

In the Supreme Court of the State of California

TAMARA SKIDGEL,

Plaintiff and Appellant,

v.

**CALIFORNIA UNEMPLOYMENT
INSURANCE APPEALS BOARD,**

Defendant and Respondent.

Case No. S250149

First Appellate District, Division Five, Case No. A151224
Alameda County Superior Court, Case No. RG16810609
Hon. Robert B. Freedman, Judge

SUPPLEMENTAL BRIEF OF RESPONDENT CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

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Respondent the California Unemployment Insurance Appeals Board submits this supplemental brief to inform the Court of matters post-dating the parties' briefing in this case. (Cal. Rules of Court, Rule 8.520(d)(1).)

In its answer, the Board recounted legislative activity from 2016 confirming that under current law (Unempl. Ins. Code, § 631), close-family In-Home Supportive Services (IHSS) providers are not eligible for unemployment insurance benefits. (ABM 43-44 [discussing enrolled Assem. Bill. 1930 (2015-2016 Reg. Sess.) and subsequent veto and veto message].)

In the 2019-2020 legislative session, the Legislature attempted to modify section 631's employment exclusion to allow coverage for close-family IHSS work. (Assem. Bill 1993 (2019-2020 Reg. Sess.))¹ The purpose of the bill was to "expand the definition of employment for UI . . . purposes to include services performed by an individual in the employ of their father or mother, or services performed by an individual in the employ of their son, daughter, or spouse, if that individual is providing services through the IHSS . . . program[]." ² The Department of Finance opposed the bill "because it imposes significant General

¹ Available at <https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1993> [as of Nov. 25, 2020].

² Sen. Comm. on Appropriations, Analysis of A.B. 1993 (July 8, 2020), available at <https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB1993#> [as of Nov. 25, 2020].

Fund costs not included in the 2020 Budget Act.”³ On September 30, 2020, the Governor vetoed the bill.⁴ In his veto message, the Governor cited the significant new costs that would result from expanded coverage. In the Governor’s view, “[e]xpanding benefits and protections for home health care workers is critical, especially in light of the COVID-19 pandemic but these expansions must be developed through the budget process when new investments can be viewed through the lens of the state’s full home health care budget.”⁵

The Court may consider this recent legislative history in interpreting section 631, as “later enactments may offer some insight into the legislative intent behind previously enacted laws.” (*Pacific Lumber Co. v. State Water Resources Control Bd.* (2006) 37 Cal.4th 921, 940.)

Unless and until section 631 is amended, close-family IHSS work is not covered by California’s unemployment insurance system.

³ See <http://dof.ca.gov/Legislative_Analyses/LIS_PDF/19/AB-1993-20200820105330AM-AB01993.pdf> [as of Nov. 25, 2020].

⁴ See bill history at <https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=201920200AB1993> [as of Nov. 25, 2020].

⁵ See bill status at <https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=201920200AB1993> [as of Nov. 25, 2020].

Dated: Dec. 2, 2020

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that the attached SUPPLEMENTAL BRIEF OF RESPONDENT CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD uses a 13-point Century Schoolbook font and contains 620 words.

Dated: Dec. 2, 2020

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STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

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Case Number: **S250149**

Lower Court Case Number: **A151224**

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