

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**

PETITION FOR REHEARING

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TABLE OF CONTENTS

Table of Authorities.....	i
Petition for Rehearing.....	1
I. <i>Suncor</i> supplies a specific, previously unpresented reason to hold this petition.....	1
II. The jurisdictional overlap is concrete, although the proceedings are not identical	2
III. The underlying federal claim concerns a judge’s use of his own sworn defense, not adverse rulings alone	4
IV. A hold would not resolve the city’s other objections or enlarge the question presented..	6
V. The requested relief is limited and does not seek an automatic stay	7
Conclusion	8
Certification of Unrepresented Parties	8

TABLE OF AUTHORITIES

Cases

<i>Adams v. Robertson</i> , 520 U. S. 83 (1997).....	6
<i>Atlantic Richfield Co. v. Christian</i> , 590 U. S. 1 (2020).....	3
<i>Caperton v. A. T. Massey Coal Co.</i> , 556 U. S. 868 (2009).....	5
<i>In re Murchison</i> , 349 U. S. 133 (1955).....	5
<i>PBA, LLC v. KPOD, Ltd.</i> , 112 Cal. App. 4th 965 (2003)	4
<i>People v. Brown</i> , 6 Cal. 4th 322 (1993).....	3

Petition for Rehearing

<i>Suncor Energy (U. S. A.) Inc. v. County Commissioners of Boulder County,</i> No. 25–170 (pending).....	1–4, 6–8
<i>Williams v. Pennsylvania,</i> 579 U. S. 1 (2016).....	5

Constitutional Provisions, Statutes, and Rules

U. S. Const., Art. III	1
U. S. Const., Amdt. 14	6
28 U. S. C. §1257	2
Cal. Civ. Proc. Code §170.3.....	3
Cal. Civ. Proc. Code §170.4.....	4
This Court’s 16	7
This Court’s Rule 44.....	1–2, 6, 8

PETITION FOR REHEARING

Petitioners John Zhong and Catherine Li respectfully seek rehearing under this Court's Rule 44.2 of the October 5, 2026, order denying certiorari in No. 26–95. They request that the Court set aside that denial and hold the petition pending its disposition of *Suncor Energy (U. S. A.) Inc. v. County Commissioners of Boulder County*, No. 25–170, argued October 5, 2026.

The federal question remains whether the challenged judge crossed from permissible facial screening into resolving his own disqualification through reliance on his sworn defense of his impartiality. The rehearing ground is the previously unrepresented relationship between *Suncor's* pending jurisdictional question and the city's finality objection here. Petitioners seek coordinated consideration of that threshold issue so their existing neutral-adjudicator claim can be considered under the appropriate jurisdictional framework; they do not offer the previously briefed role-conflict theory as a new ground.

I. *Suncor* supplies a specific, previously unrepresented reason to hold this petition.

On February 23, 2026, this Court granted certiorari in *Suncor* and directed briefing and argument on whether the Court has statutory and Article III jurisdiction. *Suncor* was argued on October 5, 2026. *Suncor's* original question concerns climate-related claims, but the additional jurisdictional question is distinct from that subject matter.

Petition for Rehearing

The merits briefs squarely dispute whether the Colorado proceeding produced a final judgment under 28 U. S. C. §1257(a), or merely an interlocutory appellate ruling in continuing litigation. Compare Brief for Petitioners in *Suncor*, No. 25–170, pp. 15–19 (May 14, 2026), with Brief for Respondents in *Suncor*, No. 25–170, pp. 14–22 (filed July 27, 2026; corrected version posted Aug. 3, 2026). These are the parties’ positions, not a holding of this Court.

The February grant and the merits briefs were publicly available before petitioners’ September filings. Petitioners do not claim otherwise. Those filings did not identify *Suncor* or request a hold for its disposition. The October 5 argument occurred after the September 28 conference for which this petition was distributed. Petitioners invoke this Court’s Rule 44.2’s provision for other substantial grounds not previously presented. They do not characterize the argument itself as a change in controlling law.

The proposed ground is substantial because *Suncor* may clarify the precise distinction on which the city’s jurisdictional objection depends. A hold would permit application of that clarification before final disposition here. Petitioners acknowledge that *Suncor* may be resolved narrowly, may not resolve this distinction, or may yield a rule unfavorable to their position.

**II. The jurisdictional overlap is concrete,
although the proceedings are not identical.**

The city argued that the order challenged here is not final because the nuisance action remains pending, and that petitioners had not established a self-

Petition for Rehearing

contained writ proceeding within *Atlantic Richfield Co. v. Christian*, 590 U.S. 1, 12–13 (2020). Brief in Opposition 6–7. Petitioners' reply relied on the completed, separately docketed disqualification writ and California Code of Civil Procedure §170.3(d). Reply to Brief in Opposition 2–3.

Atlantic Richfield treated Montana's supervisory-writ proceeding as a separate case and therefore a final judgment, notwithstanding further proceedings in the underlying action. 590 U.S., at 12–13. *Suncor*'s briefing disputes how that principle applies outside Montana and how to distinguish an original writ proceeding from an interlocutory appeal. That same distinction matters here.

Petitioners invoked §170.3(d), which makes statutory disqualification determinations nonappealable and provides time-limited writ review. Their petition sought a writ directing the Superior Court to vacate the strike and refer the disqualification issue. Br. in Opp. App. 29, 31, 34. The Court of Appeal denied that petition in B349374 on October 14, 2025, and the California Supreme Court denied review in S293574 on October 22, 2025. Pet. App. 1–2.

There are material differences. *Suncor* involves Colorado procedure and a reasoned State Supreme Court decision; this case involves a California summary writ denial followed by denial of discretionary review. Petitioners do not assert that an original-proceeding label automatically establishes federal finality.

Nor do petitioners rely on a categorical assertion that later constitutional review is impossible. *People v. Brown*, 6 Cal.4th 322, 334–336 (1993), distin-

Petition for Rehearing

guishes exclusive statutory writ review from a non-statutory constitutional-bias challenge to a final judgment. That distinction limits an argument based solely on the loss of the statutory writ remedy. It does not eliminate the separate-proceeding question presented in *Suncor*.

III. The underlying federal claim concerns a judge's use of his own sworn defense, not adverse rulings alone.

The procedural distinction is essential. The October 2, 2025, order struck the disqualification statement, while the same judge filed a verified answer denying bias and prejudgment. The city's reproduction expressly cites that answer in the order's sufficiency discussion. Br. in Opp. App. 58–60. The answer denies descriptions inconsistent with the record and states that the judge had not prejudged any claim. *Id.*, at 60–61. Petitioners contend that this went beyond testing the allegations' legal sufficiency and made the judge the supplier and evaluator of his own factual defense.

Petitioners do not maintain that filing an answer automatically makes a judge a litigant, or that every recusal motion requires another judge. Section 170.4(b) permits rejection of an untimely statement or one disclosing no legal disqualification ground on its face. *PBA, LLC v. KPOD, Ltd.*, 112 Cal. App. 4th 965, 971–973 (2003), permits a timely strike notwithstanding a prior answer. The narrower objection is to using a challenged judge's own disputed account to supply the basis for rejecting an otherwise sufficient challenge, rather than deciding legal sufficiency on the

Petition for Rehearing

allegations. Whether the record establishes that narrower premise remains contested.

In re Murchison, 349 U. S. 133, 136–139 (1955), explains the due process danger when adjudication combines materially incompatible roles, including circumstances making the judge a source of evidence on which he must pass. *Caperton v. A. T. Massey Coal Co.*, 556 U. S. 868, 881–887 (2009), makes the constitutional inquiry objective, not dependent on the judge's personal assessment of his impartiality. *Williams v. Pennsylvania*, 579 U. S. 1, 8–10, 14–16 (2016), holds that an unconstitutional failure to recuse can be structural error. These precedents involved different and exceptional facts; petitioners invoke their principles, not an assertion that they already establish a categorical rule invalidating California's screening procedure.

Petitioners submit that labeling an adjudication "facial screening" cannot itself answer whether the decisionmaker has resolved a factual dispute through his own sworn defense. Their request seeks fidelity to this Court's neutral-tribunal precedents, not automatic disqualification based on the existence of unfavorable rulings, nor a declaration that the denial of certiorari endorsed misconduct.

This argument appeared in Reply to Brief in Opposition 7–8 and is restated only to explain the importance of the jurisdictional issue for which a hold is sought. The record citations above use the city's reproduction: its App. 59 contains the reference to Answer paragraphs 2–5, while the original petition's App. 7 omits that parenthetical. Petitioners do not ask the Court to resolve that reproduction discrepancy

Petition for Rehearing

as a new rehearing ground. Nor do they deny that the strike order separately gave untimeliness and legal-insufficiency reasons, or that an independent appellate panel reviewed the strike.

IV. A hold would not resolve the city's other objections or enlarge the question presented.

The city also disputes preservation, adequate and independent state grounds, and the existence of a substantial constitutional question. Br. in Opp. 7–13. *Suncor* does not automatically cure any of those objections. Petitioners do not know which considerations led to the unexplained denial of certiorari.

Petitioners maintain the corrections made in their reply: the initial disqualification statement did not expressly invoke the Fourteenth Amendment; the Court of Appeal writ principally invoked California law; and the petition for review expressly presented the federal theory. Reply to Br. in Opp. 1, 3–5; Br. in Opp. App. 30–33, 73–81. Whether that sequence adequately preserved the federal issue remains a separate question. See *Adams v. Robertson*, 520 U.S. 83, 86–87 (1997).

The proposed hold concerns the antecedent jurisdictional objection, not a new merits claim. The role-conflict argument was already presented in Reply to Brief in Opposition 7–8 and is not offered as a new Rule 44.2 ground. Petitioners likewise do not reoffer the August 12 hearing, fee ruling, or denial of oral argument as newly occurring events; those matters were described in the second supplemental brief filed September 12, 2026.

Petition for Rehearing

After *Suncor*, this Court would remain free to dispose of the petition on any applicable ground. Petitioners ask only that the jurisdictional issue receive consideration against the legal framework supplied by the pending case, should its disposition address that issue.

V. The requested relief is limited and does not seek an automatic stay.

This petition does not seek rehearing of the separate September 4, 2026, denial of Application No. 26A145. It does not ask the Court to vacate the state fee award or disqualify the trial judge without further review. Under this Court's Rule 16.3, filing a rehearing petition does not suspend the denial of certiorari absent an express order. No automatic suspension of the state proceedings is claimed.

Petitioners seek a hold for a specific decisional event in an already argued case, not an indefinite postponement of the state action. The limited relief requested can be considered without accepting every contention in the original petition.

Petition for Rehearing

CONCLUSION

The Court should grant rehearing, set aside the October 5, 2026, order denying certiorari, and hold No. 26–95 pending disposition of *Suncor Energy (U. S. A.) Inc. v. County Commissioners of Boulder County*, No. 25–170, for further consideration in light of that disposition. Alternatively, petitioners request a response under this Court’s Rule 44.3 limited to whether such a hold is warranted.

Respectfully submitted.

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OCTOBER 2026

*Pro Se Petitioners***CERTIFICATION OF
UNREPRESENTED PARTIES**

We, John Zhong, and Catherine Li, *pro se* petitioners, hereby certify that this petition for rehearing is restricted to the grounds specified in this Court’s Rule 44.2 and that it is presented in good faith and not for delay.

October 7, 2026

/s/ John Zhong/s/ Catherine Li



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CERTIFICATE OF COMPLIANCE AND SERVICE

Pursuant to S. Ct. R. 33.1(h), I certify that the petition for rehearing contains 1,529 words, excluding parts exempted by S. Ct. R. 33.1(d).

Pursuant to S. Ct. R. 29.2, I certify that 40 copies in booklet format and 1 unbound copy of the petition for rehearing are sent to the Clerk of the Supreme Court of the United States through the United States Postal Service via Priority Mail Express postage prepaid on this 7th day of October, 2026.

Lastly, I certify pursuant to S. Ct. R. 29.5(c), 3 copies of the petition for rehearing are served all parties required to be served have been served via email and United States Postal Service via Priority Mail postage prepaid, this 7th day of October, 2026.

[See attached service list]

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 7, 2026.

戈天黄

Huang Tiange

President

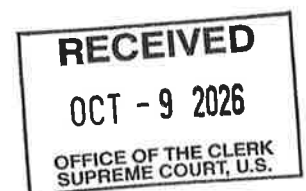
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