

CASE NO. A176141

**IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT, DIVISION FIVE**

MANOHAR RAJU, PUBLIC DEFENDER OF SAN FRANCISCO

Petitioner,

v.

THE SUPERIOR COURT OF SAN FRANCISCO COUNTY

Respondent.

**APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF OF
LEGAL ETHICS SCHOLARS NORA FREEMAN ENGSTROM,
STEPHEN BUNDY, SCOTT L. CUMMINGS, JOSHUA P. DAVIS,
BARBARA S. GILLERS, STEPHEN GILLERS, ROBERT W.
GORDON, BRUCE A. GREEN, PAMELA S. KARLAN,
LAWRENCE C. MARSHALL, DOUGLAS NEJAIME, ANN
SOUTHWORTH, NORMAN W. SPAULDING, AND W. BRADLEY
WENDEL IN SUPPORT OF PETITIONER**

Superior Court for the State of California,
County of San Francisco, Case No. 26000546, Hon. Harry Dorfman

ROSEN BIEN GALVAN & GRUNFELD LLP

Van Swearingen – 259809

vswearingen@rbgg.com

Alexander Gourse – 321631

agourse@rbgg.com

101 Mission Street, Sixth Floor

San Francisco, California 94105-1738

Telephone: (415) 433-6830

Facsimile: (415) 433-7104

Attorneys for Amici Curiae

Pursuant to Rule 8.487(e) of the California Rules of Court, the proposed *amici curiae* request permission to file the accompanying brief in support of Petitioner Manohar Raju.

THE *AMICI CURIAE*

Nora Freeman Engstrom is Ernest W. McFarland Professor of Law at Stanford Law School and Co-Director of the Deborah L. Rhode Center on the Legal Profession. She is a nationally recognized expert on legal ethics and tort law, and has written extensively about the tort system, trial practice, and complex litigation, among other topics. She is a co-author of *Legal Ethics*, a leading professional responsibility casebook, as well as *Legal Ethics: The Plaintiffs' Lawyer*, a casebook based on a popular class she has taught at Stanford for many years. Before joining Stanford's faculty in 2009, Ms. Engstrom was a Research Dean's Scholar at Georgetown University Law Center, an associate at Wilmer Cutler Pickering Hale and Dorr LLP, and a law clerk to Judge Merrick Garland of the United States Court of Appeals for the District of Columbia Circuit and Judge Henry H. Kennedy Jr. of the United States District Court for the District of Columbia.

Stephen Bundy is Professor of Law, Emeritus, at the University of California, Berkeley School of Law, where he teaches legal ethics, procedure, alternative dispute resolution, and complex litigation. Mr. Bundy has extensive ethics counseling experience and has conducted in-house ethics trainings for law firms and public interest organizations across the United States. In addition to teaching, Mr. Bundy practiced as a civil litigator for many years, including at Cravath, Swaine & Moore in New York City and Taylor & Patchen, LLP in San Francisco. From 2015 to 2021, he served on the State Bar of California's Committee on Professional Rules and Conduct, and was the Committee's Chair from 2019 to 2020.

Scott L. Cummings is Robert Henigson Professor of Legal Ethics at the University of California, Los Angeles School of Law, where he teaches and writes about the legal profession, legal ethics, and access to justice. He is the founding faculty director of the Program on Legal Ethics and Democracy, a long-time member of the David J. Epstein Program in Public Interest Law and Policy, and a co-author of the professional responsibility casebook *Legal Ethics*. Professor Cummings was awarded a Fulbright Distinguished Chair at the European University Institute and a Guggenheim Fellowship for his work on the rule of law. Before joining the UCLA faculty, Mr. Cummings was a Skadden Fellow at Public Counsel in Los Angeles and served as a law clerk to Judge A. Wallace Tashima of the United States Court of Appeals for the Ninth Circuit and Judge James Moran of the United States District Court for the Northern District of Illinois.

Joshua P. Davis is Research Professor in Residence at University of California College of the Law, San Francisco, and a shareholder at Berger Montague. Mr. Davis is a nationally recognized expert in numerous legal fields, including legal ethics, artificial intelligence, antitrust, class actions, and civil procedure. He previously served as Director of the Center for Law and Ethics at UC Law, San Francisco, and in his current role he organizes an annual conference on ethics in complex litigation. Before he joined the UC Law faculty, Mr. Davis taught at Willamette University College of Law and the Georgetown University Law Center, practiced law at Lieff, Cabraser, Heimann & Bernstein, LLP, and served as a law clerk to Judge Patrick E. Higginbotham of the United States Court of Appeals for the Fifth Circuit.

Barbara S. Gillers is Adjunct Professor of Law at New York University School of Law and a former Chair of the American Bar Association Standing Committee on Ethics and Professional Responsibility

(2017–2020). Ms. Gillers previously served as Co-Chair of the New York State Bar Association’s Committee on Standards of Attorney Conduct (2012–2020) and in various roles at the New York City Bar, including Vice President, Chair of its Executive Committee, and Chair of its Committee on Professional and Judicial Ethics. She was a member of the ABA Standing Committee on Ethics and Professional Responsibility from 2013 to 2016 and a Liaison to that Committee from the Association of American Law Schools Section on Professional Responsibility from 2009 to 2011. Before that, Ms. Gillers was Of Counsel at Fried, Frank, Harris, Shriver & Jacobson LLP, where she practiced in the area of the law governing lawyers and law firms, and served as an Assistant United States Attorney for the Southern District of New York.

Stephen Gillers is Elihu Root Professor of Law, Emeritus, at New York University School of Law, where he began teaching in 1978. Mr. Gillers’s research and writing focus on the regulation of the legal profession. He is the author of the law school casebook *Regulation of Lawyers: Problems of Law and Ethics*, now in its 13th Edition. Mr. Gillers has received numerous awards for his scholarship in the areas of legal ethics and professional responsibility, including the Michael Franck Award from the American Bar Association’s Center for Professional Responsibility (2011) and the Outstanding Scholar Award from the American Bar Foundation (2015). He was a member of the ABA’s Multijurisdictional Practice Commission, which developed rule changes that recognize the cross-border nature of legal practice, and the ABA’s 20/20 Commission, where his work on how globalization and technology affect the regulation of lawyers led to amendments to the Model Rules.

Robert W. Gordon is Professor of Law, Emeritus, at Stanford Law School. A preeminent legal historian for more than four decades, Mr. Gordon has written extensively on contract law, legal philosophy, and

the history and current ethics and practices of the organized bar. He was previously Chancellor Kent Professor of Law and Legal History at Yale Law School, and also taught at the University of Buffalo Law School and the University of Wisconsin. Mr. Gordon has served on several American Bar Association and Connecticut Bar task forces on professional ethics, as well as the Advisory Board of the Legal Profession Program of the Open Society Institute. Before law school, he worked as a newspaper reporter and served in the U.S. Army.

Bruce A. Green is the Louis Stein Chair at Fordham Law School, where he directs the Louis Stein Center for Law and Ethics. Mr. Green is also the current Chair of both the ABA Standing Committee on Ethics and Professional Responsibility and the Multistate Professional Responsibility Examination's drafting committee. He is a member and past chair of the New York State Bar Association's Committee on Professional Ethics, and previously chaired the ABA Criminal Justice Section and Criminal Justice Standards Committee, the New York City Bar Association's Committee on Professional Ethics, and the Association of American Law Schools' Section on Professional Responsibility. He also co-chaired the ethics committees of the ABA Litigation Section and Criminal Justice Section, and was a Reporter to both the ABA Task Force on the Attorney-Client Privilege and the ABA Commission on Multijurisdictional Practice. Before joining Fordham, Mr. Green was a federal prosecutor in the Southern District of New York and a law clerk to Justice Thurgood Marshall of the United States Supreme Court.

Pamela S. Karlan is Kenneth and Harle Montgomery Professor of Public Interest Law and Co-Director of the Supreme Court Litigation Clinic at Stanford Law School. Ms. Karlan is one of the nation's leading experts on voting and the political process, and has published widely in the areas of constitutional law, constitutional litigation, and the law of democracy. She

previously served as a commissioner on the California Fair Political Practices Commission, as assistant counsel and cooperating attorney for the NAACP Legal Defense Fund, and (twice) as Deputy Attorney General in the Civil Rights Division of the United States Department of Justice. Before joining the Stanford faculty, Ms. Karlan taught at the University of Virginia School of Law and served as a law clerk to Justice Harry A. Blackmun of the United States Supreme Court.

Lawrence C. Marshall is a Professor of Law at Stanford Law School, where his scholarly work focuses on legal ethics, appellate practice, criminal law, wrongful convictions, and the death penalty. From 2005 to 2013, Mr. Marshall served as Associate Dean of Clinical Education at Stanford and as the David and Stephanie Mills Director of the Mills Legal Clinic. Before coming to Stanford, he was a professor of law at Northwestern University School of Law and was Of Counsel at Mayer, Brown & Platt. At Northwestern, Mr. Marshall co-founded and served as legal director of the Center on Wrongful Convictions, where he represented numerous wrongly convicted inmates—including many who at one time had been sentenced to death. Earlier in his career, Mr. Marshall clerked for Justice John Paul Stevens of the United States Supreme Court and Judge Patricia M. Wald of the United States Court of Appeals for the District of Columbia Circuit.

Douglas NeJaime is Anne Urowsky Professor of Law and Counselor to the Dean at Yale Law School, where he researches and teaches in the areas of legal ethics, family law, and constitutional law. Before joining the Yale faculty in 2017, Mr. NeJaime was Professor of Law at UCLA School of Law and also served on the faculties at UC Irvine and Loyola Law School in Los Angeles. He is a co-author of three leading casebooks, including *Ethical Lawyering: Legal and Professional Responsibilities in the Practice of Law*. He was elected to the American

Law Institute in 2022, and currently chairs the Yale Law School Early Learning Center. He began his legal career as a litigation associate at Irell & Manella LLP in Los Angeles.

Ann Southworth is Raymond Pryke Endowed Chair in First Amendment Law at the University of California, Irvine School of Law, where she also co-directs the Center for Empirical Research on the Legal Profession. Ms. Southworth's teaching and writing focus on the legal profession, legal ethics, cause lawyers, legal mobilization, and law and social movements. She is a co-author of two interdisciplinary textbooks: *The Legal Profession: Ethics in Contemporary Practice*, and *What Lawyers Do: Understanding the Many American Legal Practices*. From 2022 to 2024, Ms. Southworth served on the Executive Committee of the Association of American Law Schools Section on Empirical Study of Legal Education and the Legal Profession. Before joining the faculty at UC Irvine, she taught at Case Western Reserve, clerked for Judge Stanley Weigel of the United States District Court for the Northern District of California, and practiced law at Morrison & Foerster, the Lawyers' Committee for Civil Rights Under Law, and the United States Department of Justice.

Norman W. Spaulding is Nelson Bowman Sweitzer and Marie B. Sweitzer Professor of Law at Stanford Law School, where his work on the history of the American legal profession and theories of adjudication has made him a nationally recognized expert in the areas of professional responsibility, civil procedure, and federal courts. He is a member of the American Law Institute and the American Bar Association Standing Committee on Ethics and Professional Responsibility. Before joining the Stanford faculty, Mr. Spaulding was a professor of law at the UC Berkeley School of Law, an associate at Skadden, Arps, Slate, Meagher & Flom LLP, and a law clerk to Judge Betty B. Fletcher of the United States Court

of Appeals for the Ninth Circuit and Judge Thelton Henderson of the United States District Court for the Northern District of California.

W. Bradley Wendel is Edwin H. Woodruff Professor of Law at Cornell Law School, where he has taught since 2004. Both his teaching and academic writing focus on tort law and the regulation of the legal profession. Mr. Wendel's many books and articles on legal ethics include *Ethics and the Law: An Introduction*; *Lawyers and Fidelity to Law*; and *Professional Responsibility: Examples and Explanations*. He is a member of the American Law Institute, the New York State Bar Association's Committee on Standards of Attorney Conduct, and the Association of Professional Responsibility Lawyers. In 2012, Mr. Wendel received the Sanford D. Levy Memorial Award from the New York State Bar Committee on Professional Ethics. Before his academic career, Mr. Wendel was a product-liability litigator at Bogle & Gates in Seattle and a law clerk to Judge Andrew J. Kleinfeld of the United States Court of Appeals for the Ninth Circuit.

STATEMENT OF INTEREST

This case is about excessive public-defender workloads, the ethical conflicts of interest that are created by such workloads, and the constitutional implications of court orders requiring a public defender to accept new clients despite an excessive workload. The Superior Court contends that it properly held Petitioner Manohar Raju in contempt for disobeying such orders, and that Mr. Raju's disobedience precludes him from raising the orders' constitutional invalidity as a defense to contempt. But well-established California law permits contemnors—including contemnors who are attorneys—to make good-faith judgments that “the exigencies of the situation or the magnitude of the rights involved render immediate action worth the cost of peril.” (*In re Berry* (1968) 68 Cal.2d 137, 148-49.) Under the narrow circumstances of this case, Mr. Raju reasonably

determined that the likelihood of irreparable harm to the fundamental constitutional rights of indigent criminal defendants justified his disobedience.

Amici are prominent legal ethics scholars and leaders of the organized bar from across the United States. They play key roles in defining the standards of conduct to which lawyers must adhere. They shape how the next generation of lawyers understands our constitutional order and their place within it. And they are deeply familiar with the type of dilemma Mr. Raju faced in this case. *Amici* submit the accompanying *amici curiae* brief to assist the Court as it grapples with the difficult ethical and constitutional issues presented by Mr. Raju's disobedience of the Superior Court's orders.

Although *Amici* submit the accompanying brief in support of Mr. Raju, no party or counsel for a party authored the brief, in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of the brief. (See Cal. Rules of Court, rule 8.200(c).) As such, *Amici* respectfully request that leave to file the brief be granted.

DATED: June 10, 2026

Respectfully submitted,

ROSEN BIEN
GALVAN & GRUNFELD LLP

By: /s/ Alexander Gourse

Alexander Gourse

Attorneys for Amici Curiae

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is 101 Mission Street, Sixth Floor, San Francisco, CA 94105-1738.

On June 10, 2026, I served true copies of the following document(s) described as:

APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF OF LEGAL ETHICS SCHOLARS NORA FREEMAN ENGSTROM, STEPHEN BUNDY, SCOTT L. CUMMINGS, JOSHUA P. DAVIS, BARBARA S. GILLERS, STEPHEN GILLERS, ROBERT W. GORDON, BRUCE A. GREEN, PAMELA S. KARLAN, LAWRENCE C. MARSHALL, DOUGLAS NEJAIME, ANN SOUTHWORTH, NORMAN W. SPAULDING, AND W. BRADLEY WENDEL IN SUPPORT OF PETITIONER

AMICI CURIAE BRIEF OF LEGAL ETHICS SCHOLARS NORA FREEMAN ENGSTROM, STEPHEN BUNDY, SCOTT L. CUMMINGS, JOSHUA P. DAVIS, BARBARA S. GILLERS, STEPHEN GILLERS, ROBERT W. GORDON, BRUCE A. GREEN, PAMELA S. KARLAN, LAWRENCE C. MARSHALL, DOUGLAS NEJAIME, ANN SOUTHWORTH, NORMAN W. SPAULDING, AND W. BRADLEY WENDEL IN SUPPORT OF PETITIONER

on the interested parties in this action as follows:

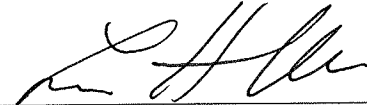
The Superior Court of San Francisco
850 Bryant St. Rm. 101
Hall of Justice (HOJ)
San Francisco, CA 94103

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Rosen Bien Galvan & Grunfeld LLP for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and

mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

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

Executed on June 10, 2026, at San Francisco, California.

A handwritten signature in black ink, appearing to read "Linda H. Woo", written over a horizontal line.

Linda H. Woo