

1 Adam A. Bereki
2 818 Spirit
3 Costa Mesa, CA 92626
4 (949)241-6693
5 abereki@gmail.com

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **FOR THE COUNTY OF ORANGE**
8 **CENTRAL JUSTICE CENTER**

9 First National Bank of Omaha
10
11 Plaintiff.

12 vs.

13 Adam Bereki
14 Defendant.

Case No. 30-2022-01271693

**EX PARTE APPLICATION FOR
EMERGENCY HEARING ON
PETITION FOR WRIT OF *HABEAS
CORPUS***

15 **DATE: September 15, 2022**
16 **TIME: 1:30 p.m.**
17 **DEPT: C12**

18 Judge: Hon. Layne Melzer
19 Dept: C12
20 Action Filed: July 25, 2022
21 Petition Filed: September 7, 2022
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1 TO THE COURT, ALL PARTIES, AND THEIR RESPECTIVE ATTORNEYS OF
2 RECORD:

3 NOTICE OF EMERGENCY *EX PARTE* HEARING
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5 PLEASE TAKE NOTICE that on September 15, 2022, at 1:30 pm, an *Ex parte*
6 hearing will be held before the Hon. Layne Melzer in department C12 of the Superior
7 Court of California, County of Orange, Central Justice Center, at 700 W. Civic Center
8 Dr., Santa Ana, California, pertaining to Petitioner Adam Bereki's writ of *habeas corpus*
9 filed on September 7, 2022, in the above listed case.
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11 BACKGROUND

- 12 1. Petitioner is a former police officer in Orange County, California, with more than
13 twenty years of experience in forensic civil and criminal investigations and a
14 specialty in cases involving complex fraud, forgery, and corruption.
- 15 2. In March of 2017, Petitioner became aware of an egregiously unlawful scheme,
16 perpetrated by officials of all three branches of California government, to defraud
17 and rob the People of California of their rights, liberty, and property under color
18 of law but without lawful authority.
- 19 3. The scheme operates by subjecting defendants in unlicensed construction
20 contractor cases to highly penal criminal "trials" disguised as remedial civil
21 actions in equity while imposing unconscionable fines and punishment without
22 any protections of the excessive fines clause.
- 23 4. During the "trials" defendants are never informed of the true nature and cause
24 of the accusations against them, never informed of their right to assistant
25 counsel, and denied all of the heightened protections of criminal proceedings.
- 26 5. At the heart of the scheme, is the fact that the "Court" has absolutely no authority
27 whatsoever to even conduct the "trial" because no sworn information or
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1 indictment has been filed on behalf of the People of California to vest the “Court”
2 with subject matter jurisdiction in the first instance.

3 6. Petitioner became aware of this scheme when it was perpetrated upon him by
4 private parties who conspired with now retired Superior Court “Judge”, David
5 Chaffee, to prosecute him for allegedly performing construction work without a
6 contractor license.

7 7. Even though Petitioner was the licensee of a general contractor license for the
8 company that performed the work on the project at issue, Petitioner was found to
9 be unlicensed and was fined about \$930,000 – an amount more than 42 times his
10 qualifying net worth and 146 times the maximum monetary criminal penalty for
11 the same offense.

12 8. As a result of Petitioner’s inability to pay the \$930,000 fine, he was further
13 unconscionably punished when his ability to act as a qualifying individual on a
14 general contractor license was summarily suspended by operation of Cal.
15 Business and Professions Code §7071.17 on or about ninety days after the
16 “Judgement” was issued on April 20, 2017. Petitioner was neither given notice or
17 a hearing on this issue and there is no known right to appeal.

18 9. Consequently, Petitioner has been unlawfully restrained from earning a living in
19 his profession as a general contractor for more than five years. He has further
20 been subjected to involuntary servitude throughout that time to conduct an
21 investigation to reveal the fraud, treason, and other crimes perpetrated upon him
22 and all like-situated People and to protect his rights, liberty, and property.

23 10. Despite following all known appellate procedures in both State and Federal
24 “Courts”, Petitioner has been denied the right to a full, fair, and impartial judicial
25 determination of his rights and to any lawful judicial remedy whatsoever. For a
26 detailed account of this procedural history, refer to Petitioner’s Writ of *Habeas*
27 *Corpus* filed on September 7, 2022 (Dkt.9) and Appendix [R]. (Because the Clerk
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1 of this Court has not yet imaged these documents, a courtesy copy will be
2 delivered to Dept. C12 at the time of the filing of this application).

3 11. In further attempt to obtain redress, Petitioner has also reported this scheme to
4 State and Federal law enforcement and other public offices/officials. See
5 Application for Emergency Stay, Appendix [R] and Exhibits [C], [D], [E]. Based
6 on information and belief, these officials have refused to fully, fairly, impartially
7 and independently investigate Petitioner's claims or to intervene to stop the
8 irreparable harm and other damages being perpetrated upon him and all like-
9 situated litigants.

10 12. The result of Petitioner's investigation is that there is no apparent branch of
11 government in California or the United States to obtain a lawful remedy.

12 13. Because Petitioner has repeatedly been denied a full, fair, and impartial judicial
13 determination of his rights, and his money, property, and liberty, continue to be
14 taken/restrained without lawful authority, his private contracts have also been
15 impaired and he is unable to meet his private obligations, including those alleged
16 by Plaintiff.

17 14. This has further resulted in foreclosure proceedings on the real property held in
18 Petitioner's living trust that commenced on or about July 7, 2022. Exhibit [D]
19 pp.5217-5230.

20 15. There being no other apparent remedy unless this Court takes emergency action,
21 Petitioner will be forced into involuntary bankruptcy where he is likely to be
22 further irreparably harmed and damaged as the bankruptcy "Court" has also
23 been involved in the scheme.¹

24 16. Plaintiff's claims have arisen as a direct and proximate result of the alleged fraud,
25 treason, and other crimes that have been perpetrated upon Petitioner, which
26 must be enjoined and addressed first.

27
28 ¹ In re Bardos, Memorandum of the Bankruptcy Appellate Panel of the 9th Circuit, Bankr. No. 10-41455-DS.

1 17. Like the original case against Petitioner, Plaintiff lacks Constitutional standing
2 to any relief whatsoever in this Court and is apparently attempting to use this
3 Court as an artifice to further defraud him.²

4 18. The purported contract between Plaintiff and Petitioner, and all of the
5 transactions involved in Plaintiff's alleged claims occurred in interstate
6 commerce, a jurisdiction *exclusively* vested in the District Courts of the United
7 States. See for e.g. section 9 of the Judiciary Act of 1789 (1 Stat. 73).
8 Furthermore, cases in Admiralty *do not* arise under the Constitution and Laws
9 of the United States upon which the States (Art I, §10) and the Judges in every
10 State are bound (Art. 6, §2). For a thorough brief on this issue refer to Appendix
11 [R] pp.32-35.

12 19. Because Petitioner's Petition for writ of *habeas corpus* is also a direct
13 jurisdictional attack on the personal and subject matter jurisdiction of this Court
14 in Plaintiff's case, Plaintiff is required to sustain its burden of proof that this
15 Court has jurisdiction over its claims by: (1) producing authenticated evidence
16 defining "dollar" as used to refer to Federal Reserve Notes; (2) providing
17 competent authority as to the jurisdiction arising *under* the California and U.S.
18 Constitutions in which Federal Reserve Notes (along with all of the commercial
19 transactions involved in Plaintiff's complaint) circulate; (3) providing the
20 authority under the U.S. Constitution that gives Congress the power to make
21 commercial paper legal tender and *payment* for all debts when commercial paper
22 can *only* discharge an obligation;³ (4) providing the authority under the U.S.
23 Constitution that gives Congress the power to delegate its powers under Article
24 I, §8, cl.5 to the President and/or a private banking institution such as the Federal

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26 ² "The case of a State which pays off its own debts with paper money, no more resembles this than do
27 those to which we have already adverted. The Courts have no jurisdiction over the contract. They cannot
28 enforce it, nor judge of its violation." *Cohens v. Virginia*, 19 U.S. 264, 403 (1821).

³ "Let it be that the act of discharging the debt is a mere nullity and that it is still due". *Cohens v. Virginia*,
19 U.S. 264, 403 (1821). See also *Bank of Columbia v. Okely*, 17 U.S. 235 (1819).

1 Reserve Bank; (5) providing competent authority under the U.S. Constitution
2 that there was in fact a lawful representative quorum in Congress commensurate
3 with Article I, §2, cl.3, to pass the Federal Reserve Act of 1913 (Pub. Law 63-43);
4 (6) providing the precise subject matter jurisdiction(s) arising under the
5 California and U.S. Constitutions which Plaintiff is invoking to adjudicate its
6 claims; and, (7) providing the specific venue(s) in which Plaintiff's claims arose
7 and in which this Court is sitting to adjudicate Plaintiff's claims.

8 20. Petitioner makes the same challenges to jurisdiction of the foreclosure
9 proceedings stated in 19.

11 MEMORANDUM OF LAW

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13 A memorandum of law on all of these issues and others raised by Petitioner's writ
14 of *habeas corpus* can be found in Appendix [R] as Petitioner's Application For
15 Emergency Stay and Petition for Writs of Quo Warranto, Mandamus, and Habeas
16 Corpus. (This document is not yet complete but will be sent to the U.S. Supreme Court
17 as soon as Petitioner is able to finish it). All cases, Exhibits, and Appendices referenced
18 in Petitioner's writ of *habeas corpus* and Appendix [R] are incorporated and fully set
19 forth herein. This Court will please take judicial notice of all of the cases, "Judgments",
20 "Orders" and determinations made by all State and Federal agencies pertaining to this
21 case.

23 REQUEST FOR RELIEF

24 Petitioner requests this Court provide the following relief:

- 25 1. Dismiss Plaintiff's claims with prejudice for lack of personal and/or subject matter
26 jurisdiction;
- 27 2. Grant Petitioner's Petition for writ of *habeas corpus*;
- 28

3. Grant an emergency stay and/or restraining order to stay the foreclosure proceedings for the real property located at 818 Spirit Costa Mesa, California pending this Court's resolution of *all* of the issues presented in Petitioner's writ of *habeas corpus* and Appendix [R].
4. Grant Petitioner emergency equitable monetary relief to compensate him for his time and labor and damages so that he may have the financial resources necessary to fully support himself and pay his obligations.
5. Appoint *assistant* counsel for Petitioner;
6. All other relief the Court deems lawful and just.

NOTICE OF EX PARTE APPLICATION

Petitioner notified Plaintiff's counsel, James MacLeod, of this hearing by telephone on September 13, 2022. MacLeod stated that he would attend the hearing.

Petitioner notified attorney Katelyn Burnett, attorney for the Trustee, Prestige Default Services, LLC, for the Deed of Trust for the real property located at 818 Spirit, Costa Mesa, California on September 14, 2022, at around 10:30 am. Burnett can be contacted by phone at (949) 427-2010 x1051 or by email at kburnett@ghidottiberger.com. Burnett refused to provide any contact information for Citibank N.A..

Petitioner was unable to make contact with Citibank N.A. as Owner Trustee for New Residential Mortgage Loan Trust 2018-2.

NOTICE OF PLAINTIFF'S POSSIBLE INTENT TO OBSTRUCT JUSTICE

Petitioner electronically served his Challenge to Jurisdiction and Emergency Petition for writ of *habeas corpus* (Dkt. 11) on Plaintiff's counsel, James MacLeod, on September 7, 2022, at the email address listed on Plaintiff's complaint. MacLeod refused to accept service stating that "[he] want[ed] it on record that [...] our office does

1 not accept electronic service". (See emails accompanying Petitioner Proof of Electronic
2 Svc. filed on September 7, 2022, Dkt. 11).

3 Pursuant to Cal. Code of Civ. Proc. §1010.6(e)(1) "A party represented by counsel,
4 who has appeared in an action or proceeding, shall accept electronic service of a notice
5 or document that may be served by mail, express mail, overnight delivery, or facsimile
6 transmission."

7 Petitioner believes all of the documents he electronically served were able to be
8 served by mail and that Plaintiff's attorney is obligated to accept electronic service.
9 Petitioner attempted to confirm with MacLeod that the email address he (Petitioner)
10 used, jmacleod@dunninglaw.com, was the correct address to send electronic service to.
11 MacLeod refused to respond.

12 As a result of the issues stated in Petitioner's Challenge to Jurisdiction and his
13 Request for Fee Waiver, Petitioner is experiencing duress and severe financial
14 difficulties. Both the printing and mailing of documents (some voluminous) only
15 increases that burden.

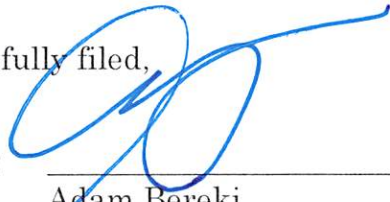
16 Pursuant to Rules of Court, Rule 2.251 (d)(1), the Court will please, on its own
17 Motion, order Plaintiff to accept electronic service as required by Cal. Code of Civ. Proc.
18 §1010.6(e)(1). If Petitioner's interpretation of the Rules is incorrect, he requests this
19 Court order Plaintiff to accept electronic service given the additional financial burden
20 associated with printing and mailing correspondence that can avoided by use of
21 electronic service.

22 23 **DECLARATION**

24 I, Adam Bereki, declare under penalty of perjury of the laws of California that
25 the foregoing statements of fact are true and correct, to the best of my knowledge and
26 belief. (See Petitioner's previous declaration pertaining to the authentication of all
27 Exhibits and Appendices).

Respectfully filed,

By:



Adam Bereki

Dated: September 14, 2022

ADAM A. BEREKI
ADAM@THESPIRITOLAW.COM | (916) 585-3016