the distinct federal neutral-adjudicator theory, which no independent state appellate court addressed after it was expressly presented to the Supreme Court of California.

Third, B335376 and S290298 should have appeared in the petition’s related-proceedings list. Their omission was inadvertent. They concern the earlier preliminary-injunction appeal, not the later disqualification writ in B349374 and S293574. The City’s own appendix illustrates the distinction by mistakenly labeling the October 6, 2025 writ as B335376 and the October 2025 petition for review as S290298, filed April 14, 2025. Br. in Opp. App. i–ii, 29, 69. With the record accurately framed, the City’s objections do not warrant denial.

I. The Completed Section 170.3(d) Writ Proceeding Is Final for Review of the Federal Issue

The City treats the disqualification decision as an ordinary interlocutory ruling that cannot satisfy 28 U. S. C. § 1257(a) until final judgment in the nuisance case. California law says otherwise. Section 170.3(d) makes the disqualification determination nonappealable and reviewable “only” by a writ petition filed within ten days. The Superior Court’s order itself advised that the determination “is not an appealable order and may be reviewed only by a writ of mandate.” Pet. App. 8. Petitioners used that exclusive procedure; the Court of Appeal denied B349374, and the California Supreme Court denied review and a stay in S293574. Pet. App. 1–2. The separately docketed original writ proceeding is complete.

Atlantic Richfield Co. v. Christian, 590 U. S. 1, 12–13 (2020), treated a state supervisory-writ proceeding as final where state law made it a separate, self-contained action. The same practical feature is present here: B349374 was an original proceeding, and section

170.3(d) made it the sole and time-limited avenue for review of the strike. *Cox Broadcasting Corp. v. Cohn*, 420 U. S. 469, 477–483 (1975), likewise recognizes finality where the federal issue has been finally resolved in the state courts and later review cannot effectively be obtained, or where delaying review would seriously erode the federal interest. See also *Moore v. Harper*, 600 U. S. 1, 8–11 (2023).

Later merits proceedings cannot restore the expired ten-day writ remedy, convert the statutory disqualification determination into an appealable order, or reopen whether the October 2 strike should have been referred for neutral determination. Continued adjudication by the same judge is the practical implementation of the completed writ judgment, not a reason to treat that judgment as unfinished.

Jefferson v. City of Tarrant, 522 U. S. 75 (1997), is distinguishable. There, future proceedings could make the federal issue immaterial and later review remained available. *Id.*, at 82–83. Here, the exclusive state procedure has ended, and the precise gatekeeping and referral issue presented in B349374 will not be adjudicated again through an ordinary appeal. The City itself concedes that section 170.3(d) presents a “nonfrivolous jurisdictional question.” Br. in Opp. 7. That question should be resolved on the actual structure of California’s exclusive writ process, not on the fiction that a statutory appeal may later reappear.

II. The City Overstates the Preservation Objection

The City is correct that the initial statement did not use federal labels. It is incorrect that the federal

issue was absent from the state proceedings that produced and reviewed the challenged order.

The verified statement invoked the objective rule requiring disqualification when a person aware of the facts might reasonably doubt impartiality, identified the September 30 tentative ruling as the new event, and requested assignment to another judge. Br. in Opp. App. 25–27. The role-conflict claim could not have appeared in that statement because the strike order and verified answer did not yet exist.

Four days later, the Court of Appeal writ presented the operative neutral-decisionmaker objection. It asked whether the judge erred by striking rather than referring the matter where “timeliness and legal sufficiency turned on factual context and were reasonably disputable.” Br. in Opp. App. 30. It argued that, where timeliness depended on recent facts, the issue should be referred to another judge, “not resolved by self-adjudication via striking.” Br. in Opp. App. 32–33. Thus, the Court of Appeal received both the operative facts and the substance of the objection, even though the filing relied principally on California’s statutory framework.

The petition for review then expressly supplied the federal basis before the highest state court in which a decision could be had. Its first issue invoked the Fourteenth Amendment and the rule that no person may be a judge in his own cause; its argument relied on *Tumey v. Ohio*, *Ward v. Monroeville*, *Aetna Life Insurance Co. v. Lavoie*, *Caperton v. A. T. Massey Coal Co.*, and other federal authorities. Br. in Opp. App. 73–81. The Supreme Court of California denied review and a stay two days later. Pet. App. 1.

Adams v. Robertson, 520 U. S. 83, 86–87 (1997), and *Howell v. Mississippi*, 543 U. S. 440, 443–445 (2005), ask whether the state courts had a fair opportunity to address the federal question. They do not make federal nomenclature talismanic where the same operative facts and neutral-decisionmaker objection were pressed below. And this Court has recognized that a federal claim generated by a state court’s own action may be timely when raised at the first available stage after that action. *Brinkerhoff-Faris Trust & Savings Co. v. Hill*, 281 U. S. 673, 677–678 (1930). Here, the role-conflict issue arose with the October 2 order, was raised in substance in the October 6 writ, and was made explicit in the next state filing.

Petitioners do not ask the Court to disregard Rule 14.1(g)(i). They now identify where and how the issue was presented: in B349374, Br. in Opp. App. 30, 32–33, and in S293574. Br. in Opp. App. 73–81. The petition’s use of “expressly” as to the initial statement should be corrected; it should not be transformed into the broader and inaccurate assertion that California never received the federal claim.

III. The Asserted State Grounds Do Not Eliminate the Federal Question

The City groups together older rulings, the September 30 tentative ruling, and the October 2 adjudication. They should be separated.

Petitioners do not rely on rulings issued by August 25 as independently timely grounds. Those events supplied context. The September 30 tentative ruling was new, and the statement was filed before the October 2 hearing. The strike order itself treated the September 30 allegations separately: it called them

unripe and legally insufficient, not untimely. Pet. App. 4–7. The federal role-conflict issue then arose from the decisionmaker and procedure used on October 2.

The City’s adequate-and-independent-state-ground argument assumes the answer to that federal question. Petitioners challenge whether the person whose impartiality was disputed could make the contested determinations that the City now invokes as independent grounds. A challenged decisionmaker’s own conclusion that allegations are insufficient cannot, by itself, foreclose review of whether due process required a neutral decisionmaker for that determination. See *Ward v. Monroeville*, 409 U.S. 57, 61–62 (1972) (later review before a neutral tribunal did not substitute for the right to a neutral adjudicator at the relevant stage); *Brinkerhoff-Faris*, 281 U.S., at 678–682 (state procedure itself may present the federal due-process issue).

Nor did the Court of Appeal unmistakably resolve the federal issue. Its order stated that it had read the writ, found no demonstrated error, and cited section 170.4(b), *Tri Counties Bank*, and *People v. Armstrong*. Pet. App. 2. It did not address the Fourteenth Amendment, the effect of the simultaneous verified answer, or the asserted role conflict. Because the federal claim attacks the constitutionality of the procedure by which the state grounds were determined, those grounds do not render the federal question advisory.

IV. The Petition Presents a Role-Conflict Question, Not a Claim That Adverse Rulings Alone Prove Bias

The City is right that adverse rulings ordinarily do not establish constitutional bias. See *Liteky v. United States*, 510 U.S. 540, 555–556 (1994). Petitioners do not ask this Court to hold otherwise or to review the merits of the fee and cross-complaint rulings.

California’s scheme permits a challenged judge to strike a statement that is untimely or on its face discloses no legal ground. Cal. Code Civ. Proc. § 170.4(b). Otherwise, the disqualification question is to be determined by another judge. *Id.*, § 170.3(c)(5). Petitioners do not contend that every initial screening by a challenged judge violates due process. They contend that the line between facial screening and adjudication matters where timeliness and sufficiency depend on disputed context and the same judge simultaneously files a verified answer denying bias and disputing the moving parties’ account.

The answer was not irrelevant to the strike. The order’s sufficiency discussion cited the answer’s denials before concluding that the alleged facts did not disqualify the judge. Pet. App. 7–9. Calling the answer “conditional” does not alter that it was signed, filed with the strike, and invoked in the court’s analysis.

That presents a question of incompatible roles. This Court’s cases are not limited to direct financial interests. *In re Murchison*, 349 U.S. 133, 136–137 (1955), held that due process is offended when a judge’s prior role creates an intolerable risk in the

later adjudication. *Williams v. Pennsylvania*, 579 U.S. 1, 8–10 (2016), likewise treated incompatible participation as a structural defect. *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868, 876–887 (2009), confirms that the inquiry is objective and asks whether the risk of bias is constitutionally tolerable.

The City answers that a neutral Court of Appeal reviewed the strike. Br. in Opp. 13. But *Ward* rejects the categorical proposition that later neutral review always cures the deprivation of a neutral adjudicator at the stage where rights are determined. 409 U.S., at 61–62. And the Court of Appeal’s short state-law order did not separately apply the federal role-conflict standard.

Petitioners also clarify that they do not claim due process invariably requires a lengthy written opinion. The petition’s reference to reasoned analysis concerns the narrower circumstance presented here: in California’s exclusive and time-limited disqualification proceeding, no independent state court addressed whether the challenged judge crossed from permissible facial screening into adjudicating contested matters while defending his own impartiality. Rule 10(c) permits review of an important federal question that has not been, but should be, settled by this Court. A circuit split is not an indispensable prerequisite.

V. The Record Omissions Do Not Justify Denial, and the City’s Own Appendix Confuses the Two Sets of Proceedings

Petitioners acknowledge that Rule 14.1(b)(iii)’s broad definition of directly related proceedings called for listing B335376 and S290298. Those cases concerned the preliminary injunction; they did not

adjudicate the later disqualification procedure or the federal role-conflict claim. Their omission caused no prejudice because the City supplied them in full. The operative disqualification allegations are likewise before the Court at Br. in Opp. App. 24–28.

The City’s accusation of concealment is overstated because its own appendix conflates the two procedural tracks. Its table of contents identifies the October 6, 2025 disqualification writ as B335376, although the reproduced pleading and the order under review show B349374. Br. in Opp. App. ii, 29; Pet. App. 2. It identifies the October 2025 petition for review as S290298, filed April 14, 2025, even though the reproduced cover identifies B349374 and the correct proceeding was S293574, denied October 22, 2025. Br. in Opp. App. ii, 69; Pet. App. 1. These appear to be clerical errors, but they are significant because the opposition relies on a strict distinction between the earlier merits appeal and the later disqualification proceeding.

No. 26A145 also could not have appeared in the December 2025 petition’s related-proceedings list because it was filed in July 2026. Justice Kagan’s summary denial of interim relief did not dispose of the petition for certiorari in No. 26–95. 1st Suppl. Appx. 8–12. The earlier preliminary-injunction appeal and the later stay application therefore provide context, not a substitute adjudication of the federal question presented here.

CONCLUSION

This Court should grant certiorari.

Respectfully submitted.

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