S228277

In the Supreme Court of the State of California

WILLIAM PARRISH and
E. TIMOTHY FITZGIBBONS
Plaintiffs and Appellants,

v.

LATHAM & WATKINS LLP and
DANIEL SCHECTER,
Defendants and Respondents.

On Review of an Opinion of the California Court of Appeal
Second Appellate District, Division Three, No. B244841

On Appeal from the Superior Court of California
Los Angeles County Superior Court No. BC482394
The Honorable James R. Dunn

APPLICATION TO FILE AMICUS CURIAE BRIEF AND BRIEF OF THE LOS ANGELES COUNTY BAR ASSOCIATION AND BEVERLY HILLS BAR ASSOCIATION IN SUPPORT OF RESPONDENTS

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REQUEST FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND STATEMENT OF INTEREST OF AMICUS CURIAE

To The Honorable Tani Cantil-Sakauye, Chief Justice, and The Honorable Associate Justices of the Supreme Court of California:

Pursuant to rule 8.520(f) of the California Rules of Court, the Los Angeles County Bar Association ("LACBA") and the Beverly Hills Bar Association ("BHBA") apply for permission to file the attached Amicus Curiae Brief.

Description of Amici. Founded in 1878, LACBA's current membership includes approximately 20,000 California lawyers, making it one of the nation's largest local voluntary bar associations. For over 130 years, LACBA has remained dedicated to improving the administration of justice, serving the public, and advancing the interests of the legal profession. Decisions touching on the practice of law, claims against lawyers, and attorney-client relationships fall squarely within LACBA's sphere of interest, and LACBA has often filed amicus briefs in this Court, particularly in cases involving the practice of law. (E.g., *Chavez v. City of Los Angeles* (2010) 47 Cal.4th 970; *Olson v. Auto Club of So. Cal.* (2008) 42 Cal.4th 1142; *Viner v. Sweet* (2003) 30 Cal.4th 1232; *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084; *Serrano v. Priest* (1977) 20 Cal.3d 25.)

The Beverly Hills Bar Association—established in 1931 as a voluntary membership association of attorneys—has approximately 5,000 members, many of whom are California lawyers living or practicing in the Beverly Hills and Century City areas of Los Angeles County. BHBA has often appeared as amicus curiae to address important questions before this Court that concern the practice of law, including the criteria for attorney admission (*In re Garcia* (2014) 58 Cal.4th 440), and matters of statutory and constitutional significance such as the fundamental right to marry (*In re Marriage Cases* (2008) 43 Cal.4th 757).

Amici's Position. Amici have carefully reviewed the briefing before this Court and the Court of Appeal, and thus are familiar with the arguments raised by the parties and other amici. Amici's brief does not repeat arguments already made, but instead presents our own views on the issues under review. The attached brief will assist the Court in deciding the issues by providing a broader factual context within which to analyze and develop California law, i.e., from the perspective of bar organizations not presented in the existing briefing.

Amici address only the second of the two issues presented for review: "Is the former employees' malicious prosecution action against the employer's former attorneys barred by the one-year statute of limitations in Code of Civil Procedure section 304.6?"

Bar Associations and their members have a substantial interest in the proper interpretation of section 340.6, subdivision (a), the statute of limitation that governs any "action against [an] attorney" arising in the performance of professional services, and defining the essential elements of malicious prosecution in a manner consistent with this Court's precedent.

The legal industry forms an important sector of California's economy. Accordingly, Amici respectfully request that the Court consider its views in evaluating the arguments raised in this action by accepting the attached brief.

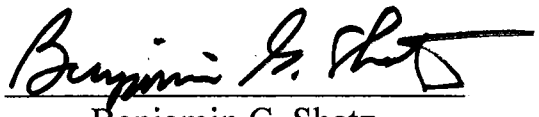
Amicus Disclosure Statement. Pursuant to rule 8.520(f)(4), Amici state that no party or counsel for a party has authored the proposed amicus brief in whole or in part. Further, no party or counsel for a party—and indeed no one other than Amici's pro bono counsel—has made any monetary contribution to fund the preparation or submission of this proposed amicus brief.

Accordingly, amici respectfully request leave to file their accompanying brief in support of Respondents.

Dated: June 3, 2016

Respectfully submitted,

MANATT, PHELPS & PHILLIPS, LLP

By: 

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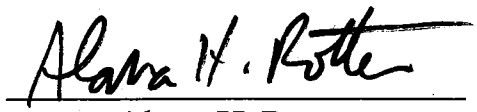
By: 

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INTRODUCTION

Amici urge this Court to make clear that the statute of limitations for malicious prosecution actions against attorneys is the one-year statute of Code of Civil Procedure section 340.6, subdivision (a) ("Section 340.6(a)")—and not the general two-year statute of section 335.1 applicable to assault, battery, wrongful death and personal injury. The one-year statute is the better statute to apply for numerous reasons set forth by the Respondents and their amici. This brief raises additional reasons supporting a one-year limitations period.

ARGUMENT

I. Because a malicious prosecution action against an attorney necessarily implicates the attorney's professional obligations, *Lee v. Hanley* governs, such that the statute of limitations is one year.

A central issue in this case is the applicable statute of limitations for a malicious prosecution claim against an attorney. Respondents' Answering Brief establishes that the answer is one year, as dictated by this Court's interpretation of Code of Civil Procedure Section 340.6(a) in *Lee v. Hanley* (2015) 61 Cal.4th 1225 (*Lee*). (Ans. Br. 42-51.) Amici adopt Respondents' arguments, and write to more fully explain why Respondents are correct.

A. *Lee v. Hanley* holds that section 340.6(a) imposes a one-year limitations period when the merits of a claim necessarily depend on proof that an attorney violated an obligation he or she has "by virtue of being an attorney."

Section 340.6(a) provides a one-year statute of limitations for "[a]n action against an attorney for a wrongful act or omission, other than for actual fraud, arising in the performance of professional services . . . ."

Lee, supra, 61 Cal.4th 1225 held that Section 340.6(a)'s shortened limitations period applies not just to malpractice claims, but also to any "claims whose merits necessarily depend on proof that an attorney violated a professional obligation in the course of providing professional services." (61 Cal.4th at pp. 1236-1237.) For purposes of this standard, "a 'professional obligation' is an obligation that an attorney has by virtue of being an attorney . . . ." (*Id.* at p. 1237.) Those obligations include, but are not limited to, "fiduciary obligations, the obligation to perform competently, the obligation to perform the services contemplated in a legal services contract into which an attorney has entered, and the obligations embodied in the State Bar Rules of Professional Conduct." (*Ibid.*)

Under the *Lee* test, "the question is whether the claim, in order to succeed, necessarily depends on proof that an attorney violated a professional obligation as opposed to some generally applicable nonprofessional obligation." (*Id.* at p. 1238.)

As the Illinois Supreme Court explained when interpreting an analogous state statute: "[U]nder the express language of the statute, ***it is the nature of the act or omission***, rather than the identity of the plaintiff, that determines whether the statute . . . applies to a claim brought against an attorney." (*Evanston Ins. Co. v. Riseborough* (Ill. 2014) 5 N.E.3d 158, 165, emphasis added.) Like Section 340.6, the Illinois statute applied broadly to all actions "arising out of an act or omission in the performance of professional services." (*Ibid.*) The Illinois Supreme Court held "[t]he 'arising out of' language indicates an intent by the legislature that the statute apply to all claims against attorneys concerning their provision of professional attorneys," not only to malpractice actions by former clients. (*Id.* at p. 166.) So too here, the test under Section 340.6, as the Court explained in *Lee*, turns on the nature of the attorney's alleged wrongful act or omission.

B. A malicious prosecution claim against an attorney falls within *Lee*'s rule.

Plaintiffs argue that a malicious prosecution claim cannot meet the *Lee* test because the same claim can be brought against a non-attorney. In their words, the "very fact that a non-attorney can be liable for malicious prosecution demonstrates that an attorney's liability is not dependent on the attorney violating a professional obligation." (AOB 32-33; see also ARB 27-29 [same].)

Plaintiffs are wrong. As a matter of both logic and governing law, a malicious prosecution claim against an attorney necessarily implicates that attorney's professional obligations. Such an action therefore falls within Section 340.6(a), regardless of whether a malicious prosecution action brought against a client has a different statute of limitations.

1. A malicious prosecution claim against an attorney necessarily requires proof that the attorney violated a professional obligation.

Under *Lee*, Section 340.6(a)'s one-year statute of limitations applies when proof of the claim "will necessarily depend on proof that an attorney violated a professional obligation—that is, an obligation the attorney has by virtue of being an attorney . . . ." (*Lee, supra*, 61 Cal.4th at p. 1229.) Thus, the salient question is whether a malicious prosecution claim against an attorney necessarily involves a violation of "an obligation the attorney has by virtue of being an attorney." The answer is yes.

Malicious prosecution requires proving that a prior action "was brought without probable cause" and "was initiated with malice." (*Soukup v. Law Offices of Herbert Hafif* (2006) 39 Cal.4th 260, 292.) The thrust of any malicious prosecution claim against an attorney therefore is that the attorney pursued a claim that lacked probable cause and that was motivated by malice. But proof satisfying

these criteria would necessarily establish that the attorney violated duties at the core of the legal profession—the gatekeeping function assigned to attorneys as officers of the court.

Our legal system imposes special obligations on attorneys. As officers of the court with specialized professional training, attorneys are required to exercise independent, professional judgment regarding the merits and motivations of a suit in order to ensure that claims are of at least colorable merit, and to rein in litigants who might otherwise try to use the system for the wrong purposes.

Beyond these generalized obligations, establishing the elements of a malicious prosecution claim would "necessarily depend on proof" (*Lee, supra*, 61 Cal.4th at p. 1229) that the attorney violated the following specific professional obligations:

- ***Brought without probable cause***. For purposes of malicious prosecution, probable cause means that a "reasonable attorney would have thought the claim tenable." (*Sheldon Appel Co. v. Albert & Oliker* (1989) 47 Cal.3d 863, 886.) There is no probable cause to prosecute an action only if no reasonable attorney would believe that the action had any merit and any reasonable attorney would agree that the action was totally and completely without merit. (*Jarrow Formulas, Inc. v. LaMarche* (2003) 31 Cal.4th 728, 743, fn. 13; see also *Zamos v. Stroud* (2004) 32 Cal.4th 958, 966–970

["Only those actions that any reasonable attorney would agree are totally and completely without merit may form the basis for a malicious prosecution suit"].)

California Rule of Professional Conduct 3-200(B) prohibits an attorney from accepting employment whose objective is "[t]o present a claim or defense in litigation that is not warranted under existing law, unless it can be supported by a good faith argument for an extension, modification, or reversal of such existing law"—in other words, from pursuing a claim that lacks probable cause. Similarly, the Business & Professions Code makes it the "duty of an attorney" "[t]o counsel or maintain those actions, proceedings, or defenses *only as appear to him or her legal or just* . . . ." (Bus. & Prof. Code, § 6068, subd. (c), italics added.)

Consistent with these requirements, courts have recognized that "as a professional," an attorney "has a professional responsibility" not to pursue frivolous cases. (*Kurokawa v. Blum* (1988) 199 Cal.App.3d 976, 995.) When asked to pursue a frivolous case, "the high ethical and *professional standards of a member of the bar and an officer of the court* require the attorney to inform the client that the attorney's professional responsibility precludes him or her from pursuing such an appeal, and to withdraw from the representation of the client." (*Ibid.*, italics added, quoting *Cosenza v. Kramer* (1984) 152 Cal.App.3d 1100, 1103.)

That these definitions expressly incorporate an attorney-judgment standard demonstrates that a malicious prosecution claim against an attorney necessarily requires proof that the attorney violated professional standards.

- ***Initiated (or continued) with malice.*** The Business & Professions Code imposes a duty on attorneys "[n]ot to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest." (Bus. & Prof. Code, § 6068, subd. (g).) Similarly, rule 3-200(A) of the California Rules of Professional Conduct prohibits attorneys from continuing employment whose objective is "[t]o bring an action, conduct a defense, assert a position in litigation, or take an appeal, without probable cause and for the purpose of harassing or maliciously injuring any person." (See also ABA Model Rules Prof. Conduct, rule 4.4(a) ["a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person"].)

Thus, as with the probable cause element of malicious prosecution, pursuing an action initiated or continued with malice would violate an attorney's explicit professional obligations. Again, the overlap demonstrates how integral an attorney's professional obligations are to the proof of a malicious prosecution action against

him. The two cannot be disentangled. An attorney who maliciously prosecutes a claim that every reasonable attorney would agree utterly lacks merit has violated the edicts at the very core of the profession.

2. The fact that a non-attorney can also be liable for malicious prosecution does not take a claim against an attorney outside of Section 340.6(a).

Plaintiffs attempt to make hay out of the fact that malicious prosecution can also be asserted against non-attorneys. They argue that the availability of a parallel claim against non-attorneys makes malicious prosecution indistinguishable from every other tort that can be asserted against members of the general public, including "garden-variety theft" or sexual assault, two examples that *Lee* gave of torts that would violate a lawyer's professional obligations but would not trigger Section 340.6(a). (61 Cal.4th at p. 1238.) Again, Plaintiffs are wrong.

Lee observes that the obligation not to sexually batter someone "overlap[s] with obligations that all persons subject to California's laws have." (*Ibid.*) The same is true of theft. An attorney's obligation not to pursue non-meritorious claims with malice is a world apart from those torts. It does not merely "overlap" with non-attorneys' obligations. As demonstrated above, malicious prosecution goes to the very heart of what attorneys are trained to do, and what our judicial system depends on their doing: using their professional judgment to

assess what legal claims should and should not be injected into the system. Unlike theft or sexual assault, the tort of malicious prosecution intrinsically involves professional legal training and the attorneys' role in the judicial system.

Plaintiffs also overlook that non-attorneys are treated differently than attorneys when it comes to malicious prosecution. The standard is whether any reasonable *attorney* would conclude that a claim lacked merit, and a non-attorney is entitled to rely on his attorney's advice and judgment on this front. "Reliance upon the advice of counsel, in good faith and after full disclosure of the facts, customarily establishes probable cause," precluding liability for malicious prosecution. (*Sosinsky v. Grant* (1992) 6 Cal.App.4th 1548, 1556; see also *Bisno v. Douglas Emmett Realty Fund 1988* (2009) 174 Cal.App.4th 1534, 1544 ["Good faith reliance on the advice of counsel, after truthful disclosure of all the relevant facts, is a complete defense to a malicious prosecution claim"].)

In other words, the attorney has independent, professional obligations that the client does not have, and is expected to exercise professional judgment that a client is not required to exercise. Thus, in *Lee's* parlance, the duty to act as gatekeeper is solely "an obligation an attorney has by virtue of being an attorney." (*Lee, supra*, 61 Cal.4th at p. 1129.)

This Court's recent opinion in *Flores v. Presbyterian Intercommunity Hospital* (2016) 63 Cal.4th 75, supports the conclusion that a malicious prosecution action against an attorney necessarily involves attorney-specific conduct. *Flores* addressed Code of Civil Procedure section 340.5, which shortens the statute of limitations for claims based on "a negligent act or omission to act by a health care provider in the rendering of professional services . . . ." (*Id.* at p. 84.) Analogizing to *Lee, Flores* held that the shortened limitations period applies when a medical professional "makes a judgment to order that a hospital bed's rails be raised in order to accommodate a patient's physical condition and the patient is injured as a result of the negligent use or maintenance of the rails . . . ." (*Id.* at p. 89.) By contrast, a hospital's negligent failure to maintain equipment that was "merely convenient for, or incidental to, the provision of medical care to a patient" is not subject to the shortened statute of limitations because it relates to a duty that "generally overlaps with the 'obligations that all persons subject to California's laws have,'" rather than to negligence "in the rendering of professional services" (*Ibid.*)

The torts discussed in *Lee* as violating generally applicable duties ("garden-variety theft" and sexual assault) are like a health care provider's failure to maintain equipment that is incidental to the provision of medical care—even if committed in the course of an

attorney-client relationship, they are not intrinsically related to the attorney's professional legal judgment. A malicious prosecution claim against an attorney, by contrast, alleges an infirmity in the attorney's professional judgment in bringing and maintaining a lawsuit and is the necessary cornerstone of any malicious prosecution claim against an attorney. Such professional judgment cannot be said to be "incidental" to the provision of legal services to the client. Nor can it be said to be "convenient" to the attorney's professional obligations as an officer of the court to act as a gatekeeper. Because proof for a malicious prosecution action against an attorney requires proof of a breach of the attorney's professional obligations, *Lee* governs and dictates a one-year statute of limitations.

C. The Court of Appeal's decision, which was rendered before *Lee*, is not relevant to this Court's determination of what statute of limitations applies to a malicious prosecution action against an attorney.

Nothing in the Court of Appeal's decision in this case dictates a different result. The Court of Appeal rendered its decision before this Court decided *Lee*, and therefore did not apply the *Lee* test. Instead, the Court of Appeal relied on a decision that was disapproved in *Lee*: *Roger Cleveland Golf Co., Inc. v. Krane & Smith, APC* (2014) 225 Cal.App.4th 660 (*Roger Cleveland*), which interpreted Section 340.6(a)'s legislative history as "indicat[ing] the Legislature

intended to create a specially tailored statute of limitations for legal malpractice actions . . . ." (*Id.* at p. 682.)

Lee disapproved *Roger Cleveland*'s interpretation of Section 340.6(a), holding—based on the same legislative history—that the statute is *not* limited to malpractice actions. (*Lee*, *supra*, 61 Cal.4th at pp. 1236 ["section 340.6(a) applies to claims other than strictly professional negligence claims"], 1239 [noting that "(o)ur holding today is in tension with statements in *Roger Cleveland*" and disapproving *Roger Cleveland* "to the extent (it is) inconsistent with this opinion"].)

Because *Lee* undercuts the sole basis for the Court of Appeal's conclusion that Section 340.6(a) does not apply to a malicious prosecution claim, the Court of Appeal's opinion is irrelevant to this Court's calculus. Instead, this Court should hold that under *Lee*, because a malicious prosecution action against an attorney necessarily implicates an attorney's professional duties—including his or her obligations to only bring colorable claims and to act logically, not out of malice in the representation of clients before the court—such an action is subject to the one-year statute of limitations in Section 340.6(a).

II. History and public policy considerations support applying Section 340.6 to malicious prosecution claims against attorneys.

For over a century courts have looked askance at malicious prosecution claims against attorneys. (E.g., *Bicknell v. Dorion* (1835) 33 Mass. 478.) Even in early cases, courts rightfully noted that attorneys occupy a special position in the legal system: An attorney is an agent and representative of his client, but the client owns the case. In *Bicknell*, a case decided 180 years ago, the court noted that even if an attorney believes his client's case factually lacks merit, his belief is just that—a belief. "'Knowing,' 'believing,' or 'supposing' it groundless, are only expressions indicating different degrees of the attorney's belief." (*Id.* at p. 490.) An attorney is rarely there when the contract is breached, when the property is stolen, or when his client is injured on the job. The attorney knows the law, and is there to guide the client through the court system. An attorney's ethical obligations proceed from that premise and mandate forceful advocacy on the client's behalf.

The oft-repeated statement that malicious prosecution actions are disfavored applies with additional force to claims against attorneys. As noted scholar on legal professional liability Ronald Mallen explains in his treatise Legal Malpractice, malicious prosecution claims "strike a balance between two divergent policy considerations." (1 Mallen, Legal Malpractice (2016 ed.) Malicious

Prosecution – Policy Concerning Attorneys § 6.19, pp. 654-655.) The most obvious consideration, of course, is that malicious prosecution claims aim to discourage the filing of baseless lawsuits to harass, vex, or annoy others. (*Id.* at p. 655.) But the countervailing policy consideration is equally important. Malicious prosecution claims—if not sufficiently circumscribed—can limit the public's access to the judicial system, and at particular risk are plaintiffs with claims that push the boundaries of existing common law.

As other amici have highlighted, attorneys bear a greater share of malicious prosecution risk than their clients. Every case an attorney files adds to that attorney's risk portfolio, and no attorney is spared, as defense attorneys routinely file counterclaims on their clients' behalf. As Mallen explains, this compounding risk has a chilling effect on the creation of new case law and on plaintiffs' access to adequate representation. The danger is particularly acute given our common law system, in which law is created incrementally case by case:

> Access to the courts would be illusory if plaintiffs were denied counsel of their choice, because attorneys feared being held liable as insurers of the quality of their clients' cases. Few attorneys would be willing to prosecute close and difficult matters, and very few would dare challenge the propriety of established legal doctrines.

(*Id.* at pp. 655-656.)

It is therefore appropriate that the Legislature prescribed a narrower statute of limitations for malicious prosecution claims against attorneys. By limiting the compounding risk attorneys face, the Legislature has protected attorneys from unbounded professional risk and also protected the public's access to adequate representation, even in difficult cases of first impression. As other amici have noted, Section 340.6 was enacted specifically to limit attorneys' risk, including the soaring cost of malpractice insurance.

Nor is there anything anomalous about a one-year statute of limitations for malicious prosecution claims. That timeframe fits comfortably within the fabric of California and American law. Historically, malicious prosecution claims had a one-year limitations period in California for almost a century, since 1905. (*Storey v. Shasta Forests Co.* (1959) 169 Cal.App.2d 768, 769.) And even when statutory changes in 2002 enlarged the limitations period for injury claims generally (Code Civ. Proc., § 335.1), giving rise to the argument that a two-year statute might apply even in actions against attorneys, the majority of courts to have addressed the question sided with the existing one-year period. In particular, when the issue was explored first in the seminal *Vafi v. McCloskey* (2011) 193 Cal.App.4th 874 and then in *Yee v. Cheung* (2013) 220 Cal.App.4th 184, these courts sided with the one-year period in their published

opinions.[1] That position served as unquestioned and guiding authority until *Roger Cleveland* adopted a contrary analysis. But the *Roger Cleveland* approach never caught on, and indeed, when squarely faced with the issue again, the *Vafi* court retained its position, expressly rejecting *Roger Cleveland*, in *Bergstein v. Strook & Strook & Lavan LLP* (2015) 236 Cal.App.4th 793, 819.

Outside California, while individual states and statutes vary, at least 14 states prescribe a one-year statute of limitations for malicious prosecution, including New York, which specifically imposes a one-year statute of limitations for any malicious prosecution action.[2]

---

[1] See Jordan, *Malicious Prosecution Claims Are Governed By Statute Of Limitations Applicable To Claims Against Attorneys "Arising In The Performance Of Professional Services"* (May 2011) 36:5 Prof. Liab. Rptr. 11 (discussing *Vafi* and noting similar earlier cases); Jordan, *Malicious Prosecution Claims Against Attorneys Are Governed By Statute Of Limitations Applicable To Malpractice Claims* (Nov. 2013) 38:11 Prof. Liab. Rptr. 8 (discussing *Yee* and prior cases).

[2] Alabama (Code of Ala. § 39(a)(1)), Arizona (A.R.S. § 12-541), Kansas (K.S.A. § 60-514), Kentucky (K.R.S. § 413.140(1)(c)), Louisiana (La. Civ. Code Ann. art. 3492), Mississippi (Miss. Code Ann. § 15-1-35.), New York (N.Y.C.P.L.R. § 215(3)), Ohio (Ohio Rev. Code Ann. § 2305.11(A)), Oklahoma (OK Stat. § 12-95(4)), Tennessee (Tenn. Code § 28-3-104(a)), Texas (T.C.P.R. § 16.002(a)), Virginia (Va. Code § 8.01-248), West Virginia (*Preiser v. MacQueen* [W.Va. 1985] 352 S.E.2d 22, 27), Wyoming (Wyo. Stat. § 1-3-105(a)(v)(C)).

In sum, a one-year statute of limitations for malicious prosecution actions against attorneys comports with nationwide standards, longstanding California history and precedent, and sound statutory interpretation.

CONCLUSION

The one-year limitations period for malicious prosecution actions against attorneys is appropriate and justified. It protects attorneys from unbounded professional risk, assures plaintiffs access to our judicial system, and does not penalize attorneys for litigating difficult cases of first impression.

Dated: June 3, 2016

Respectfully submitted,
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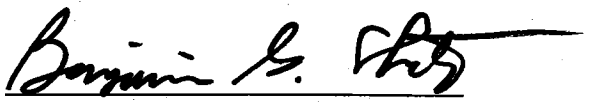
By: 

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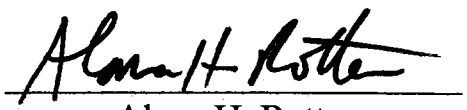
By: 

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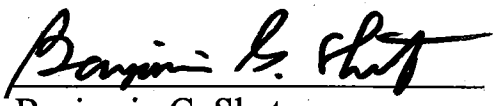
CERTIFICATE OF WORD COUNT

Pursuant to California Rule of Court 8.204(c)(1), I certify that this **Amicus Curiae Application And Brief** contains **3,552** words (as counted by the Microsoft® Office Word 2003 word processing program used to generate this brief), not including the tables of contents and authorities, the caption page, signature blocks, or this certification.

Dated: June 3, 2016



Benjamin G. Shatz

PROOF OF SERVICE

Parrish, et al., v. Latham & Watkins LLP, et al., No. S228277

I, BESS HUBBARD, declare: I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 11355 West Olympic Boulevard, Los Angeles, California 90064-1614.

On **June 3, 2016**, I served a copy of the within document(s):

APPLICATION TO FILE AMICUS CURIAE BRIEF AND BRIEF OF THE LOS ANGELES COUNTY BAR ASSOCIATION AND BEVERLY HILLS BAR ASSOCIATION IN SUPPORT OF RESPONDENTS

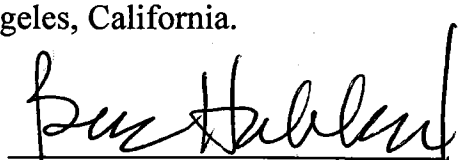
by placing such document(s) in a sealed envelope, with postage thereon fully prepaid for first class mail, for collection and mailing at Manatt, Phelps & Phillips, LLP, Los Angeles, California following ordinary business practice, addressed as set forth below.

SEE ATTACHED SERVICE LIST

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on **June 3, 2016**, at Los Angeles, California.



BESS HUBBARD

PROOF OF SERVICE

***Parrish, et al., v. Latham & Watkins LLP, et al.*, No. S228277**

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