Case No. \_\_\_\_\_\_\_

**IMMEDIATE STAY REQUESTED**

[INSERT NATURE AND DATE OF THE PROCEEDING OR ACT SOUGHT TO BE STAYED]

|  |
| --- |
| **IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**APPELLATE DISTRICT** |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,
*Petitioner*,

v.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,
*Respondent*,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,
*Real Party in Interest*.

|  |
| --- |
| **PETITION FOR WRIT OF MANDATE, PROHIBITION, CERTIORARI, AND/OR OTHER APPROPRIATE RELIEF; VERIFICATION; MEMORANDUM OF POINTS AND AUTHORITIES (SUPPORTING EXHIBITS FILED UNDER SEPARATE COVER)** |

On Review of the Superior Court of California, County of \_\_\_\_\_\_\_\_\_\_\_\_\_

Case No. \_\_\_\_\_\_\_\_\_\_\_\_\_
The Honorable \_\_\_\_\_\_\_\_\_\_\_\_\_, Judge, Dept. \_\_\_\_

Telephone: [Superior Court Telephone Number]

[Attorney Name] (SBN \_\_\_\_\_\_)

[Attorney Name[ (SBN \_\_\_\_\_\_)

[LAW FIRM OR ORGANIZATION]

[mailing address]

Telephone: [phone number]

Facsimile: [fax number]

[Attorney Email]

[Attorney Email]

Attorneys for Petitioner,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Pursuant to California Rules of Court, rules 8.208 and 8.488, the undersigned certifies that they know of no other entity or person other than the parties to this proceeding who has a financial or other interest in its outcome.

|  |  |
| --- | --- |
| Dated:  | [LAW FIRM OR ORGANIZATION]By: [Attorney Name]Attorneys for Petitioner [PETITIONER FULL NAME] |

[CERTIFICATE OF INTERESTED ENTITIES OR PERSONS 2](#_Toc178156526)

[TABLE OF AUTHORITIES 5](#_Toc178156527)

[I. INTRODUCTION TO VERIFIED PETITION AND SUPPORTING MEMORANDUM 7](#_Toc178156528)

[II. VERIFIED PETITION 11](#_Toc178156529)

[A. The Parties 11](#_Toc178156530)

[B. Authenticity of Exhibits 11](#_Toc178156531)

[C. Factual Background and Procedural History 11](#_Toc178156532)

[D. Petition Timing 12](#_Toc178156533)

[E. Bases for Writ Relief 18](#_Toc178156534)

[F. Absence of Other Remedies 22](#_Toc178156535)

[G. Beneficial Interest 27](#_Toc178156536)

[H. Prayer for Relief 27](#_Toc178156537)

[VERIFICATION 29](#_Toc178156538)

[III. MEMORANDUM OF POINTS AND AUTHORITIES 30](#_Toc178156539)

[A. Standard of Review 30](#_Toc178156540)

[B. Respondent Court erred by EITHER denying [Petitioner First Name]’s request for a free court reporter, or electronic recording in the alternative, which [Petitioner First Name] is entitled to under *Jameson* OR continuing [Petitioner First Name]’s [insert type of hearing] hearing for lack of a court reporter and refusing electronic recording in the alternative, despite Respondent Court’s obligation under *Jameson*. 31](#_Toc178156541)

[1. Under *Jameson*, Respondent Court is obligated to provide [Petitioner First Name], as an indigent litigant, with a “an official court reporter” or valid alternative. 31](#_Toc178156542)

[2. If a free court reporter is unavailable, Respondent Court must use electronic recording to create an official verbatim record for [Petitioner First Name]’s EITHER de novo OR upcoming hearing. 35](#_Toc178156543)

[a. Respondent Court has the inherent authority to electronically record [Petitioner First Name]’s hearing. 36](#_Toc178156544)

[b. Respondent Court must exercise its inherent authority to ensure indigent litigants like [Petitioner First Name] are not deprived of equal access to justice. 39](#_Toc178156545)

[3. Respondent Court’s violation of its affirmative obligation under *Jameson* is reversible error, regardless of prejudice. 42](#_Toc178156546)

[IV. CONCLUSION 43](#_Toc178156547)

[CERTIFICATION OF WORD COUNT 45](#_Toc178156548)

TABLE OF AUTHORITIES

 Page(s)

Cases

*Burlingame v. Justice’s Court of City of Berkeley*

 (1934) 1 Cal.2d 71 17

*Conti v. Board of Civil Service Commissioners*

(1969) 1 Cal.3d 351 12

*Davis v. Superior Court of Los Angeles County*

 (2020) 50 Cal.App.5th 607 11

*Farahani v. San Diego Community College Dist.*

(2009) 175 Cal.App.4th 1486 13

*Gay v. Torrance* (1904) 145 Cal. 144 14

*H.D. Arnaiz, Ltd. v. County of San Joaquin*

 (2002) 96 Cal.App.4th 1357 12

*In re Marriage of Nicolaides*

(1974) 39 Cal.App.3d 192 12

*Los Angeles Gay & Lesbian Center v. Superior Court*

 (2011) 194 Cal.App.4th 288 14

*McDermott Will & Emery LLP v. Superior Court*

 (2017) 10 Cal.App.5th 1083 8, 9

*Nixon Peabody LLP v. Superior Court*

 (2014) 230 Cal.App.4th 818 10

*Omaha Indemnity Co. v. Superior Court*

 (1989) 209 Cal.App.3d 1266 14

*Ornbaun v. Main*

 (1961) 198 Cal.App.2d 92 13

*People v. Superior Court (Clements)*

 (1988) 200 Cal.App.3d 491 11

*People v. Superior Court (Lopez)*

 (2005) 125 Cal.App.4th 1558 9

*Peterson v. Superior Court*

 (1982) 31 Cal.3d 147 passim

*Phelan v. Superior Court*

(1950) 35 Cal.2d 363 10, 15, 16

*Ponce v. Graceous Navigation, Inc.*

(1981) 126 Cal.App.3d 823 13

*Powers v. City of Richmond*

 (1995) 10 Cal.4th 85 16

*Quintana v. Guijosa*

 (2003) 107 Cal.App.4th 1077 15, 16, 17

*Volkswagen of America, Inc. v. Superior Court*

 (2001) 94 Cal.App.4th 695 9, 11

 Statutes

Cal. Code Civ. Proc.

§ 1008 16

§ 1069 17

§ 1086 17

§ 1103 17

1. INTRODUCTION TO VERIFIED PETITION AND SUPPORTING MEMORANDUM

Petitioner [Petitioner Full Name] (“[Petitioner First Name]”[[1]](#footnote-1)) seeks this Court’s immediate intervention to challenge the order of Respondent [County Name] County Superior Court (“Respondent Court”) EITHER denying [Petitioner First Name]’s request for a free court reporter, or electronic recording in the alternative, which [Petitioner First Name] is entitled to under *Jameson v. Desta* (2018) 5 Cal.5th 594 (*Jameson*) and its implementation in California Rules of Court, rule 2.956 OR continuing [Petitioner First Name]’s [insert type of hearing] hearing for lack of a court reporter and refusing electronic recording in the alternative, despite Respondent Court’s obligation under *Jameson v. Desta* (2018) 5 Cal.5th 594 (*Jameson*) and its implementation in California Rules of Court, rule 2.956.

[Petitioner First Name] is an indigent litigant with a fee waiver who requested a court reporter, or electronic recording in the alternative, for [Petitioner’s pronoun] [insert type of hearing] hearing, within [Petitioner First Name]’s pending case in Respondent Court against Real Party in Interest [Real Party in Interest Full Name] (“[Real Party First Name]”). Due to Respondent Court’s refusal to satisfy its obligation under *Jameson,* [Petitioner First Name] is deprived of equal access to an official verbatim record. (*Jameson*, *supra*, 5 Cal.5th at pp. 605–606; see Cal. Rules of Court, rule 2.956I(2) [“The court must provide an official reporter if the party has been granted a fee waiver and if the court is not electronically recording the hearing or trial”.) Without a verbatim record, [Petitioner First Name]’s ability to know and understand what happened at the hearing, let alone challenge any erroneous orders on appeal, will be severely undermined. (*Id.* at p. 608 [“[T]he absence of a court reporter at trial court proceedings and the resulting lack of a verbatim record of such proceedings will frequently be fatal to a litigant’s ability to have his or her claims of trial court error resolved on the merits by an appellate court”].)

Respondent Court’s failure to provide [Petitioner First Name] with a court reporter, or electronic recording in the alternative, is a symptom of the “chronic” court reporter shortage across the Superior Courts of California, which has a devastating impact on family law litigants who often cannot afford to hire private court reporters. (Superior Courts of California Press Release, *There is a Court Reporter Shortage Crisis in California* (Nov. 2, 2022) <https://www.lacourt.org/newsmedia/uploads/14202211213124511.02.2022JOINTCEOSTATEMENTRECOURTREPORTERSHORTAGE.pdf> [as of Sept. 25, 2024].) [Petitioner First Name] is thus not alone in facing this irreparable harm—[Petitioner pronoun] and hundreds of thousands of other indigent litigants are forced to suffer the consequences of being denied access to a verbatim record of proceedings on issues that intimately impact their life. (See Judicial Council of California, *Fact Sheet: Shortage of Certified Shorthand Reporters in California* (June 2024) <https://www.courts.ca.gov/documents/Fact-Sheet-Shortage-of-Certified-Shorthand-Reporters-June2024.pdf> [as of Sept. 25, 2024] [“Between October 1, 2023 and March 31, 2024, of 664,700 reported family, probate, and unlimited civil hearings in California, an estimated 483,500 hearings had no verbatim record (72.7%.)”]; accord, California Access to Justice Commission, *Issue Paper: Access to the Record of California Trial Court Proceedings* (November 2024), pp. 1, 6 <https://static1.squarespace.com/static/6493852d5789f82c67c661a4/t/6736686d9ee62639df5fa5dc/1731618927089/Access+to+the+Record+of+CA+Trial+Court+Proceedings.pdf> [as of Nov. 18, 2024] [“Judicial Council survey responses from Superior Courts about six months preceding March 31, 2024, if representative of the full year, suggest that over one million hearings and trials took place in unlimited civil, family, and probate cases, for which California Superior Courts did not provide any means to create an official transcript”].) Therefore, Respondent Court’s failure to provide a court reporter or electronic recording for [Petitioner First Name]’s hearing not only irreparably harms [Petitioner pronoun] but is part of the systemic deprivation of “equal access to appellate justice in California” for indigent litigants. (*Jameson*, *supra*, 5 Cal.5th at pp. 608–609.)

[INSERT BELOW PARAGRAPH IF HEARING WAS CONTINUED FOR LACK OF COURT REPORTER]

 Moreover, Respondent Court’s decision to continue the hearing rather than satisfy its obligation under *Jameson* imposes further irreparable harm on litigants like [Petitioner First Name] who need immediate relief. [insert type of hearing and argument for why the delay from a continuance is harmful—for example, a continuance on a petitioner’s request for a domestic violence restraining order prevents them from accessing the immediate relief of a long-term restraining order that they are entitled to under the Domestic Violence Prevention Act, see, e.g., Family Code sections 6327, 242(a), 244, 245(a)–(b), 6320.5(b)] Respondent Court’s failure to abide by *Jameson* puts [Petitioner First Name] in the impossible position of choosing between sacrificing the immediate relief [Petitioner pronoun] needs or losing access to a verbatim record and consequently, the ability to understand and challenge Respondent Court’s decision. (See *Jameson*, *supra*, 5 Cal.5th at pp. 608–609.)

Accordingly, [Petitioner First Name] respectfully requests this Court issue a writ of mandate, prohibition, certiorari, and/or other appropriate relief EITHER commanding Respondent Court to grant [Petitioner First Name]’s request and provide [Petitioner First Name] with a de novo [insert type of hearing] hearing with a free court reporter, or electronic recording in the alternative, as required under *Jameson* and California Rules of Court, rule 2.956I(2) OR prohibiting Respondent Court from further continuing [Petitioner First Name]’s hearing due its non-compliance with its obligation under *Jameson* and in turn commanding Respondent Court to provide [Petitioner First Name] with a free court reporter, or electronic recording in the alternative, at [Petitioner pronoun] upcoming hearing on [insert date] as required under *Jameson* and California Rules of Court, rule 2.956I(2).

1. VERIFIED PETITION
	1. The Parties

Petitioner [Petitioner Full Name] is the [Petitioner or Respondent] in the underlying action titled [Superior Court Case Name], pending in [County Name] County.

Real Party in Interest [Real Party in Interest Full Name] is the [Petitioner or Respondent] in the underlying action pending in [County Name] County.

Respondent is the [County Name] County Superior Court.

* 1. Authenticity of Exhibits

The exhibits accompanying this petition, labeled numerically and consecutively paginated, are true and correct copies of original documents on file in Respondent Court, except for [insert exhibit numbers and titles for those not on file in the Superior Court, such as a Reporter’s Transcript]. [insert only if a declaration is being filed concurrently] These exhibits are accompanied by the Declaration of [Declarant Full Name] (“[Declarant Last Name] Decl.”), filed herewith. All exhibits are incorporated by reference as if fully set forth in this petition.

* 1. Factual Background and Procedural History

[insert factual background and procedural history, organized chronologically paragraph by paragraph, with applicable record citations]

. . .

. . .

. . .

* 1. Petition Timing

[Petitioner First Name] now files this petition to challenge Respondent Court’s violation of its obligation under *Jameson* and its implementation in California Rules of Court, rule 2.956 to provide [Petitioner First Name] with a free court reporter, or electronic recording in the alternative. (*Jameson, supra,* 5 Cal.5th at p. 599.)

[Petitioner First Name] has acted expeditiously in seeking appellate relief by immediately pursuing legal assistance and exhausting remedies from Respondent Court before filing this petition to obtain access to a court reporter, or electronic recording in the alternative.

[INSERT BELOW ARGUMENT IF WRIT PETITION *IS* FILED WITHIN 60-DAY OR APPLICABLE DEADLINE]

This petition is not subject to any statutory filing deadlines and is therefore timely. (See *M**cDermott Will & Emery LLP v. Superior Court* (2017) 10 Cal.App.5th 1083, 1100.) The time for filing a petition for writ of mandate is governed by laches if, as here, there is no time limit specified by statute.(*Peterson v. Superior Court* (1982) 31 Cal.3d 147, 163.) Generally, a writ petition should be filed *within* the 60-day period applicable to notices of appeal. (*McDermott Will & Emery LLP v. Superior Court*, *supra*, 10 Cal.App.5th at p. 1100; *Volkswagen of America, Inc. v. Superior Court* (2001) 94 Cal.App.4th 695, 701.)

Respondent Court EITHER denied [Petitioner First Name]’s request under *Jameson* at the hearing on [insert date] by proceeding without a court reporter or electronic recording OR issued its continuance of [Petitioner First Name]’s [insert type of hearing] on [insert date]. Since the challenged order was issued just [insert number of days between the order and filing of writ petition] prior to filing, this writ petition is timely.

[INSERT BELOW ARGUMENT IF WRIT PETITION *IS NOT* FILED WITHIN 60-DAY OR APPLICABLE DEADLINE]

This petition is not subject to any statutory filing deadlines. (*McDermott Will & Emery LLP v. Superior Court* (2017) 10 Cal.App.5th 1083, 1100 (*McDermott*).) The time for filing a writ petition is governed by laches if, as here, there is no time limit specified by statute. (*Peterson v. Superior Court* (1982) 31 Cal.3d 147, 163.) Generally, a writ petition should be filed within the 60-day period applicable to notices of appeal. (*McDermott, supra,* 10 Cal.App.5th at p. 1100; *Volkswagen of America, Inc. v. Superior Court* (2001) 94 Cal.App.4th 695, 701 (*Volkswagen*).)

[insert if applicable] Respondent Court issued its [insert type of order being challenged] on [date of order]. This writ petition is timely because it is filed within 180 days of the [date of order] [insert type of order being challenged]. [Petitioner First Name] was not served with a file-stamped copy of the order showing the date it was served or accompanied by a proof of service, making both [Petitioner pronoun] notice of appeal and related writing petition deadline 180 days from entry of the challenged order. (Cal. Rules of Court, rule 8.104(a)(1)(A)–(C); see *American Property Management Corp. v. Superior Court* (2012) 206 Cal.App.4th 491, 499 [finding a writ petition filed “159 days after entry of the minute order” timely because the record did not reflect service and “[u]nder California Rules of Court, rule 8.104(a)(3), if a party has not been served with the order from which it is appealing, it has 180 days from the date that the order was entered to file an appeal”], abrogated on other grounds in *People v. Miami Nation Enterprises* (2016) 2 Cal.5th 222, 239–244.)

Moreover, this Court can exercise discretion to consider a writ petition filed after the 60-day deadline provided the doctrine of laches does not require denial. (*McDermott*, *supra,* 10 Cal.App.5th at p. 1100; *People v. Superior Court (Lopez)* (2005) 125 Cal.App.4th 1558, 1562.)

For a writ petition to be untimely, laches requires both an unreasonable delay in filing the petition and prejudice to the real party in interest. (*Peterson v. Superior Court*, *supra,* 31 Cal.3d at p. 163.) Here, neither unreasonable delay (see *post,* ¶¶ [Paragraph Numbers]), nor prejudice exists (see *post*, ¶¶ [Paragraph Numbers]).

[Petitioner First Name]’s delay in filing this writ petition is reasonable because [Petitioner First Name] was exhausting available remedies from Respondent Court, as is a requirement for writ relief. (See *Phelan v. Superior Court* (1950) 35 Cal.2d 363, 372.) [insert only if applicable] [Petitioner First Name] has acted expeditiously in seeking relief, especially when viewed with the significant access-to-justices issues [Petitioner pronoun] experienced, including language, cultural, and financial barriers.

[insert additional details on language, cultural, financial, etc. barriers if applicable]

[insert details about Petitioner’s exhaustion of Superior Court remedies, such as filing a post-trial motion]

Therefore, [Petitioner First Name]’s delay in filing is reasonable because [Petitioner pronoun] “legitimately sought relief in the trial court” and is now seeking a writ petition immediately after [insert reason for seeking a writ petition now, such the Superior Court denying a post-trial motion]. (*Peterson v. Superior Court*, *supra,* 31 Cal.3d at p. 163 [no unreasonable delay for writ petition filed after seven-and-one-half months where petitioner sought two post-trial motions]; see *Nixon Peabody LLP v. Superior Court* (2014) 230 Cal.App.4th 818, 821–822 [nearly five-month delay in filing writ petition was reasonable where petitioner “diligently sought relief” and the trial court “clearly erred”].)

Additionally, “extraordinary circumstances” justify the delay and in turn support this Court considering [Petitioner First Name]’s writ petition. (*Volkswagen*, *supra,* 94 Cal.App.4th at p. 701.) [insert argument for extraordinary circumstances or irreparable harm Petitioner is facing—e.g., a heightened risk of abuse or collateral consequences to Petitioner’s well-being, such housing insecurity or mental anguish]

Real Party in Interest [Real Party in Interest First Name] is not prejudiced by the delay and thus the doctrine of laches should not prohibit review of this writ petition on the merits. (See *Peterson v. Superior Court*, *supra*, 31 Cal.3d at p. 163; see also *Conti v. Board of Civil Service Commissioners* (1969) 1 Cal.3d 351, 354–355 [prejudice of an undue delay cannot be presumed]; *H.D. Arnaiz, Ltd. V. County of San Joaquin* (2002) 96 Cal.App.4th 1357, 1368 [“Even if we were to find an unreasonable delay, [the real party in interest] has not shown any prejudice”].)

Prejudice requires a “material change in statu[s] quo” or in other words, a “detriment suffered” by the real party in interest. (*Conti v. Board of Civil Service Commissioners, supra,* 1 Cal.3d at p. 360.) Here, prejudice does not exist because [Real Party in Interest First Name] has not done or “omitted to do something which detrimentally altered [their] position” during the delay in the filing of this writ petition. (*In re Marriage of Nicolaides* (1974) 39 Cal.App.3d 192, 203.)

[Real Party in Interest First Name] is not prejudiced by the delay because . . . [insert argument for why there is no prejudice based on the nature of the order being challenged and Superior Court proceedings]

Lastly, this Court should exercise its discretion to consider the merits of [Petitioner First Name]’s petition because it raises an issue of high importance concerning the denial of access to an official verbatim record of proceedings for indigent family law litigants. (*People v. Superior Court (Clements)* (1988) 200 Cal.App.3d 491, 495–497 [reviewing merits of writ petition, despite two-and-one-half months filing delay, because “[t]he issue is one of importance to both the bar and the public”].) In particular, [Petitioner First Name]’s petition involves “important access-to-justice issues” because Respondent Court’s denial of [Petitioner pronoun] request for a free court reporter, or electronic recording in the alternative, undermines [Petitioner First Name]’s understanding of [Petitioner pronoun] case and ability to “seek appellate review.” (*Davis v. Superior Court of Los Angeles County* (2020) 50 Cal.App.5th 607, 615 (*Davis*); see *Jameson*, *supra*, 5 Cal.5th at pp. 608–609; *Alan S. v. Superior Court* (2009) 172 Cal.App.4th 238, 241 [scheduling order to show cause on writ petition because it “presents an important issue regarding access to justice for pro per family law litigants”]; see also *Elkins v. Superior Court* (2007) 41 Cal.4th 1337, 1368–1369, fn. 20 [recognizing the importance in family law cases of “ensur[ing] access to justice for litigants, many of whom are self-represented”]; *Rivera v. Hillard* (2023) 89 Cal.App.5th 964, 983 [acknowledging “the policy favoring access to justice in DVPA actions”].)

Therefore, [Petitioner First Name]’s petition “raise[s] grave issues of due process as well as equal protection in light of its disparate impact on litigants with limited financial means,” which in turn merit this Court’s immediate intervention. (*In re Marriage of Obrecht* (2016) 245 Cal.App.4th 1, 9, fn. 3; see *Davis*, *supra,* 50 Cal.App.5th at p. 615 [writ petition “timely enough” in part because it “raises important access-to-justice issues” for “indigent, self-represented litigants”].)

Consequently, this Court should exercise its discretion to consider the merits of [Petitioner First Name]’s writ petition because: (1) any delay in filing this request is reasonable, (2) Real Party in Interest [Real Party in Interest First Name] is not prejudiced by the delay, and (3) the petition raises an issue of high importance. (*See Peterson v. Superior Court*, *supra*, 31 Cal.3d at p. 163; *People v. Superior Court (Clements)*, *supra*, 200 Cal.App.3d at pp. 495–497.)

* 1. Bases for Writ Relief

Writ relief is appropriate where a petitioner will suffer irreparable injury without immediate appellate intervention. (See *Los Angeles Gay & Lesbian Center v. Superior Court* (2011) 194 Cal.App.4th 288, 299–300.) Here, [Petitioner First Name] has suffered and will continue to suffer irreparable injury unless this Court intervenes to command Respondent Court to comply with its obligation under *Jameson* and provide [Petitioner First Name] with a free court reporter or electronic recording in the alternative.

In *Jameson*, the Supreme Court of California held that “an official court reporter, or other valid means to create an official verbatim record for purposes of appeal, must generally be made available to in forma pauperis litigants upon request.” (*Jameson*, *supra*, 5 Cal.5th at p. 599.) This obligation arose out of the reality that the lack of a court reporter or valid alternative results in the “lack of a verbatim record” and in turn the high likelihood that a litigant will lose their “ability to have his or her claims of trial court error resolved on the merits by an appellate court.” (*Id.* at p. 608.)

This is because in appellate procedure, the decisions of lower courts are “presumed correct” and any “error must be affirmatively shown,” in line with the “constitutional doctrine of reversible error.” (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564; see Cal. Const., art. VI, § 13.) As a result, “the burden of providing an adequate record” falls on appellants. (*Hernandez v. California Hospital Medical Center* (2000) 78 Cal.App.4th 498, 502, citing *Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295; accord, *Jameson*, *supra*, 5 Cal.5th at p. 609; see also *In re Marriage of Obrecht*, *supra*, 245 Cal.App.4th at p. 9, fn. 3 [“the absence of a verbatim record can preclude effective appellate review, cloaking the trial court's actions in an impregnable presumption of correctness regardless of what may have actually transpired”].) When an appellant fails to satisfy this burden and the record is

silent on an issue, appellate procedure “requires that the issue be resolved against” the appellant, resulting in an ill-fated appellate challenge. (*Hernandez v. California Hospital Medical Center*, *supra*, 78 Cal.App.4th at p. 502; see also *Foust v. San Jose Construction Co., Inc.* (2011) 198 Cal.App.4th 181, 186–187 [cataloguing the “numerous situations” in which “appellate courts have refused to reach the merits of an appellant’s claims because no reporter’s transcript of a pertinent proceeding or a suitable substitute was provided”].)

Beyond losing access to appellate review of erroneous and harmful orders, [Petitioner First Name] faces additional irreparable harm due to Respondent Court’s non-compliance with its obligation under *Jameson*. The lack of a verbatim record of a proceeding undermines [Petitioner pronoun] ability to know what happened at the hearing and what orders were issued. Therefore, not only is [Petitioner First Name] suffering the irreparable harm of deprivation of “equal access to appellate justice in California,” but also the loss of the ability to understand Respondent Court’sdecisions on issues that intimately impact [Petitioner pronoun] life. (*Jameson*, *supra*, 5 Cal.5th at p. 608.)

[INSERT BELOW TWO PARAGRAPHS IF HEARING WAS CONTINUED FOR LACK OF COURT REPORTER]

The fact that Respondent Court continued [Petitioner First Name]’s hearing due to its non-compliance with *Jameson* intensifies, rather than mitigates, [Petitioner First Name]’s suffering of irreparable harm. Because of Respondent Court’s erroneous continuance due to the unavailability of a court reporter and refusal of electronic recording, [Petitioner First Name] is forced to wait [insert number of days, weeks, or months] to advocate for the immediate relief [Petitioner pronoun] needs and is entitled to. [insert type of hearing and argument for why the delay from a continuance is harmful—for example, a continuance on a petitioner’s request for a domestic violence restraining order prevents them from accessing the immediate relief of a long-term restraining order that they are entitled to under the Domestic Violence Prevention Act, see, e.g., Family Code sections 6327, 242(a), 244, 245(a)–(b), 6320.5(b)]

Moreover, there is no certainty that at [Petitioner First Name]’s upcoming hearing Respondent Court will fulfill its *Jameson* obligation, given the “chronic” court reporter shortage and Respondent Court’s refusal to use electronic recording as a “valid means to create an official record for purposes of appeal.” (See Superior Courts of California Press Release, *There is a Court Reporter Shortage Crisis in California* (Nov. 2, 2022) <https://www.lacourt.org/newsmedia/uploads/14202211213124511.02.2022JOINTCEOSTATEMENTRECOURTREPORTERSHORTAGE.pdf> [as of Sept. 25, 2024]; Judicial Council of California, *Fact Sheet: Shortage of Certified Shorthand Reporters in California* (June 2024) <https://www.courts.ca.gov/documents/Fact-Sheet-Shortage-of-Certified-Shorthand-Reporters-June2024.pdf> [as of Sept. 25, 2024]; California Access to Justice Commission, *Issue Paper: Access to the Record of California Trial Court Proceedings* (November 2024), pp. 1–2, 5–6 <https://static1.squarespace.com/static/6493852d5789f82c67c661a4/t/6736686d9ee62639df5fa5dc/1731618927089/Access+to+the+Record+of+CA+Trial+Court+Proceedings.pdf> [as of Nov. 18, 2024]; *Jameson*, *supra*, 5 Cal.5th at p. 599.) Consequently, this Court’s intervention is critical to not only give [Petitioner First Name] access to the immediate relief [Petitioner pronoun] needs at this upcoming hearing, but ensure that at that hearing, [Petitioner First Name] receives the official verbatim record via a free court reporter or electronic recording [Petitioner pronoun] is guaranteed under *Jameson* and California Rules of Court, rule 2.956I(2).

Additionally, this writ petition poses an issue of widespread public interest and concern. (*Omaha Indemnity Co. v. Superior Court* (1989) 209 Cal.App.3d 1266, 1273.) A court’s obligation to provide indigent litigants with a free court reporter or other means of producing an official verbatim record exists in recognition of the “realistic, crucial importance that the presence of a court reporter currently plays in the actual protection of a civil litigant’s legal rights and in providing such a litigant equal access to appellate justice in California.” (*Jameson*, *supra*, 5 Cal.5th at pp. 599, 608; see Gov. Code, § 68630, subd. (a).) Respondent Court’s failure to provide [Petitioner First Name] with the verbatim record necessary for appellate review exacerbates the access-to-justice issues that already permeate family courts and can impose a “disparate impact on litigants with limited financial means,” such as [Petitioner First Name]. (*In re Marriage of Obrecht*, *supra,* 245 Cal.App.4th at p. 9, fn. 3; see *Alan S. v. Superior Court* (2009) 172 Cal.App.4th 238, 241 [scheduling order to show cause on writ petition because it “presents an important issue regarding access to justice for pro per family law litigants”]; see also *Elkins v. Superior Court* (2007) 41 Cal.4th 1337, 1368–1369, fn. 20 [recognizing the importance in family law cases of “ensur[ing] access to justice for litigants, many of whom are self-represented”].)

* 1. Absence of Other Remedies

Writ relief is appropriate because “there is no other plain, speedy, and adequate remedy in the ordinary course of law.” (*Gay v. Torrance* (1904) 145 Cal. 144, 148; see also *Omaha Indemnity Co. v. Superior Court*, *supra,* 209 Cal.App.3d at p. 1274.)

EITHER Respondent Court’s denial of [Petitioner First Name]’s request for a free court reporter, or electronic recording in the alternative, is not directly appealable. OR Respondent Court’s continuance of [Petitioner First Name]’s [insert type of hearing] hearing for lack of a court reporter and refusal of electronic recording in the alternative is not directly appealable. (Code Civ. Proc., § 904.1; see, e.g., *Davis*, *supra,* 50 Cal.App.5th at p. 615–616 [reviewing via petition for writ of mandate a trial court’s failure to provide petitioner with a free court reporter despite petitioner’s timely request].)

Even if Respondent Court’s order was appealable, an appeal is not an adequate remedy because [Petitioner First Name] needs immediate appellate intervention to protect [Petitioner pronoun] right to an official verbatim record, and in turn preserve [Petitioner pronoun] ability to understand and, if needed, seek substantive appellate review of Respondent Court’s decision. (See *Phelan v. Superior Court* (1950) 35 Cal.2d 363, 370–371; *Jameson*, *supra*, 5 Cal.5th at pp. 608–609; *Davis, supra,* 50 Cal.App.5th at p. 615 [reviewing merits of writ petition, in part, because it “raises important access-to-justice issues concerning indigent, self-represented litigants’ . . . ability to seek appellate review with an adequate record of trial court proceedings”].) An appeal cannot offer the expeditious intervention that [Petitioner First Name] requires, given that [Petitioner pronoun] petition addresses a matter of “great public importance and must be resolved promptly.” (*Powers v. City of Richmond* (1995) 10 Cal.4th 85, 113; see also *Science Applications Internet Corp. v. Superior Court* (1995) 39 Cal.App.4th 1095, 1101 [“[A]ppellate review these days, in consideration of our overly crowded dockets and generally understaffed Courts of Appeal, is unduly delayed, and cannot be compared to writ review in terms of time effectiveness”].) Accordingly, [Petitioner First Name] needs the “speedier, and . . . more effective, relief” that only a writ, not a direct appeal, can provide. (*Quintana v. Guijosa* (2003) 107 Cal.App.4th 1077, 1080.)

[INSERT BELOW PARAGRAPH IF HEARING WAS CONTINUED FOR LACK OF COURT REPORTER]

Moreover, [Petitioner First Name] requires immediate appellate intervention via writ because Respondent Court’s continuance wrongfully delays [Petitioner First Name]’s [insert type of hearing] hearing and deprives [Petitioner pronoun] of immediate relief. [insert type of hearing and argument for why the delay from a continuance is harmful—for example, a continuance on a petitioner’s request for a domestic violence restraining order prevents them from accessing the immediate relief of a long-term restraining order that they are entitled to under the Domestic Violence Prevention Act, see, e.g., Family Code sections 6327, 242(a), 244, 245(a)–(b), 6320.5(b)] Respondent Court’s violation of its *Jameson* obligation thus put [Petitioner First Name] in the impossible position of choosing between sacrificing the immediate relief [Petitioner pronoun] needs or losing access to a verbatim record and consequently, the ability to understand and challenge Respondent Court’s decision. (*Jameson*, *supra*, 5 Cal.5th at pp. 608–609.) Therefore, a writ is not only appropriate, but necessary to protect [Petitioner First Name]’s access to justice. (See *ibid.*)

[Petitioner First Name] has already exhausted [Petitioner pronoun] remedies from Respondent Court. (See *Phelan v. Superior Court*, *supra*, 35 Cal.2d at p. 372 [writ relief should “ordinarily” not be granted unless the petitioner demonstrates that they requested relief from the lower court or that such a request would be futile].) [Petitioner First Name] has a fee waiver and timely requested a free court reporter, or electronic recording in the alternative, per the procedure outlined in California Rules of Court, rule 2.956I(2). EITHER However, at the hearing on [insert date], Respondent Court denied [Petitioner First Name]’s request by failing to provide a court reporter, refusing electronic recording in the alternative, and proceeding with the hearing anyway. [Petitioner First Name] raised the issue at the hearing, but Respondent Court still proceeded without a court reporter or electronic recording, leaving [Petitioner First Name] with a decision on [insert type of hearing] but no way to understand, let alone substantively challenge, Respondent Court’s ruling. (See *Jameson*, *supra*, 5 Cal.5th at p. 599.) OR However, Respondent Court continued [Petitioner First Name]’s hearing until [insert date], due to the unavailability of a court reporter and its refusal to electronically record the hearing in the alternative. Now [Petitioner First Name] is forced to wait [insert number of days, weeks, or months] for the continued hearing, with no guarantee Respondent Court will fulfill its obligation under *Jameson* due to the court reporter shortage and its refusal to use electronic recording an alternative means of creating an official verbatim record. (See Superior Courts of California Press Release, *There is a Court Reporter Shortage Crisis in California* (Nov. 2, 2022) <https://www.lacourt.org/newsmedia/uploads/14202211213124511.02.2022JOINTCEOSTATEMENTRECOURTREPORTERSHORTAGE.pdf> [as of Sept. 25, 2024]; Judicial Council of California, *Fact Sheet: Shortage of Certified Shorthand Reporters in California* (June 2024) <https://www.courts.ca.gov/documents/Fact-Sheet-Shortage-of-Certified-Shorthand-Reporters-June2024.pdf> [as of Sept. 25, 2024]; California Access to Justice Commission, *Issue Paper: Access to the Record of California Trial Court Proceedings* (November 2024), pp. 1–2, 5–6 <https://static1.squarespace.com/static/6493852d5789f82c67c661a4/t/6736686d9ee62639df5fa5dc/1731618927089/Access+to+the+Record+of+CA+Trial+Court+Proceedings.pdf> [as of Nov. 18, 2024]; *Jameson*, *supra*, 5 Cal.5th at p. 599.) Therefore, [Petitioner First Name] has done all [Petitioner pronoun] can to exhaust [Petitioner pronoun] remedies from Respondent Court.

In summary, writ relief is necessary because [Petitioner First Name] has no adequate remedy at law to challenge Respondent Court’s harmful error. The [insert type of order being challenged] is not directly appealable, an appeal would not provide the immediate protection that [Petitioner First Name] urgently needs, and [Petitioner First Name] has exhausted all other remedies. (See *Phelan v. Superior Court*, *supra,* 35 Cal.2d at pp. 370–372; *Quintana v. Guijosa*, *supra,* 107 Cal.App.4th at p. 1080.)

Accordingly, to correct a clear legal error and prevent further irreparable harm to [Petitioner First Name], this Court should grant [Petitioner First Name]’s prayer for writ relief.

* 1. Beneficial Interest

[Petitioner First Name] has a beneficial interest in this writ petition because [Petitioner pronoun] is “directly and prejudicially affected” as the [Petitioner or Respondent] in the underlying action against [Real Party in Interest First Name]. (Code Civ. Proc., §§ 1069, 1086, 1103; *Burlingame v. Justice’s Court of City of Berkeley* (1934) 1 Cal.2d 71, 75.)

* 1. Prayer for Relief

[Petitioner First Name] respectfully prays this Court:

Issue in the first instance a peremptory writ of mandate, prohibition, certiorari, and/or other appropriate relief EITHER commanding Respondent Court to grant [Petitioner First Name]’s request and provide [Petitioner First Name] with a de novo [insert type of hearing] hearing with a free court reporter, or electronic recording in the alternative, as required under *Jameson* and California Rules of Court, rule 2.956I(2) OR prohibiting Respondent Court from further continuing [Petitioner First Name]’s hearing due its non-compliance with its obligation under *Jameson* and in turn commanding Respondent Court to provide [Petitioner First Name] with a free court reporter, or electronic recording in the alternative, at [Petitioner pronoun] upcoming hearing on [insert date] as required under *Jameson* and California Rules of Court, rule 2.956I(2).

Alternatively, if a peremptory writ does not issue in the first instance, issue an alternative writ directing Respondent Court to grant to [Petitioner First Name] the relief requested in paragraph [Paragraph Number], or show cause why it should not be ordered to do so—and upon return of the alternative writ, if Respondent Court does not itself act to correct its error, issue a peremptory writ granting the relief requested in paragraph [Paragraph Number]; and

Award [Petitioner First Name] [Petitioner pronoun] costs and such other relief as is just and proper.

VERIFICATION

I, [Petitioner First Name], declare as follows:

I am the Petitioner in this writ proceeding and the [Petitioner or Respondent] in the underlying action in Respondent Court. I have read this petition and know its contents. The matters stated in the petition are true. The facts alleged in the petition are within my personal knowledge and I know these facts to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this verification was executed on [date of signature].

By:

[Petitioner Full Name]

1. MEMORANDUM OF POINTS AND AUTHORITIES

[insert optional brief introduction]

* 1. Standard of Review

Pure questions of law, including questions of statutory interpretation, are subject to de novo review. (*In re Marriage of Willis and Costa-Willis* (2023) 93 Cal.App.5th 595, 601, citing *People v. Ollo* (2021) 11 Cal.5th 682, 687, 279.) While discretionary trial court decisions are reviewed for an abuse of discretion, “[t]he question of whether a trial court applied the correct legal standard to an issue in exercising its discretion is a question of law [citation] requiring de novo review.” (*Eneaji v. Ubboe* (2014) 229 Cal.App.4th 1457, 1463; accord, *Rodriguez v. Menjivar* (2015) 243 Cal.App.4th 816, 821.)

Although a writ of mandate “cannot be issued to control a court’s discretion, in unusual circumstances the writ will lie where, under the facts, that discretion can be exercised in only one way.” (*Zullo v. Superior Court* (2011) 197 Cal.App.4th 477, 483, citing *Hilmer v. Superior Court* (1934) 220 Cal. 71, 73 and *Babb v. Superior Court* (1971) 3 Cal.3d 841, 851.) A court does not have discretion to deny an indigent litigant access to “an official court reporter, or other valid means to create an official verbatim record for purposes of appeal” under its affirmative obligation to ensure equal access to justice for in forma pauperis litigants. (*Jameson*, *supra*, 5 Cal.5th at pp. 599, 605–606.)

* 1. Respondent Court erred by EITHER denying [Petitioner First Name]’s request for a free court reporter, or electronic recording in the alternative, which [Petitioner First Name] is entitled to under *Jameson* OR continuing [Petitioner First Name]’s [insert type of hearing] hearing for lack of a court reporter and refusing electronic recording in the alternative, despite Respondent Court’s obligation under *Jameson*.

Respondent Court committed legal error by EITHER denying [Petitioner First Name]’s request for a free court reporter, or electronic recording in the alternative, which [Petitioner First Name] is entitled to under *Jameson* and its implementation in California Rules of Court, rule 2.956 OR continuing [Petitioner First Name]’s [insert type of hearing] hearing for lack of a court reporter and refusing electronic recording in the alternative, despite Respondent Court’s obligation under *Jameson* and its implementation in California Rules of Court, rule 2.956*.*  (See *Jameson, supra,* 5 Cal.5th at p. 599.)

* + 1. Under *Jameson*, Respondent Court is obligated to provide [Petitioner First Name], as an indigent litigant, with a “an official court reporter” or valid alternative.

*Jameson* requires that “an official court reporter, or other valid means to create an official verbatim record for purposes of appeal, must generally be made available to in forma pauperis litigants upon request.” (*Jameson*, *supra*, 5 Cal.5th at p. 599.) This holding was grounded in “the general teaching of prior California in forma pauperis judicial decisions and the public policy of facilitating equal access to the courts.” (*Ibid.,* citing Gov. Code, § 68630, subd. (a)].) The Judicial Council of California enshrined this obligation from *Jameson* in California Rules of Court, rule 2.956(c)(2): “The court must provide an official reporter if the party has been granted a fee waiver and if the court is not electronically recording the hearing or trial.”

Here, [Petitioner First Name] is an indigent (i.e., in forma pauperis) litigant with a fee waiver who requested a court reporter, or electronic recording in the alternative, for [Petitioner pronoun] [insert type of hearing] hearing, within [Petitioner First Name]’s pending case in Respondent Court against Real Party in Interest [Real Party in Interest First Name]. EITHER Respondent Court erroneously denied [Petitioner First Name]’s request under *Jameson* by failing to provide a free court reporter at the hearing on [insert date], refusing electronic recording in the alternative, and proceeding with the hearing anyway. As a result, Respondent Court deprived [Petitioner First Name] of access to an official verbatim record at a proceeding on issues that intimately impact [Petitioner pronoun] life. (See *Jameson*, *supra*, 5 Cal.5th at p. 599; Cal. Rules of Court, rule 2.956I(2).) OR At [Petitioner First Name]’s hearing on [insert date], Respondent Court erroneously continued the matter because a court reporter was not available and Respondent Court refused electronic recording as an alternative to fulfill its obligation under *Jameson.*  As a result, Respondent Court failed to comply with its duty to provide [Petitioner First Name] with a means of obtaining an official verbatim record, and in turn forced [Petitioner pronoun] to delay access to the immediate relief [Petitioner pronoun] needs and is entitled to from the hearing. (See *Jameson, supra,* 5 Cal.5th at p. 599; Cal. Rules of Court, rule 2.956I(2).)

Respondent Court’s refusal to satisfy its responsibility under *Jameson* deprived [Petitioner First Name] of equal access to an official verbatim record. (See *Jameson*, *supra*, 5 Cal.5th at pp. 605–606.) Without a verbatim record, [Petitioner First Name]’s ability to know and understand what happened at the hearing, let alone challenge any erroneous orders on appeal, will be severely undermined. (*Id.* at p. 608 [“[T]he absence of a court reporter at trial court proceedings and the resulting lack of a verbatim record of such proceedings will frequently be fatal to a litigant’s ability to have his or her claims of trial court error resolved on the merits by an appellate court”].)

[INSERT BELOW PARAGRAPH IF HEARING WAS CONTINUED FOR LACK OF COURT REPORTER]

Respondent Court’s decision to continue the hearing rather than provide a free court alternative or viable alternative does not mitigate Respondent Court’s violation of its obligation under *Jameson*. [Petitioner First Name] satisfied the requirements under California Rules of Court, rule 2.956I(2) to trigger Respondent Court’s responsibility to provide [Petitioner pronoun] access to an official verbatim record at the hearing scheduled for [insert date]. A court reporter was not available—which is not an uncommon occurrence, given the court reporter shortage sweeping the state. (See Superior Courts of California Press Release, *There is a Court Reporter Shortage Crisis in California* (Nov. 2, 2022) <https://www.lacourt.org/newsmedia/uploads/14202211213124511.02.2022JOINTCEOSTATEMENTRECOURTREPORTERSHORTAGE.pdf> [as of Sept. 25, 2024]; Judicial Council of California, *Fact Sheet: Shortage of Certified Shorthand Reporters in California* (June 2024) <https://www.courts.ca.gov/documents/Fact-Sheet-Shortage-of-Certified-Shorthand-Reporters-June2024.pdf> [as of Sept. 25, 2024]; California Access to Justice Commission, *Issue Paper: Access to the Record of California Trial Court Proceedings* (November 2024), pp. 1–2, 5–6 <https://static1.squarespace.com/static/6493852d5789f82c67c661a4/t/6736686d9ee62639df5fa5dc/1731618927089/Access+to+the+Record+of+CA+Trial+Court+Proceedings.pdf> [as of Nov. 18, 2024].) Instead of allowing electronic recording as an “other valid means to create an official verbatim record for purposes of appeal,” Respondent Court erroneously continued the hearing for its failure to comply with *Jameson* at the [insert date] hearing, delaying [Petitioner First Name]’s access to relief. (*Jameson*, *supra*, 5 Cal.5th at p. 599.)

Accordingly, Respondent Court committed legal error by EITHER denying [Petitioner First Name]’s proper request for a court reporter, or electronic recording in the alternative, under *Jameson* OR continuing [Petitioner First Name]’s hearing for lack of a court reporter and refusing electronic recording in the alternative, despite Respondent Court’s obligation under *Jameson*.

* + 1. If a free court reporter is unavailable, Respondent Court must use electronic recording to create an official verbatim record for [Petitioner First Name]’s EITHER de novo OR upcoming hearing.

*Jameson* recognizes that court reporters are not the sole method of creating an official verbatim record and in turn supports that electronic recording,[[2]](#footnote-2) which [Petitioner First Name] requested in the alternative, is another “valid means to create an official verbatim record” of a hearing. (*Jameson*, *supra*, 5 Cal.5th at p. 599.) The California Rules of Court provide that an electronic recording can serve as an “official record of proceedings” for purposes of an appeal. (See Cal. Rules of Court, rule 2.952.)[[3]](#footnote-3) Therefore, Respondent Court erred in refusing electronic recording as an alternative to a free court reporter in response to [Petitioner First Name]’s request under *Jameson*.

* + - 1. Respondent Court has the inherent authority to electronically record [Petitioner First Name]’s hearing.

Respondent Court, like all California courts, has the “inherent discretion to facilitate an indigent civil litigant’s equal access to the judicial process even when the relevant statutory provisions . . . do not themselves contain an exception for needy litigants.” (*Jameson*, *supra*, 5 Cal.5th at p. 605.) This inherent authority allows Respondent Court to electronically record [Petitioner First Name]’s hearing as an alternative means of providing [Petitioner pronoun] with an official verbatim record. (See *id* at p. 599*.*)

The Supreme Court of California in *Jameson* began its analysis with the “seminal” decision *Martin v. Superior Court* (1917) 176 Cal. 289 (*Martin*). (*Jameson*, *supra*, 5 Cal.5th at pp. 603–604.) *Martin* holds that California courts have the inherent power to (1) permit indigent litigants to bring civil actions under “in forma pauperis” status and (2) exempt them from paying the “statutorily required filing fees.” (*Ibid.,* citing *Martin*, *supra*, 176 Cal. at pp. 293–296.) Critically, *Martin* explains that “only the plainest declaration of legislative intent” could be construed as an effort to curtail the courts’ inherent power to do this, and there was “no expressed intent” in *Martin*. (*Ibid.,* citing *Martin*, *supra*, 176 Cal. at p. 297.) At issue in *Martin* were statutory provisions that were “general in their nature” and “[n]either individually nor collectively” indicated that “the design of the [L]egislature was to deny to the courts the exercise of their most just and most necessary inherent power.” (*Ibid.*)

The Supreme Court of California in *Jameson* then conducted an extensive survey of post-*Martin* in forma pauperis jurisprudence, from which it identified three guiding principles. (*Jameson*, *supra*, 5 Cal.5th at pp. 605–606.) First, “California courts . . . have the inherent discretion to facilitate an indigent civil litigant’s equal access to the judicial process even when the relevant statutory provisions that impose fees or other expenses do not themselves contain an exception for needy litigants.” (*Id.* p. 605.) Second, this inherent discretion “is not limited to excusing the payment of fees” and “extends . . . to devising alternative procedures (e.g., additional methods of service or meaningful access) so that indigent litigants are not, as a practical matter, denied their day in court.” (*Ibid.*) Finally, the “policy of affording indigent litigants meaningful access to the judicial process establishes restrictions . . . upon potential barriers created by legislatively imposed fees or procedures.” (*Id.* at p. 606.)

Following *Jameson*’s reasoning, when a court reporter is unavailable, a trial court—like Respondent Court—facing a proper request from an indigent litigant has the inherent authority to use electronic recording to ensure the litigant has the official verbatim record they are entitled to. (See *Jameson*, *supra*, 5 Cal.5th at p. 599.) Respondent Court’s use of electronic recording is governed by Government Code section 69957, which provides that courts may electronically record proceedings when a court reporter is unavailable “in a limited civil case, or a misdemeanor or infraction case.” (Gov. Code, § 69957, subd. (a).) Government Code section 69957 dictates that courts “*shall not* expend funds for or use electronic recording technology or equipment . . . to make the official record of an action or proceeding *in circumstances not authorized by this section*.” (*Ibid*., italics added.) Based on this plain language, trial courts cannot use electronic recording in family law proceedings. However, Government Code section 69957 is a general rule that restricts the use of electronic recording and “do[es] not . . . contain an exception for needy litigants.” (*Jameson*, *supra*, 5 Cal.5th at pp. 605–606.) Because of the court reporter shortage, Government Code section 69957 is a “legislatively imposed . . . procedure[]” that has become a “potential barrier[]” to indigent litigants receiving an official verbatim record. (*Ibid.*; Superior Courts of California Press Release, *There is a Court Reporter Shortage Crisis in California* (Nov. 2, 2022) <https://www.lacourt.org/newsmedia/uploads/14202211213124511.02.2022JOINTCEOSTATEMENTRECOURTREPORTERSHORTAGE.pdf> [as of Sept. 25, 2024]; Judicial Council of California, *Fact Sheet: Shortage of Certified Shorthand Reporters in California* (June 2024) <https://www.courts.ca.gov/documents/Fact-Sheet-Shortage-of-Certified-Shorthand-Reporters-June2024.pdf> [as of Sept. 25, 2024]; California Access to Justice Commission, *Issue Paper: Access to the Record of California Trial Court Proceedings* (November 2024), pp. 1–2, 5–6 <https://static1.squarespace.com/static/6493852d5789f82c67c661a4/t/6736686d9ee62639df5fa5dc/1731618927089/Access+to+the+Record+of+CA+Trial+Court+Proceedings.pdf> [as of Nov. 18, 2024].) *Jameson* and in forma pauperis jurisprudence require courts like Respondent Court to ensure indigent litigants are not deprived of equal access to justice because of their financial means, which necessitates recognizing that electronic recording is a viable “alternative procedure[]” for creating an official verbatim record when free court reporters are unavailable. (*Jameson*, *supra*, 5 Cal.5th at pp. 605–606.)

Accordingly, Respondent Court has the inherent authority to carve out an exception to Government Code section 69957 for [Petitioner First Name] as an indigent litigant and thus ensure [Petitioner pronoun] is not denied equal access to an official verbatim record or “appellate justice in California.” (*Id.* at pp. 608–610 [collecting cases holding that lack of record is fatal for appellant].)

* + - 1. Respondent Court must exercise its inherent authority to ensure indigent litigants like [Petitioner First Name] are not deprived of equal access to justice.

Respondent Court not only has the inherent discretion to use electronic recording, but Respondent Court is obligated to exercise that discretion to protect [Petitioner First Name]’s and other indigent litigant’s equal access to justice, even it means acting contrary to statutory mandates.

One of the primary in forma pauperis decisions that *Jameson* cited for support—*Roldan v. Callahan & Blaine* (2013) 219 Cal.App.4th 87 (*Roldan*)—has generated a wealth of case law dictating the circumstances under which trial courts must act contrary to statute to ensure indigent litigants are not deprived of equal access to justice. At issue in *Roldan* were several requirements in the Code of Civil Procedure related to arbitration costs that lacked exceptions based on indigency. (*Roldan*, *supra,* 219 Cal.App.4th at pp. 93–97; see Code Civ. Proc., §§ 1281.2, 1281.4, 1284.2; *Aronow v. Superior Court* (2022) 76 Cal.App.5th 865, 875.) Despite these statutory mandates, the Court of Appeal in *Roldan* held that trial courts must relieve indigent litigants of their obligation to pay arbitration costs, reasoning that “to rule otherwise might effectively deprive [plaintiffs] of access to any forum for resolution of their claims.” (*Roldan*, *supra*, 219 Cal.App.4th at pp. 95–96.) The Court of Appeal relied on *Martin* and “California’s longstanding public policy of ensuring that all litigants have access to the justice system . . . without regard to their financial means.” (*Id.* at p. 94; see also Gov. Code, § 68630, subd. (a).) Accordingly, *Roldan* and its progeny collectively hold that indigent litigants must not be consigned to an arbitration process they cannot afford to pursue, even though mandatory statutory language requires them to participate in, and pay for, arbitration. (*Roldan*, *supra*, 219 Cal.App.4th at p. 96; see, e.g., *Aronow v. Superior Court*, *supra,* 76 Cal.App.5th at pp. 870, 881.)

In *Jameson,* the Supreme Court of California determined that “*Roldan* reveal[s] a fundamental aspect of the California in forma pauperis doctrine that is directly relevant to the issue” of an indigent litigant’s access to an official verbatim record. (*Jameson*, *supra*, 5 Cal.5th at pp. 622.) Specifically, *Roldan* demonstrates that trial courts cannot commit indigent litigants “to a costly private alternative procedure that the litigant cannot afford and that effectively negates the purpose and benefit of in forma pauperis status.” (*Ibid*.) Since *Jameson*, appellate courts have followed *Roldan* and expanded upon its holding. (See *Hang v. RG Legacy I, LLC* (2023) 88 Cal.App.5th 1243, 1246, 1254; *Aronow v. Superior Court*, *supra,* 76 Cal. App. 5th at p. 881, citing to *Jameson, supra,* 5 Cal.5th at pp. 605–606 [finding “more persuasive the Supreme Court’s approval of the cases in which it and our sister courts have not allowed the absence of legislation or, occasionally, contrary statutes to bar indigent litigants from pursuing their constitutional rights”].)

Consequently, *Roldan* and its progeny, including *Jameson*, illustrate that Respondent Court must exercise its inherent authority to ensure [Petitioner First Name] as an indigent litigant is not deprived of equal access to justice, even if doing so is contrary to the statutory mandate in Government Code section 69957. The plain language of Government Code section 69957 does not contain an exception for indigent litigants like [Petitioner First Name] who, without electronic recording, will otherwise likely be deprived of an official verbatim record. Therefore, to continue to refuse electronic recording as a viable alternative when a court reporter is unavailable is a violation of Respondent Court’s affirmative obligation under *Jameson*. (*Jameson*, *supra,* 5 Cal.5th at pp. 605–606.) As clear from [Petitioner First Name]’s case, this violation deprives indigent litigants of equal access to appellate justice and “raise[s] grave issues of due process as well as equal protection in light of its disparate impact on litigants with limited financial means.” (*Id.* at p. 622; *In re Marriage of Obrecht, supra,* 245 Cal.App.4th at p. 1, fn. 3 [“Perhaps the time has come at last for California to . . . permit parties to record proceedings electronically in lieu of the far less reliable method of human stenography and transcription.”].)

This Court should grant [Petitioner First Name] [Petitioner pronoun] requested relief and command Respondent Court to use electronic recording as an alternative to a free court reporter in [Petitioner First Name]’s case and other family law proceedings, which is a decision that will protect indigent litigants like [Petitioner First Name] from being “denied their day in court” when they challenge trial court errors on appeal. (*Id.* at pp. 605–606, 609–610.)

* + 1. Respondent Court’s violation of its affirmative obligation under *Jameson* is reversible error, regardless of prejudice.

Per *Jameson, “*the absence of an official court reporter to prepare a verbatim record of the trial court proceedings cannot be found harmless.” (*Jameson*, *supra*, 5 Cal.5th at p. 625; see *Davis, supra,* 50 Cal.App.5th at p. 616 [finding petitioner with valid fee waiver and timely free court reporter request is “entitled to a new hearing, with a court reporter present” where trial court proceeded without a court reporter or valid alternative to producing an official verbatim record].)

In this case, Respondent Court EITHER denied [Petitioner First Name]’s request for a free court reporter, or electronic recording in the alternative, by proceeding with the hearing without any means to create an official verbatim record OR continued [Petitioner First Name]’s [insert type of hearing] hearing for lack of a court reporter and refused electronic recording in the alternative*.*  Accordingly, Respondent Court clearly failed to comply with its obligation under *Jameson* and California Rules of Court, rule 2.956I(2), which is reversible error regardless of prejudice. (See *Jameson*, *supra*, 5 Cal.5th at p. 625; see *Davis, supra,* 50 Cal.App.5th at p. 616.)

1. CONCLUSION

Respondent Court erred as a matter of law by EITHER denying [Petitioner First Name]’s request for a free court reporter, or electronic recording in the alternative, which [Petitioner First Name] is entitled to under *Jameson* and its implementation in California Rules of Court, rule 2.956 OR continuing [Petitioner First Name]’s [insert type of hearing] hearing for lack of a court reporter and refusing electronic recording in the alternative, despite Respondent Court’s obligation under *Jameson* and its implementation in California Rules of Court, rule 2.956. To remedy a clear legal error, prevent further harm, and address a continuing issue of widespread public interest, this Court should issue corrective writ relief EITHER commanding Respondent Court to grant [Petitioner First Name]’s request and provide [Petitioner First Name] with a de novo [insert type of hearing] hearing with a free court reporter, or electronic recording in the alternative, as required under *Jameson* and California Rules of Court, rule 2.956I(2) OR prohibiting Respondent Court from further continuing [Petitioner First Name]’s hearing due its non-compliance with its obligation under *Jameson* and in turn commanding Respondent Court to provide [Petitioner First Name] with a free court reporter, or electronic recording in the alternative, at [Petitioner pronoun] upcoming hearing on [insert date] as required under *Jameson* and California Rules of Court, rule 2.956I(2).

|  |  |
| --- | --- |
| Dated:  | Respectfully submitted,[LAW FIRM OR ORGANIZATION]By: [Attorney Name]Attorneys for Petitioner [PETITIONER FULL NAME] |

CERTIFICATION OF WORD COUNT

Pursuant to California Rules of Court, rule 8.204I(1), I certify that this writ petition is proportionately spaced, is set in Century Schoolbook font, has a typeface of 13 points or more, and contains [Word Count] words according to the word count feature of the computer program used to prepare the petition.

|  |  |
| --- | --- |
| Dated:  | [LAW FIRM OR ORGANIZATION]By: [Attorney Name]Attorneys for Petitioner [PETITIONER FULL NAME] |

1. This petition uses the parties’ first names to “humanize a decision . . . which seriously affect[s]” [Petitioner First Name]’s life. (*In re Marriage of Smith* (1990) 225 Cal.App.3d 469, 475, fn. 1.) [↑](#footnote-ref-1)
2. *Jameson* requires an “official verbatim record,” which cannot be produced by methods such as a settled or agreed upon statement. (*Jameson*, *supra,* 5 Cal.5th at p. 594, fn. 20 [concluding that “the potential availability of a settled or agreed statement does not eliminate the restriction of meaningful access caused by the policy” at issue].) [Petitioner First Name] requested electronic recording in the alternative because it is a proven “reliable, cost-effective alternative to stenographic reporting.” (See, e.g., Commission on the Future of California’s Court System, *Report to the Chief Justice* (2017) pp. 242–246 <https://www.courts.ca.gov/documents/futures-commission-final-report.pdf> [as of Aug. 14, 2024].) [↑](#footnote-ref-2)
3. In addition, Government Code section 69957, subdivision (a) provides that “[a] transcript derived from an electronic recording may be utilized whenever a transcript of court proceedings is required,” which includes serving as an official record of proceedings for purposes of an appeal. [↑](#footnote-ref-3)