

**IN THE COURT OF APPEAL OF CALIFORNIA
SIXTH APPELLATE DISTRICT**

In re

JUDY BRAKEBILL JONES, a.k.a.
JUDY LEE JONES and JUDY LEE
BRAKEBILL JONES LASHER

) Appeal No. H054014
)
)
)

ERIC BRAKEBILL JONES

) Monterey County Case No.
) 25PR000590
)
)

Petitioner,

v.

SUPERIOR COURT OF CALIFORNIA, IN
AND FOR THE COUNTY OF MONTEREY

Respondent.

HEIDI JONES BLANCHARD, Executor

Real Party in Interest

REAL PARTY IN INTEREST BRIEF IN OPPOSITION
TO WRIT OF MANDATE PETITION
FROM AN ORDER OF THE SUPERIOR COURT OF CALIFORNIA,
COUNTY OF MONTEREY

HONORABLE ELISABETH K. MINETA, JUDGE PRESIDING

REAL PARTY IN INTEREST'S BRIEF

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2026, hearing. Other orders made at the hearing, namely appointing the Real and Party in Interest, Heidi Jones Blanchard (“Ms. Blanchard”), as executor were not subject to the writ of mandate. Ms. Blanchard will show that the Superior Court, sitting as the Probate Court made no errors in its orders on January 7, 2026.

STATEMENT OF FACTS/ PROCEDURAL HISTORY

Judy Brakebill Jones (“Ms. Jones”) died on April 4, 2025, in Monterey County. Ms. Jones owned a home in Monterey County when she passed away.

On November 24, 2025, Ms. Blanchard, the adult daughter of Ms. Jones, filed a Petition for Probate of a Lost Will (“Probate Petition”) in the Superior Court of California, County of Monterey which was set for January 7, 2026.

On December 30, 2025, Mr. Jones filed a Motion to Disqualify Counsel and a Petition to Transfer of Venue, which is set for March 4, 2026.

On December 31, 2025, Mr. Jones filed a Petition for Surcharge, which is scheduled for March 4, 2026.

On January 5, 2026, Mr. Jones filed a pleading titled “Preemptory Challenge to Judicial Officer, CCP Section 170.6,” whereas Petitioner explicated stated in his motion,

“ . . . Eric Brakebill Jones hereby exercises a preemptory challenge to disqualify the Honorable Julie R. Culver, Judge of the Superior Court, from hearing any further proceedings in this matter.”

Prior to the January 7, 2026, hearing all necessary notices for the Probate Petition were completed and the required publication was duly completed on the dates of December 6, December 10, and December 14, 2025.

At the January 7, 2026, hearing the Petitioner, Mr. Jones, appeared by Zoom technology. Mr. Jones filed no objection to the Probate Petition but had filed on January 5, 2026, a CCP Section 170.6 as to the Honorable Julie R. Culver, Judge of the Superior Court, from hearing any further proceedings in this matter.

This was Mr. Jones as well as Ms. Blanchard's first appearance in the matter before the Court.

The judicial officer at the January 7, 2026, hearing, Hon. Elisabeth K. Mineta, mentioned the prior CCP Section 170.6 motion as to Hon. Julie R. Culver. Judge Mineta denied the Petitioner's request as to CCP Section 170.6 stating he already has a challenge and then the Court proceeded to address the Petition for Probate as no objection for that Petition was filed or noted. The Court ruled all notices were complete and the Petition for Probate was granted with Ms. Blanchard appointed as executor. Ms. Blanchard was required to file a bond of \$20,000.00 upon issuance of Letters Testamentary.

Mr. Jones filed a Writ of Mandate based upon his belief the Court denied a timely preemptory challenge.

ARGUMENT

1. THE APPLICATION OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 170.6

Every litigant has a right to file a Motion under California Civil Code of Procedure Section 170.6 to challenge a judicial officer. Section 170.6 strictly limits each party or side to a single preemptory challenge in any one action or special proceeding. (California Code of Civil Procedure Section 170.6(a)(4) *The Home Ins. Co. v. Superior Court* (2005) 34 Cal.4th 1025, 1032). The statute is explicit, "no party or attorney shall be permitted to make more than one

such motion in any one action or special proceeding, (*Id.*). This strict limitation is designed to prevent abuse, the lengthening of proceedings, and forum shopping, (*Id.*).

This one-challenge rule applies irrespective of whether the first challenge was directed at a judge assigned for all purposes or was, as here, directed at a judge not assigned to the case. (*Casden v. Superior Court* (2006) 140 Cal.App.4 h 417, 424). In this instance the January 5, 2026, written Motion by Petitioner readily identifies a challenge under 170.6 for Hon. Julie R. Culver and this constitutes the exercise of Petitioner's one (1) statutory challenge in this Probate Proceeding under case number 25PR000590.

Even if Petitioner had not already exhausted his challenge, his oral motion on January 7, 2026, was untimely. Section 170.6 establishes specific, mandatory timelines for filing a peremptory challenge. A challenge to an all-purpose judge must be filed within 15 days of the party's first appearance. (California Code of Civil Procedure Section 170.6(a)(2)). A challenge to a judge assigned for a specific hearing must be filed at least five days before the hearing date, or immediately upon assignment if the assignment occurs within ten days of the hearing. (*Grant v. Superior Court* (2001) 90 Cal.App.4th 518, 522.) Petitioner did neither. He appeared and participated in a hearing before Hon. Elizabeth K. Mineta. Only then, during the hearing itself, did Mr. Jones make an oral challenge. An oral motion made during a hearing after the party has appeared before the judicial officer is per se untimely. (*People v. Superior Court (Lavi)* (1993) 4 Cal.4th 1164, 1178); the right must be exercised at the earliest practicable opportunity.

The statute does not authorize oral, mid-hearing challenges. The Respondent Court properly denied the motion on this independent basis.

2. REQUEST FOR STAY IS NOT APPROPRIATE OR NECESSARY

Petitioner's request for an immediate stay is based on conclusory allegations of asset dissipation unrelated to the judicial disqualification issue. Mr. Jones is fully aware this matter has judicial oversight and the Executor appointed, the Real Party In Interest, was required to provide a bond. A stay is an extraordinary remedy requiring a clear, specific, and imminent showing of irreparable harm. (*Doe v. Wilson* (1997) 57 Cal.App.4th 296, 304.) Petitioner provides no competent evidence to support his claims. The Probate Court is fully capable of overseeing estate assets and addressing any proper accounting(s) through normal, statutory procedures. Granting a stay based on these unverified allegations would unfairly prejudice the administration of the Estate and the interests of all beneficiaries.

3. STANDARD FOR REVIEW BY APPEAL COURT

In determining on appeal whether a trial court finding is supported by the evidence, the appellate court applies the standard of review for an order granting or denying a peremptory challenge which is the abuse of discretion. A trial court abuses its discretion when it erroneously denies as untimely a motion to disqualify a judge pursuant to section 170.6. (*City of Hanford v. Superior Court* (1989) 208 Cal. App. 3d 580, 584). In this particular instance, the Court was in receipt of the Petitioner's first motion to disqualify a judicial officer, filed on January 5, 2025, but there was no abuse of discretion to not allow Petitioner to have a second motion when the statute does not provide for one.

Rather, when asked to review the evidence in light of the findings made by the trial court, the appellate court considers only whether there is abuse of discretion to support the trial court's findings.

4. THE WRIT PETITION FILED BY PETITIONER IS FACIALLY DEFECTIVE AS IT DOES NOT COMPLY WITH THE CALIFORNIA RULES OF COURT

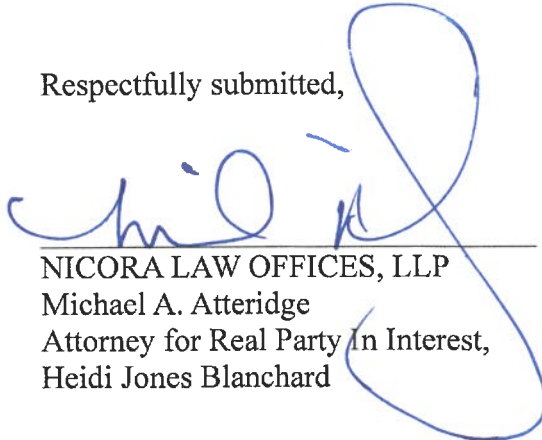
When a brief fails to comply with the requirements set forth in the California Rules of Court, the appellate court may, within its discretion, order the brief be stricken. (California Rules of Court, Rule 8.204; *Berger v. Godden* (1985) 163 Cal.App. 3d 1113, 1117-1118). The California Rules of Court requires that the Petitioner's brief contain a statement of facts, set forth clearly and concisely, accurately, and confined to matters within the record on appeal. A statement of facts which is inflammatory, emotional, and replete with improper references to 'facts' outside the reviewing court's record violates this rule. (*Dodd v. Henkel* (1978) 84 Cal. App. 3d 604, 606, fn. 1.). In Petitioner's brief which is less than three (3) pages contains no cites to the record and lack any supporting facts. Petitioner's allegations to irreputable harm are scant and lack any factual foundations but reflect a make-believe world. The brief filed by the Petitioner should be stricken for its failure to comply with the Rules of Court.

CONCLUSION

For the foregoing reasons, the decision of the trial court sitting as the Probate Court should be affirmed.

Dated: January 22, 2026

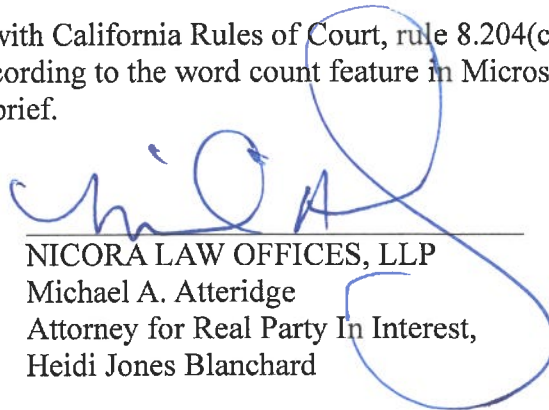
Respectfully submitted,



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CERTIFICATE OF WORD COUNT

I certify that the foregoing brief complies with California Rules of Court, rule 8.204(c) and contains 2,590 words, including footnotes, according to the word count feature in Microsoft Word, the computer program used to prepare this brief.



NICORA LAW OFFICES, LLP
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DECLARATION OF SERVICE

I, the undersigned, declare that I am over 18 years of age and not a party to the instant action. My business address is listed above and my e-service address is maatteridge@nicoralaw.com. On January 22, 2026, I served the attached REAL PARTY INTEREST'S BRIEF by placing true copies in a sealed envelope, with the correct postage, and depositing them in the United States Postal Service, to each of the following person(s) at the following address(es):

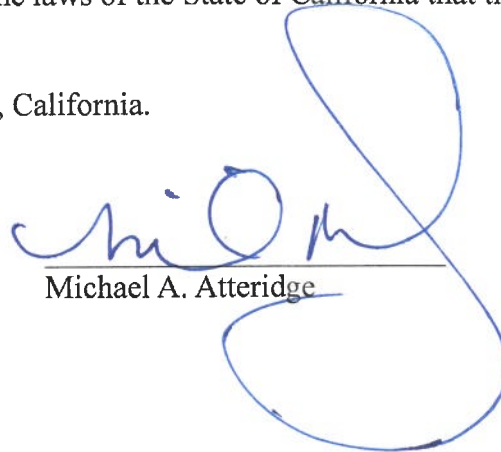
Hon. Elisabeth K. Mineta
Probate Court
Dept 13
1200 Aguajito Road
Monterey, California 93940

On January 22, 2026, I also transmitted a PDF version of this document, via True Filing, to each of the following using the email address(es) as indicated:

Eric Brakebill Jones (Petitioner) eric@recovery-compass.org

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

Executed on January 22, 2026, at Carmel, California.



Michael A. Atteridge