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FILED
CLERK, U.S. DISTRICT COURT
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CENTRAL DISTRICT OF CALIFORNIA
BY: ASP DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

In Re:

GUSTAVO ESCAMILLA, an individual,

Petitioner,

v.

UNITED STATES OF AMERICA; UNITED STATES DEPARTMENT OF JUSTICE; and ANDRÉ BIROTTE JR., in his official capacity as a United States District Judge,

Respondents.

Case No. 2:26-cv-13079-MWC

PETITIONER'S EMERGENCY NOTICE OF CLERICAL ERROR REGARDING REASSIGNMENT; REQUEST THAT THE CLERK PREPARE THE RELATED-CASE TRANSFER ORDER UNDER GENERAL ORDER 26-11, § II.J.2, AND THAT THE CHIEF JUDGE BE NOTIFIED UNDER § II.F; DECLARATION OF GUSTAVO ESCAMILLA; EXHIBITS A–C

[18 U.S.C. § 3771(d)(3) — To Be Taken Up and Decided Forthwith]

[No Hearing Requested — L.R. 7-15]

TABLE OF CONTENTS

TABLE OF AUTHORITIES....4
EMERGENCY NOTICE OF CLERICAL ERROR REGARDING REASSIGNMENT....6
LOCAL RULE 7-3 STATEMENT....6
INTRODUCTION: ONE CLERICAL STEP, THREE NOTICES, 182 DAYS....7
I. THE GENERAL ORDER ASSIGNS THE STEP TO THE CLERK. IT IS MANDATORY, AND NO JUDGE MAY DISPENSE WITH IT....9
II. THREE NOTICES, THREE ASSIGNMENTS, 182 DAYS: THE STEP WAS NEVER TAKEN....11
III. THE GENERAL ORDER'S OTHER ASSIGNMENT STEPS RAN AS WRITTEN. THE RELATED-CASE STEP HAS NOT YET RUN....13
IV. THE OFFICE HELD THE NOTICE, AND TOLD THE CHIEF JUDGE THE OPPOSITE OF WHAT IT SAID....15
A. The Office acknowledged the Notice in writing....15
B. What the Office told Chief Judge Gee about this victim....16
C. The Office's own 2018 filings carried the fabricated ruling, two years before it indicted Petitioner's nephew, and it did not escalate them....18
V. THE LAWYERS WHO REPRESENTED BOTH THE VICTIM AND HIS NEPHEW HELD THE RECORD, AND NONE WILL SAY WHETHER THE PROSECUTION DISCUSSED HIM WITH THEM....19

VI. PETITIONER ASSERTS HIS OWN RIGHTS: A RECORD DIVIDED BETWEEN JUDGES IS WHAT THE RELATED-CASE PROCEDURE EXISTS TO PREVENT.....22
VII. TWO JUDGES ARE RESPONDENTS AND TWO OTHERS HAVE IDENTIFIED A CONFLICT: SECTION II.F ROUTES THE QUESTION TO THE CHIEF JUDGE.....24
VIII. RELIEF REQUESTED.....25
DECLARATION OF GUSTAVO ESCAMILLA.....27
INDEX OF EXHIBITS.....30
CERTIFICATE OF COMPLIANCE (L.R. 11-6.2).....31
CERTIFICATE OF COMPLIANCE WITH THE COURT'S GENERATIVE ARTIFICIAL INTELLIGENCE ORDER.....32

TABLE OF AUTHORITIES

Cases

Berger v. United States, 295 U.S. 78 (1935).....23
Blackledge v. Perry, 417 U.S. 21 (1974).....19
Chambers v. NASCO, Inc., 501 U.S. 32 (1991).....11
Costello v. United States, 365 U.S. 265 (1961).....14
Giglio v. United States, 405 U.S. 150 (1972).....23
Hayes v. Brown, 399 F.3d 972 (9th Cir. 2005) (en banc).....23
In re Davis, Nos. 24-3090 & 24-3092, 146 F.4th 710 (9th Cir. 2025) (as amended Aug. 1, 2025).....23
Kenna v. U.S. Dist. Court, 435 F.3d 1011 (9th Cir. 2006).....22
Kyles v. Whitley, 514 U.S. 419 (1995).....23
Lanuza v. Love, 899 F.3d 1019 (9th Cir. 2018).....9, 18
Napue v. Illinois, 360 U.S. 264 (1959).....23
Ready Transp., Inc. v. AAR Mfg., Inc., 627 F.3d 402 (9th Cir. 2010).....11
Reyn's Pasta Bella, LLC v. Visa USA, Inc., 442 F.3d 741 (9th Cir. 2006).....22
Steel Co. v. Citizens for a Better Env't, 523 U.S. 83 (1998).....14
United States v. Goodwin, 457 U.S. 368 (1982).....19
United States v. Kojayan, 8 F.3d 1315 (9th Cir. 1993).....23
United States v. Monzel, 746 F. Supp. 2d 76 (D.D.C. 2010).....22

Statutes

18 U.S.C. § 3663A.....23
18 U.S.C. § 3664(d)(5).....23
18 U.S.C. § 3771.....18, 22, 23, 25, 26
28 U.S.C. § 137(a).....10, 15
28 U.S.C. § 455(b)(5)(i), (e).....25
28 U.S.C. § 535(b).....18
28 U.S.C. § 956.....10, 15
42 U.S.C. § 1983.....8

Rules and Orders

Fed. R. Civ. P. 5(d)(4).....10
Fed. R. Crim. P. 5(f).....16
Fed. R. Evid. 201(b)(2).....22
C.D. Cal. L.R. 6-1.....14
C.D. Cal. L.R. 7-3.....6, 7, 14
C.D. Cal. L.R. 72-5.....13
C.D. Cal. L.R. 83-1.3.1.....17, 24
C.D. Cal. General Order 08-05.....10, 12, 15
C.D. Cal. General Order 21-02.....16
C.D. Cal. General Order 24-04.....9, 10
C.D. Cal. General Order 26-11.....passim

Other Authorities

Cal. Bus. & Prof. Code § 6068(e)(1), (m).....21
Cal. R. Prof. Conduct 1.4(a)(3), 1.9(c), 1.16(e)(1).....21

TO THE HONORABLE COURT, TO THE CLERK OF THE COURT, AND TO ALL PARTIES:

EMERGENCY NOTICE OF CLERICAL ERROR REGARDING REASSIGNMENT

PLEASE TAKE NOTICE that Petitioner Gustavo Escamilla, a federally identified crime victim appearing in pro se, gives notice of a clerical error: the reassignment of this action entered November 10, 2026 (Dkt. 11) was made without the related-case step the Court's General Order assigns to the Clerk, and requests that it be corrected. He asks the Court (1) to direct the Clerk to perform the mandatory and non-discretionary step the Court's own General Order assigns to the Clerk whenever a Notice of Related Cases is filed: to prepare the proposed related-case transfer order and present it to the judge of the case identified, here Chief Judge Dolly M. Gee in *United States v. McCormick*, No. 2:20-cr-00346(B)-DMG, General Order 26-11, § II.J.2; and (2) to notify the Chief Judge under § II.F, because two judges of this Court are named as respondents, and two others have identified a conflict. (No. 2:26-cv-05207, Dkts. 23, 25.)

LOCAL RULE 7-3 STATEMENT

The United States Attorney's Office for the Central District of California (the "Office") has not responded to any of close to a dozen prior written requests to meet and confer under Local Rule 7-3 regarding the Notice of Related Cases, Petitioner's crime victims' rights enforcement actions, or any of his other matters. This Notice concerns three case mis-assignments, a matter of which the Office has been aware, from which it suffers no prejudice, and to which it has not responded since Petitioner filed the initial Notice of Related Cases with his victims' rights enforcement action on May 14, 2026. (No. 2:26-cv-05207, Dkt. 4.) It concerns the Court's role in the Clerk's administrative functions, which are mandatory and non-discretionary, and are not subject to decision by a judge as to their performance or to resolution by agreement of the parties. Notwithstanding that continued non-

responsiveness, on November 11, 2026, as a professional courtesy, Petitioner gave the Office written notice of this filing, by email to Acting Civil Chief Daniel A. Beck and AUSA Alarice M. Medrano, and asked for the Office's position by 10:00 a.m. on November 12, 2026. As of filing, as with each prior request to meet and confer under Local Rule 7-3, the Office has not responded. (Escamilla Decl. ¶ 4; Ex. C.)

INTRODUCTION: ONE CLERICAL STEP, THREE NOTICES, 182 DAYS

When a party files a Notice of Related Cases, the Clerk prepares a proposed transfer order and presents it to the judge of the case identified. The Court's General Order requires it. The step calls for no motion, no ruling, and no judge's permission. General Order 26-11, § II.J.2.

Petitioner has filed that Notice in each of his three crime-victim matters. Each identified the same criminal case, *United States v. McCormick*, before the same judge, Chief Judge Gee. The first has been on the record, unaddressed, for 182 days. In that time, according to the public docket, the step has not been taken once. (Section II, *infra*.)

What happened instead is on the docket. The first petition was transferred to Judge Wright as related to No. 2:17-cv-07748, a case the Notice expressly declined to designate, on a form attributing that designation to "counsel," though Petitioner appeared pro se. (No. 2:26-cv-05207, Dkts. 4, 11.) Petitioner twice asked that the Clerk's step be performed; both notices were stricken. (Id., Dkts. 26, 35, 41, 43.)

Petitioner then hand-delivered a letter to the Clerk of Court asking that the step be taken at intake. It was stamped received, entered on the docket, and never acted on. (Id., Dkt. 45.) The second petition was then transferred to Judge Birotte on the same form, as related to No. 2:26-cv-05207, a case its Notice did not designate, again crediting "counsel," with no ground for relatedness checked. (No. 2:26-cv-09383, Dkts. 3, 8, 21.) The third petition names Judge Birotte as a respondent and

asked that it not be sent to him. It was assigned to Judge Birotte. (Dkts. 5, 11.) Two judges of this Court are now named respondents in Petitioner's matters. (Section VII, *infra*.)

Meanwhile, on August 5, 2026, the Office, which had acknowledged the Notice in writing on June 2, told Chief Judge Gee that Petitioner's petitions "have nothing to do with defendant's criminal case." (No. 2:26-cv-05207, Dkt. 44, Page ID #:1141; *McCormick*, ECF No. 864 at 5, Page ID #:11428.) The Notice said they did. Chief Judge Gee is the one judge to whom the Notice was to be presented, and the one judge who heard the Office's account of it. According to the public docket, it does not appear that the Office, which had acknowledged receipt of a Notice designating her case, disclosed it to her upon receipt, or that the proposed transfer order has ever been presented to her.

On November 4, 2026, a judge of this Court, describing Petitioner and Greenway Nutrients, Inc. as "victims of the criminal counterfeiting" investigated in Operation Software Slashers, denied relief "[e]ven accepting" Petitioner's fraud-on-the-court allegations "as true," because they did not overcome "this Court's lack of subject matter jurisdiction over his claims." (No. 2:17-cv-07748, Dkt. 58 at 2–3, Page ID #:1467–1468.) The Court raised that ground "on [its] own consideration," for an Office that had not met and conferred about, responded to, or opposed the Rule 60(d)(3) motion. (*Id.* at 3, Page ID #:1468; *id.*, Dkt. 33.)

That was the Office's argument in 2021, when it assumed the fraud "arguendo" and argued that it "would not 'affect the outcome of the case.'" (*Id.*, Dkt. 23 at 5, Page ID #:753.) It was made in an underlying civil-rights action that had nothing to do with Petitioner's rights as a crime victim; the Complaint pleaded claims under 42 U.S.C. § 1983 and the Federal Tort Claims Act. (*Id.*, Dkt. 13 at 9–11, Page ID #:217–219.)

The Court reached back to that action to deprive the victims of their rights, restitution, and status, in proceedings it had previously held it had no jurisdiction to

decide. (*Id.* at 2–3, Page ID #:1467–1468.) Neither the Office nor this Court had any role in the criminal investigation and prosecution from which those rights arose, which proceeded in the Western District of Missouri. (No. 2:26-cv-09383, Dkt. 16, Ex. C, Page ID #:761.)

Accepting those allegations as true cannot be reconciled with the Office's August 5, 2026, statements to Chief Judge Gee, which Petitioner has shown on the record to be false, material, and misleading. (No. 2:26-cv-09383, Dkt. 56 at 10–12, Page ID #:1768–1770.) The Office has never denied the multiple documented allegations of professional misconduct, which remain unaddressed. The conduct at the root of this record, a federal agent's report of a court ruling that does not exist, is of the kind the Ninth Circuit condemned in *Lanuza v. Love*, 899 F.3d 1019 (9th Cir. 2018). Petitioner asks for one thing: that the Clerk take the step the Court's own General Order requires.

Petitioner ascribes no bias to any judge and asks the Court to find none. He does not contend that any judge must accept a transfer; under the General Order, the transferee judge decides. He asks only that the question be put to her.

I. THE GENERAL ORDER ASSIGNS THE STEP TO THE CLERK. IT IS MANDATORY, AND NO JUDGE MAY DISPENSE WITH IT

Case assignment in this District is governed by General Order 26-11, *In the Matter of Assignment of Cases and Duties to District Judges* (filed June 29, 2026), which superseded General Order 24-04 (filed May 31, 2024). Both orders contain the same command: "Whenever a party files a Notice of Related Civil Cases, the Clerk will prepare a proposed order to transfer the later-filed case to the judge currently assigned the earliest-filed case." General Order 26-11, § II.J.2; General Order 24-04, § II.I.2. "The Clerk will present the proposed transfer order to the transferee judge for review and will simultaneously present an informational copy to the transferor judge." General Order 26-11, § II.J.2. The transferee judge then approves or declines, and a disagreement between judges goes to the Case

Management and Assignment Committee. (Id.; see id. § II.J.1.b.) The same structure appeared in former General Order 08-05, § 5.2, which Petitioner's notices cited.

The step is triggered by the filing of the Notice, and it is assigned to the Clerk. "The clerk of each court and his deputies and assistants shall exercise the powers and perform the duties assigned to them by the court." 28 U.S.C. § 956. The Court assigned this duty by General Order, under the statute that requires the business of a multi-judge court to "be divided among the judges as provided by the rules and orders of the court," and makes the Chief Judge responsible for observing those rules and orders. 28 U.S.C. § 137(a). The General Order in effect when the first Notice was filed contained the same command: "the Clerk will prepare a proposed order" and "will present the proposed transfer order to the transferee judge for review." General Order 24-04, § II.I.2; accord General Order 26-11, § II.J.2. The step is ministerial and non-discretionary. It calls for no motion, no ruling, and no exercise of judgment by the Clerk or by the assigned judge, whose only role is to receive an informational copy and, if he disagrees with the transferee judge's decision, to appeal to the Committee. (*Id.*) Whether the cases are in fact related is for the judges and, if they disagree, the Committee to decide. Whether the proposed order is prepared and presented is not a question any judge was asked to decide, and none has decided it. Nothing in the General Order authorizes any judge to intercede in that step, to dispense with it, or to substitute a transfer on a case no party identified for the transfer the filed Notice required the Clerk to present. The Notice in this action (Dkt. 5) remains on the docket.

An order in a single case does not amend a General Order of the Court, and striking a notice that an assigned step was omitted does not perform the step or relieve the Clerk of it. The Clerk "must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice." Fed. R. Civ. P. 5(d)(4). And a court's inherent power over its docket, "[b]ecause of [its] very

potency, . . . must be exercised with restraint and discretion." *Ready Transp., Inc. v. AAR Mfg., Inc.*, 627 F.3d 402, 404 (9th Cir. 2010) (quoting *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44 (1991)).

No party has objected. There is nothing for any party to oppose and nothing for any judge to decide before the step is taken. Petitioner asks only that it be taken.

II. THREE NOTICES, THREE ASSIGNMENTS, 182 DAYS: THE STEP WAS NEVER TAKEN

No. 2:26-cv-05207. On May 14, 2026, with his Petition, Petitioner filed a Notice of Related Cases that identified *United States v. McCormick*, No. 2:20-cr-00346(B)-DMG, before Chief Judge Gee, and asked that the Clerk discharge the related-case functions. (No. 2:26-cv-05207, Dkt. 4 at 2–3, 7, Page ID #:398–399, #:403.) The Notice expressly declined to designate No. 2:17-cv-07748 as related. (Id. at 8, Page ID #:404.) No proposed transfer order to Chief Judge Gee appears on the docket. Instead, on May 22, 2026, the case was transferred to Judge Wright as related to No. 2:17-cv-07748, the case the Notice had declined to designate. (Id., Dkt. 11.) Petitioner gave written notice of the omission and asked that it be corrected (id., Dkts. 45, 46, 47); Judge Wright recused himself (id., Dkt. 49). The step was never taken.

No. 2:26-cv-09383. On August 21, 2026, Petitioner filed a further Notice identifying *McCormick*, before Chief Judge Gee, and documenting that the step had not been taken in No. 2:26-cv-05207. (No. 2:26-cv-09383, Dkt. 3 at 5–6, 28–30, Page ID #:398–399, #:421–423.) On August 20, 2026, when he presented that petition for filing, he hand-delivered a letter to the Clerk of Court asking that the step be taken at intake and that the relatedness and assignment determination be routed to Chief Judge Gee. The letter was stamped received and entered on the docket of No. 2:26-cv-05207. (No. 2:26-cv-05207, Dkt. 45 at 1, 3, Page ID #:1150, #:1152.) He wrote again on August 24, 2026. (Escamilla Decl. ¶ 3.) No proposed transfer order to Chief Judge Gee appears on that docket. Instead, on September 14,

2026, the case was transferred to Judge Birotte on the same form used in No. 2:26-cv-05207, as related to No. 2:26-cv-05207. (No. 2:26-cv-09383, Dkt. 21, Page ID #:1006.) The Notice did not designate that case. As corrected on August 24, 2026, it identified *McCormick* alone; the correction was confined to a face-page caption that had mistakenly carried the caption of No. 2:26-cv-05207. (Id., Dkt. 8 at 2–3, 9, Page ID #:523–524, #:530.) The docket entry for the corrected Notice nonetheless reads "Related Case(s): 2:26-cv-5207-ODW." (Id., Dkt. 8.) The transfer form again attributed the designation to "counsel," though Petitioner appeared pro se, and none of the four grounds for relatedness listed on it is checked. (No. 2:26-cv-09383, Dkt. 21.) The case to which it was transferred as related was the case on whose docket the August 20 letter sat. (No. 2:26-cv-05207, Dkts. 45, 49.) Four days earlier, Petitioner had asked the Court to respect "the orderly relatedness determination now pending under General Order 08-05, § 5.2 — whether this action is related to *United States v. McCormick*, No. 2:20-CR-00346(B)-DMG, before the Honorable Chief Judge Dolly M. Gee." (No. 2:26-cv-09383, Dkt. 18 at 12, Page ID #:852.) He had asked the same thing on September 1, 2026, in No. 2:26-cv-05207, then assigned to Judge Birotte: that the Court respect "the orderly completion of the related-case determination now pending under General Order 08-05, § 5.2." (No. 2:26-cv-05207, Dkt. 50 at 34, Page ID #:1271.) That application has not been ruled on.

This action. On November 6, 2026, Petitioner filed another Notice identifying *McCormick*, before Chief Judge Gee, together with Nos. 2:26-cv-05207, 2:26-cv-09383, and 2:17-cv-07748, and asked that any related-case determination be made by the Chief Judge. (Dkt. 5 at 2–3, Page ID #:237–238; Ex. B.) The Notice asked that this action "not be transferred to Respondent Judge under General Order 08-05, § 5.2, or otherwise." (Dkt. 5 at 3, Page ID #:238.) It was assigned to Judge Birotte, the named respondent, all the same. (Dkt. 11, Page ID #:250 (captioned "2:26-cv-13079-AB").) On November 10, 2026, Judge Birotte recused himself because "[t]he undersigned is named as a defendant/respondent in this case and

therefore has a conflict requiring recusal," and the case was reassigned to Judge Michelle Williams Court. (Id.; Ex. A.) Judge Court is not assigned to any case identified in the Notice. No proposed transfer order appears on the docket.

Each of Petitioner's three crime-victim matters was thus assigned without the step the General Order requires: No. 2:26-cv-05207 to Judge Wright (Dkt. 11), No. 2:26-cv-09383 to Judge Birotte (Dkt. 21), and this action to Judge Court (Dkt. 11). Those are the three mis-assignments to which this Notice refers. The first Notice has now been on the record for 182 days, since May 14, 2026. In that time, according to the public docket, no proposed transfer order has been prepared or presented in any of the three matters, and no order has directed the step, excused it, or explained why it was not taken.

III. THE GENERAL ORDER'S OTHER ASSIGNMENT STEPS RAN AS WRITTEN. THE RELATED-CASE STEP HAS NOT YET RUN

The May 14, 2026 Notice was docketed with the entry "Related Case(s): 2:20-cr-00346-DMG." (No. 2:26-cv-05207, Dkt. 4.) It remains on the docket, and no proposed transfer order to Chief Judge Gee appears there.

The General Order's other assignment steps ran as written. When Petitioner moved to disqualify the assigned judge, the motion was referred by random draw "[p]ursuant to this Court's General Order in the Matter of Assignment of Cases and Duties to the District Judges and Local Rule 72-5." (*Id.*, Dkt. 19.) When two drawn judges identified a conflict, "[t]he Clerk ha[d] been re-directed to refer" it to newly drawn judges. (*Id.*, Dkts. 23–25, 29.) The Clerk performed each of those steps as the General Order provides, without any action by the assigned judge. The related-case step is of the same kind. It has simply not been performed.

Petitioner has asked that it be performed. His notices of August 10 and August 17, 2026 asked the Clerk to prepare the proposed order for Chief Judge Gee. (*Id.*, Dkt. 26 at 8–9, 16, Page ID #:836–837, #:844; *id.*, Dkt. 41 at 8–9, 16–17, Page ID #:1086–1087, #:1094–1095.) Both were stricken on procedural grounds, under

Local Rules 6-1 and 7-3 and the Court's generative artificial intelligence order, without reaching the step itself. (*Id.*, Dkts. 35, 43.) They were stricken in a case transferred solely as related to No. 2:17-cv-07748, an action in which the Court had held that it lacked subject matter jurisdiction over Petitioner's claims. (*Id.*, Dkt. 11, Page ID #:716; No. 2:17-cv-07748, Dkt. 13 at 9–11, Page ID #:217–219.) "Without jurisdiction the court cannot proceed at all in any cause"; it may only announce that fact and dismiss. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998); *see Costello v. United States*, 365 U.S. 265, 285 (1961) (dismissal for lack of jurisdiction is not an adjudication on the merits). A transfer resting on an action over which the Court held it had no jurisdiction carried no authority to displace the relationship Petitioner actually designated, or to set aside the step the General Order requires. His August 20 letter to the Clerk of Court and a further Notice of Related Cases were entered on August 26, 2026, the morning the case was reassigned. (*Id.*, Dkts. 45, 46, 49.) The application that also asked that the related-case processing be corrected was later denied as moot. (*Id.*, Dkt. 53.) Petitioner also wrote to the Clerk of Court on August 3, 20, and 24, 2026. (Escamilla Decl. ¶ 3.) Because each of those rulings rested on other grounds, none of them performed the step or excused it. The step remains where the General Order placed it, with the Clerk.

The General Order also prescribes what follows a designation. "Absent complete agreement by the judges assigned to the cases identified as related, no low number transfer will occur," and if they disagree, "either judge may petition the Case Management and Assignment Committee." General Order 26-11, § II.J.1.b; *see id.* § II.J.2 (a transferor judge "may appeal that decision to the Case Management and Assignment Committee"). The case Petitioner identified was *McCormick*. Because the proposed order has not been presented, its judge has not yet had the opportunity to agree or disagree, and no judge has had occasion to petition the Committee.

The Court's business "shall be divided among the judges as provided by the rules and orders of the court," and the Chief Judge is responsible for their observance. 28 U.S.C. § 137(a). The Clerk performs "the duties assigned to them by the court." *Id.* § 956. The steps the General Order assigns to the Clerk do not depend on any ruling in a single case, and nothing in the record suggests that any judge has decided this one should not be taken. Petitioner asks only that it be taken now.

IV. THE OFFICE HELD THE NOTICE, AND TOLD THE CHIEF JUDGE THE OPPOSITE OF WHAT IT SAID

A. The Office acknowledged the Notice in writing.

The Office knew of the Notice. It was served on May 18, 2026, and Acting Civil Chief Daniel A. Beck acknowledged receipt in writing on June 2, 2026. (No. 2:26-cv-05207, Dkt. 44, Page ID #:1134–1136, #:1141.) Two months later, the Office told the Chief Judge that "Mr. Escamilla's ill-fated complaint and CVRA petitions have nothing to do with defendant's criminal case." (ECF No. 864 at 5, Page ID #:11428.) The Notice the Office had acknowledged said that they did. (No. 2:26-cv-05207, Dkt. 4 at 3, 7, Page ID #:399, #:403; see No. 2:26-cv-09383, Dkt. 56, Ex. C, Page ID #:1819.)

The Notice reached Chief Judge Gee once, and not from the Office. On July 26, 2026, limited-scope counsel for the defendant attached it to a request for appointment of conflict-free counsel, asked the Court to take judicial notice of it, and asked the Court to consider "whether any further procedural coordination is warranted under General Order 08-05 § 5.2." (*McCormick*, ECF No. 861 at 10–11, 22 & Ex. A, Page ID #:11367–11368, #:11379.) The Court directed the Office to respond. (ECF No. 862.) Its opposition, filed ten days after the request, told her that the petitions "have nothing to do with defendant's criminal case." (ECF No. 864 at 5, Page ID #:11428.) On August 25, 2026, the Court appointed new counsel for the defendant and denied the request as moot. (ECF No. 883.) The Notice, and the coordination under General Order 08-05, § 5.2, that it requested, were not reached.

According to the public docket in *McCormick*, it does not appear that the Notice, or the related designation it made, was disclosed to the Court by the Office, which had held it since May 18, 2026, or by the defendant's counsel of record, who had also been Petitioner's counsel and did not move to withdraw until August 17, 2026. (No. 2:26-cv-09383, Dkt. 56, Page ID #:1834–1835, #:1839; *McCormick*, ECF No. 877 at 2, Page ID #:11585; Escamilla Decl. ¶ 9.) Nor does it appear from the public docket whether the Notice was considered under any order entered under Federal Rule of Criminal Procedure 5(f) and General Order 21-02, if any such order exists. Petitioner draws no conclusion from either observation. He notes them only as what the public docket reflects, and leaves their significance to the Court and the parties to that case.

The Chief Judge thus had the Notice and the Office's account of it. She has never been presented the proposed transfer order that would have put the related petitions themselves before her, and the record has remained divided between judges, which is the result the related-case procedure exists to prevent. L.R. 83-1.3.1(b), (c); General Order 26-11, § II.J.

B. What the Office told Chief Judge Gee about this victim.

On August 5, 2026, in a filing naming First Assistant United States Attorney Bilal A. Essayli as counsel, the prosecution team in *McCormick* told Chief Judge Gee:

> "Mr. Escamilla's ill-fated complaint and CVRA petitions have nothing to do with defendant's criminal case." (*McCormick*, ECF No. 864 at 5, Page ID #:11428.)
>
> His "separate, years-long civil litigation and petitions under the Crime Victim Rights Act" "involve broad allegations of government misconduct that courts have repeatedly rejected," though "the government does not address them here in substance." (*Id.* at 4–5, Page ID #:11427–11428.)

Each statement is answered by a record the Office already held.

The Office's own words. Seven months earlier, the Office wrote to Petitioner about the same record:

> "We have reviewed it and the attachments. It seems to be related to two civil cases which were dismissed." (No. 2:26-cv-05207, Dkt. 9, Ex. Q, Page ID #:676; No. 2:26-cv-09383, Dkt. 60 at 8, Page ID #:2015.)

Both were dismissed for want of jurisdiction; no court has reached Petitioner's claims on the merits. (No. 2:26-cv-09383, Dkt. 56 at 11–12, Page ID #:1769–1770.) When the fraud was put to the Office in 2021, it wrote:

> "[A]ssuming arguendo that once existed, it would not 'affect the outcome of the case.'" (No. 2:17-cv-07748, Dkt. 23 at 5, Page ID #:753.)

Defense counsel of record. Thirteen months before the August 5 filing, counsel for the defendant, who was also Petitioner's counsel, wrote that raising Petitioner's record:

> "could also force the Court to appoint Special Counsel due to a conflict of interest within the U.S. Attorney's Office." (No. 2:26-cv-09383, Dkt. 52, Ex. D at 5; *id.*, Dkt. 56 at 16, Page ID #:1774.)

The record that defense counsel said could require special counsel over the prosecuting Office is the record the Office told the Chief Judge had "nothing to do with" the case. That is the relationship the Notice of Related Cases designated, and the reason the proposed transfer order belongs before her. L.R. 83-1.3.1(b), (c).

The Office has not corrected the August 5 statements, despite six written requests. (Escamilla Decl. ¶ 5.) When the same record was placed before this Court in 2026, the Office filed no opposition and answered none of it. (No. 2:17-cv-07748, Dkt. 47 at 1, Page ID #:1105; No. 2:26-cv-09383, Dkt. 60 at 23–26, Page ID #:2030–2033.)

C. The Office's own 2018 filings carried the fabricated ruling, two years before it indicted Petitioner's nephew, and it did not escalate them.

The conduct at issue entered the record of this District in January 2018, when the Office carried the reported Colorado ruling into No. 2:17-cv-07748, and the Court dismissed that action on April 4, 2018. (No. 2:17-cv-07748, Dkt. 9 at 11, Page ID #:132; Dkt. 11 at 6, Page ID #:206; Dkt. 13.) About four months later, the Ninth Circuit decided *Lanuza v. Love*, recognizing a damages remedy against a government attorney who placed a forged document before a tribunal. 899 F.3d 1019 (9th Cir. 2018). In 2020, the same Office, under the same United States Attorney, indicted Petitioner's nephew. (No. 2:26-cv-09383, Dkt. 2-1, Ex. P, Page ID #:343–353.) Petitioner did not learn that the Office's 2018 filings rested on the fabricated ruling until March 2021, when the victims answered the Court's order to show cause and placed the Colorado record before this Court. (No. 2:21-cv-01910, Dkt. 9 at 7–11, Page ID #:219–223 (filed Mar. 29, 2021).) He then retained counsel to bring it forward; none did. (Section V, *infra*.) Not a party to his nephew's case, he had no means to raise it there himself. On December 18, 2025, Petitioner gave Mr. Essayli written notice by name of the misconduct and asked that it be investigated and reported. (Id.) The Office replied that it had "reviewed it and the attachments," and described the matters as "two civil cases which were dismissed." (No. 2:26-cv-05207, Dkt. 44 at 24, Page ID #:1146.) Petitioner's November 1, 2026 question whether the information had been reported to the Attorney General under 28 U.S.C. § 535(b) has not been answered. (No. 2:26-cv-09383, Dkt. 60, Ex. A.) To Petitioner's knowledge, the Office has never disclosed that record to Chief Judge Gee. (Escamilla Decl. ¶ 6.)

The stakes of disclosure were known. The Crime Victims' Rights Act provides for disciplinary sanctions, including suspension or termination, for willful or wanton failure to comply with the law governing the treatment of crime victims. 18 U.S.C. § 3771(f)(2)(C). And after *Lanuza*, the personal consequences of carrying

a fabricated document into court were settled law in this Circuit. In his December 18, 2025 notice, Petitioner stated, on information and belief, that the timing of his nephew's indictment, coinciding with his own preparations to assert his rights, suggested vindictive prosecution intended to deter him. (No. 2:26-cv-09383, Dkt. 2-1, Ex. P, Page ID #:343–353 (citing *Blackledge v. Perry*, 417 U.S. 21 (1974)).)

He first placed that statement on the record with his May 14, 2026, petition, which the Office acknowledged receiving on June 2, 2026. (No. 2:26-cv-05207, Dkt. 1; *id.*, Dkt. 44, Page ID #:1134–1136, #:1141.) The Office has never answered it. "To punish a person because he has done what the law plainly allows him to do is a due process violation 'of the most basic sort.'" *United States v. Goodwin*, 457 U.S. 368, 372 (1982); *see Blackledge*, 417 U.S. at 27–28.

V. THE LAWYERS WHO REPRESENTED BOTH THE VICTIM AND HIS NEPHEW HELD THE RECORD, AND NONE WILL SAY WHETHER THE PROSECUTION DISCUSSED HIM WITH THEM

Petitioner, a member of the defendant's family, retained Allison B. Margolin, then counsel to his nephew, to bring his own petition and to expose that record. She reviewed it and acknowledged in writing that the agent "improperly advised Mr. Escamilla that the 2013 case contained a ruling in favor of Selakovic," that the 2017 action was dismissed "[r]elying on allegedly false and misleading filings by the U.S. Attorney's Office," and that the record could "present this Office with a potentially irreconcilable conflict of interest." (No. 2:26-cv-09383, Dkt. 52, Ex. D at 2, 4, 5; No. 2:26-cv-09383, Dkt. 56 at 22, Page ID #:1780.)

She disclosed none of it to the Court. Her June 24, 2025 letter, signed "Attorney for Jordan McCormick," recast Petitioner's own petition as "[t]he injection of Mr. Escamilla's grievances into this unrelated criminal matter." (Dkt. 52, Ex. D at 1, 5, 6; No. 2:26-cv-09383, Dkt. 56 at 14, Page ID #:1772.)

Kasra A. Parsad was present for that record. Petitioner never retained him; the engagement was with Ms. Margolin's firm alone, and she introduced him only as a civil rights attorney who might be able to help. He nonetheless attended Petitioner's

confidential meetings about his petition, including one on or about June 12, 2025, twelve days before the letter ending Petitioner's representation, and he billed Petitioner's matter for a "File Review" on Saturday, June 21, 2025, the weekend that letter was written. (No. 2:26-cv-09383, Dkt. 56 at 14, Page ID #:1772; *id.*, Ex. H, Page ID #:1949.)

Three days after the letter, when Petitioner asked the firm to report to the State Bar the misconduct its own letter acknowledged, the firm refused in writing, copying Mr. Parsad. (*Id.* at 14, 18, Page ID #:1772, #:1776.)

Thirteen months later, the Office told Chief Judge Gee the same story. (No. 2:26-cv-09383, Dkt. 56 at 23, Page ID #:1781; ECF No. 864 at 4–5.) Mr. Parsad, "Of Counsel" to Ms. Margolin's firm, was co-counsel of record for the defendant when ECF No. 864 was filed, and said nothing. (No. 2:26-cv-09383, Dkt. 56 at 14, Page ID #:1772; ECF No. 877.)

On August 23 and 25, 2026, Petitioner wrote to Mr. Parsad and Ms. Margolin by name, enclosed his filed refutation of those statements, and asked them to disclose to the court the conflict put in writing on June 24, 2025. Neither responded. Their motion to withdraw rested on "a complete breakdown in the attorney-client relationship" and did not mention that conflict; it was granted. (No. 2:26-cv-09383, Dkt. 56 at 14–15, 22, Page ID #:1772–1773, #:1780; ECF Nos. 877, 883.) Petitioner's State Bar complaint against Mr. Parsad is pending. (*Id.*, Ex. G, Page ID #:1943–1947 (Case No. 26-O-30635).)

Petitioner did not retain Ms. Margolin to keep this record quiet. He retained her to bring it to light: to file his own crime-victim petition, in his own case, in this District. (No. 2:26-cv-09383, Dkt. 54 at 9, Page ID #:1743; *id.*, Dkt. 56 at 22–23, Page ID #:1780–1781.) He never asked her to file it in his nephew's case. (*Id.*, Dkt. 56 at 23, Page ID #:1781.) He believed his nephew's prosecution was retaliatory, and he told the Office so in writing on December 18, 2025. (*Id.*, Dkt. 2-1, Ex. P, Page ID #:343–353.) A crime victim filing his own petition threatens no one but the

officials whose conduct it exposes; a relative accused of interfering with a prosecution becomes the problem himself. (*Id.*, Dkt. 56 at 23, Page ID #:1781.)

Three lawyers represented both Petitioner and his nephew against the same Office: Elon Berk, his nephew's counsel of record while Mr. Berk's firm, Gurovich, Berk & Associates, represented Petitioner and Greenway in his 2021 crime-victim petition and its appeal; Mr. Berk's partner, Dmitry Y. Gurovich, who handled those matters; and Ms. Margolin. (No. 2:26-cv-09383, Dkt. 56, Ex. C at 22–23, Page ID #:1835–1836.)

Petitioner asked each of them, in writing, one question: whether AUSA Castañeda or anyone on the prosecution team ever mentioned him, his company, or his litigation to them. That "is a lawful question for any client to ask his former lawyer." (*Id.*, Dkt. 54 at 10, Page ID #:1744.)

Ms. Margolin, asked on December 19, 2025, replied that she needed "a few days to read and respond," and never did; she has not signed the affidavit sent to her; her paralegal later wrote that her office had not communicated with the U.S. Attorney about him, a response that did not address her co-counsel or any member of the prosecution team; and the client file her office produced contains no communication with the Office and no statement that none exists. (*Id.*, Dkt. 54 at 10–11, Page ID #:1744–1745; *id.*, Dkt. 56, Ex. C at 22, Page ID #:1835.)

Mr. Berk and Mr. Gurovich, asked on April 24, 2026, with an affidavit for each, answered only with an offer to "get on a call" and a confirmation of "receipt only." (*Id.*, Dkt. 56, Ex. C at 23, Page ID #:1836.) None has signed, notwithstanding each lawyer's duty to keep a former client informed and to release his file, including correspondence. (*Id.* (citing Cal. R. Prof. Conduct 1.4(a)(3), 1.9(c), 1.16(e)(1); Cal. Bus. & Prof. Code § 6068(e)(1), (m)).) Petitioner does not allege that any such communication occurred. He states only that those who would know have declined to say. (*Id.* at 22, Page ID #:1835.)

Those questions are already before the State Bar of California, and they are on this Court's record. Petitioner has filed here his verified complaints against former Acting United States Attorney Tracy L. Wilkison (No. 2:26-cv-09383, Dkt. 52) and against Ms. Margolin (*id.*, Dkt. 54 at 7–12, Page ID #:1741–1746), and the Statements in Support of his complaints against First Assistant United States Attorney Bilal A. Essayli and AUSAs Patrick A. Castañeda, Kathrynne Seiden, and Laura A. Alexander, with the State Bar's acknowledgments. (*Id.*, Dkt. 56, Exs. C–G, Page ID #:1814–1947.)

The Court may take judicial notice of its own records. Fed. R. Evid. 201(b)(2); *Reyn's Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006). Petitioner asks the Court to find nothing about any attorney; those questions belong to the State Bar. (No. 2:26-cv-09383, Dkt. 56 at 25, Page ID #:1783.) He notes them because every lawyer who held this record, on either side, has been asked about it in writing, and none has answered. A record divided among judges ensures that no one judge sees that.

VI. PETITIONER ASSERTS HIS OWN RIGHTS: A RECORD DIVIDED BETWEEN JUDGES IS WHAT THE RELATED-CASE PROCEDURE EXISTS TO PREVENT

Petitioner is a federally identified crime victim. He asserts here his own rights under the Crime Victims' Rights Act: to be reasonably heard, and to be treated with fairness and with respect for his dignity. 18 U.S.C. § 3771(a)(4), (a)(8), (d)(1), (d)(3). The statute is "broad and encompassing." *Kenna v. U.S. Dist. Court*, 435 F.3d 1011, 1013 (9th Cir. 2006). A crime victim's harm includes harm to his dignity. *United States v. Monzel*, 746 F. Supp. 2d 76, 84 (D.D.C. 2010). The facts below are his own representations, made on the record and under oath, and on November 4, 2026, a judge of this Court, describing him and Greenway Nutrients, Inc. as "victims of the criminal counterfeiting," denied relief "[e]ven accepting" his fraud-on-the-court allegations "as true." (No. 2:17-cv-07748, Dkt. 58 at 2–3, Page ID #:1467–1468.)

On November 4, 2026, a judge of this Court described Petitioner and Greenway Nutrients, Inc. as:

> "victims of the criminal counterfeiting" investigated in Operation Software Slashers. (No. 2:17-cv-07748, Dkt. 58 at 2, Page ID #:1467.)

The Government has never disputed that status. Its own 2018 filing described the investigation and the more than $20 million recovered in it. (*Id.*, Dkt. 9 at 10, Page ID #:131; *id.*, Dkt. 13 at 2, Page ID #:210.) Once a person is a crime victim, the statute leaves the Government no discretion. Its officers and employees "shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a)," including the right to "full and timely restitution as provided in law." 18 U.S.C. § 3771(a)(6), (c)(1). The offense investigated, trafficking in counterfeit goods, is an offense against property committed by fraud or deceit, and for such an offense restitution is mandatory. 18 U.S.C. § 3663A(a)(1), (c)(1)(A)(ii). A crime victim may enforce that right by motion in the district court, and a petition under 18 U.S.C. § 3664(d)(5) is such a motion. *In re Davis*, Nos. 24-3090 & 24-3092, 146 F.4th 710 (9th Cir. 2025) (as amended Aug. 1, 2025).

A prosecutor's duty does not end with what he says; it extends to what he allows to stand. When the government, "although not soliciting false evidence, allows it to go uncorrected when it appears," due process is violated. *Napue v. Illinois*, 360 U.S. 264, 269 (1959); *see Giglio v. United States*, 405 U.S. 150, 153–54 (1972); *Hayes v. Brown*, 399 F.3d 972, 978 (9th Cir. 2005) (en banc).

The prosecutor's office is a single entity, and it must learn what others acting on its behalf know. *Giglio*, 405 U.S. at 154; *Kyles v. Whitley*, 514 U.S. 419, 437–38 (1995). Its interest "is not that it shall win a case, but that justice shall be done." *Berger v. United States*, 295 U.S. 78, 88 (1935). "[T]he prosecutor's job isn't just to win, but to win fairly, staying well within the rules." *United States v. Kojayan*, 8 F.3d 1315, 1323 (9th Cir. 1993).

The statements in ECF No. 864 were made by the prosecution team in Petitioner's nephew's case, to the judge presiding over it, after trial had concluded, about the very record the Court has since accepted as true. Petitioner is not a party to that case and takes no position on any fact or issue in it; every reference to it here concerns only what counsel in that case said or did about Petitioner's own matters. (Accord No. 2:26-cv-05207, Dkt. 4 at 7, 9, Page ID #:403, #:405.) Petitioner asserts no right on the defendant's behalf. (No. 2:26-cv-09383, Dkt. 3 at 27, Page ID #:420.) But a record that the Office characterized to the presiding judge, and that this Court has since accepted as true, may bear on the defendant's Fifth Amendment due process and Sixth Amendment fair-trial rights; dividing it between judges risked depriving both the victim and the defendant of the single-forum evaluation the related-case procedure exists to secure. (Id. at 29–30, Page ID #:422–423.)

Whether it did is for that court and the parties to it. Petitioner asserts his own right to be heard on what was said about him. That is why the related cases must come before one judge: dividing them ensures that no judge sees both what the Office told Chief Judge Gee and what this Court has accepted as true. Avoiding that division is what the related-case procedure exists to do. L.R. 83-1.3.1(b), (c); General Order 26-11, § II.J.

VII. TWO JUDGES ARE RESPONDENTS AND TWO OTHERS HAVE IDENTIFIED A CONFLICT: SECTION II.F ROUTES THE QUESTION TO THE CHIEF JUDGE

General Order 26-11 provides that a case from which a judge recuses is returned to the Clerk for reassignment, and that "[i]f a recusing judge believes the case is one in which recusal of the entire Court may be necessary, that judge should notify the Chief Judge." General Order 26-11, § II.F. Two judges of this Court are named respondents in Petitioner's crime-victim matters, each in his official capacity, and each petition challenges orders that judge entered: Judge Otis D. Wright II in No. 2:26-cv-09383 (Dkt. 1; see id., Dkt. 16, Ex. A, Page ID #:743–748 (service on each respondent, Aug. 25–26, 2026)), and Judge André Birotte Jr. in this

action. A judge may not sit where he is a party, and the disqualification cannot be waived. 28 U.S.C. § 455(b)(5)(i), (e).

The question has already reached other judges of this Court. When Petitioner moved to disqualify Judge Wright in No. 2:26-cv-05207, two judges drawn at random returned the motion for conflict, and a third denied it, without addressing the Notice of Related Cases or the related-case transfer it called for. (No. 2:26-cv-05207, Dkts. 16, 17, 19, 23–25, 29, 30.) Whether the judges of the same Court should sit in judgment of their colleagues' orders is the question § II.F reserves for the Chief Judge, and it bears equally on any disagreement over which cases are related. Petitioner respectfully requests that both be presented to her.

A crime victim's motion must be taken up and decided "forthwith." 18 U.S.C. § 3771(d)(3). Each reassignment that bypasses the related-case referral sends the same questions to a judge who has not seen the related record. Three matters, three assignments, 182 days: the one referral the Notice requested has not once been made. A process that restarts again and again without it cannot honor that command.

VIII. RELIEF REQUESTED

Petitioner respectfully requests that the Court:

1. direct the Clerk to prepare the proposed related-case transfer order required by General Order 26-11, § II.J.2, on the Notice of Related Cases filed in this action (Dkt. 5), and to present it to Chief Judge Gee, the judge assigned *United States v. McCormick*, No. 2:20-cr-00346(B)-DMG, for her review, with an informational copy to the assigned judge, and, absent the judges' agreement, that the question go to the Case Management and Assignment Committee, consistent with each of Petitioner's Notices of Related Cases (Dkt. 5 at 3; No. 2:26-cv-05207, Dkt. 4 at 2–3; No. 2:26-cv-09383, Dkt. 3 at 5–6);
2. refer this action to the Chief Judge under General Order 26-11, § II.F, for a determination whether recusal of the entire Court is necessary, two judges of

this Court being named respondents, and two others having identified a conflict; and

3. pending those determinations, take up only this Notice and the Petition's request that it be decided forthwith, and make no other ruling that would be affected by the determination.

Nothing in this Notice waives any right Petitioner holds, including the right to petition the Court of Appeals under 18 U.S.C. § 3771(d)(3). Nothing in it is made on behalf of any other person.

DATED: November 12, 2026

Respectfully submitted,

GUSTAVO ESCAMILLA
1315 Highland Avenue
Glendale, California 91202
(818) 355-0062
gescamilla@ymail.com
Petitioner in Pro Se

DECLARATION OF GUSTAVO ESCAMILLA

I, Gustavo Escamilla, declare:

1. I am the Petitioner in this action. I have personal knowledge of the facts stated in this declaration and, if called as a witness, could and would testify competently to them.
2. Exhibit A is a true and correct copy of the Order to Reassign Case Due to Self-Recusal entered November 10, 2026 in this action (Dkt. 11). Exhibit B is a true and correct copy of the Notice of Related Cases I filed with my Petition on November 6, 2026 (Dkt. 5).
3. On August 3, 2026, I delivered a letter to Brian D. Karth, District Court Executive and Clerk of Court, concerning the processing of my filings in No. 2:26-cv-05207. On August 20 and August 24, 2026, I hand-delivered letters to Mr. Karth asking that the related-case step be taken in connection with my petition filed August 21, 2026 (No. 2:26-cv-09383), and advising that a petition naming Judge Wright as a respondent could not be assigned to his calendar. On November 12, 2026, I delivered a further letter asking that it be taken in this action and in Nos. 2:26-cv-05207 and 2:26-cv-09383.
4. On November 11, 2026, I sent written notice of this filing by email to Acting Civil Chief Daniel A. Beck and AUSA Alarice M. Medrano of the United States Attorney's Office, and asked for the Office's position by 10:00 a.m. on November 12, 2026. Exhibit C is a true and correct copy of that notice. As of the time I sign this declaration, I have received no response.
5. On August 16, September 14, October 12, October 21, October 28, and November 9, 2026, I asked the United States Attorney's Office in writing to correct the record concerning the court ruling reported in October 2016. As of the date I sign this declaration, I have received no response to any of those requests.

6. To my knowledge, the United States Attorney's Office has never disclosed to Chief Judge Gee, in United States v. McCormick, the record of misconduct described in my December 18, 2025 notice, which predated my nephew's indictment. I placed that record before my nephew's former counsel, Allison B. Margolin, in 2024 and 2025, and to my knowledge she did not disclose it to the Court.
7. Elon Berk and Dmitry Y. Gurovich, whose firm represented me and Greenway in No. 2:21-cv-01910 and its appeal while Mr. Berk was my nephew's counsel of record, and Allison B. Margolin, who represented both me and my nephew, have each been asked by me in writing whether AUSA Patrick A. Castañeda or anyone on the prosecution team in United States v. McCormick ever mentioned me, my company, or my litigation to them. I asked Ms. Margolin on December 19, 2025, and sent her an affidavit on December 23, 2025. I asked Mr. Berk and Mr. Gurovich on April 24, 2026, enclosing an affidavit for each, and again on August 5 and October 4, 2026. None has signed the affidavit or stated under oath that no such communication occurred. Ms. Margolin's paralegal wrote that her office had not communicated with the U.S. Attorney regarding me, my company, or my prior litigation; Ms. Margolin herself has not answered.
8. I retained Ms. Margolin to file my own crime-victim petition, in my own case, in this District, and to bring to light the misconduct it documents. I never asked her to file it in my nephew's criminal case.
9. According to the public docket in United States v. McCormick, No. 2:20-cr-00346(B)-DMG, it does not appear that my May 14, 2026 Notice of Related Cases, or its designation of that case, was disclosed to the Court by the United States Attorney's Office or by my nephew's counsel of record, Allison B. Margolin. The Notice was attached as Exhibit A to the request for

appointment of conflict-free counsel filed on July 26, 2026 (ECF No. 861). I draw no conclusion from those observations.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 12, 2026, at Glendale, California.

DATED: November 12, 2026



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INDEX OF EXHIBITS

Ex. A Order to Reassign Case Due to Self-Recusal, No. 2:26-cv-13079 (C.D. Cal. Nov. 10, 2026), Dkt. 11, Page ID #:250.

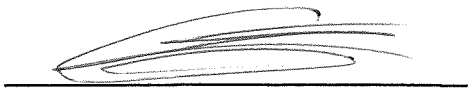
Ex. B Petitioner's Notice of Related Cases, No. 2:26-cv-13079 (C.D. Cal. filed Nov. 6, 2026), Dkt. 5, Page ID #:236–239.

Ex. C Letter from Petitioner to Acting Civil Chief Daniel A. Beck and AUSA Alarice M. Medrano (Nov. 11, 2026) (Local Rule 7-3 notice).

CERTIFICATE OF COMPLIANCE (L.R. 11-6.2)

The undersigned, Petitioner in pro se, certifies that this Notice contains 6,992 words, which complies with the word limit of L.R. 11-6.1.

DATED: November 12, 2026



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CERTIFICATE OF COMPLIANCE WITH THE COURT'S GENERATIVE ARTIFICIAL INTELLIGENCE ORDER

The undersigned certifies the following regarding the use of generative artificial intelligence in the preparation of this filing:

_X_ This filing USES generative artificial intelligence.

____ This filing DOES NOT use generative artificial intelligence.

Petitioner used a generative artificial intelligence tool to assist in drafting portions of this filing. Petitioner has reviewed and revised the content, has verified the legal citations and the factual assertions to the best of his ability, and adopts the filing as his own. The positions and representations set forth herein are made in good faith and in compliance with Federal Rule of Civil Procedure 11.

DATED: November 12, 2026



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