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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

No. S259364

SUNDAR NATARAJAN, M.D., Petitioner and Appellant, v. DIGNITY HEALTH, Respondent.	Court of Appeal Case No. C085906 County of San Joaquin Superior Court No. STK-CV-UWM-20164821

REPLY BRIEF IN SUPPORT OF PETITION FOR REVIEW

AFTER THE PUBLISHED DECISION BY THE COURT OF APPEAL
THIRD APPELLATE DISTRICT
OF NOVEMBER 20, 2019

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I. INTRODUCTION

Dignity Health seeks to avoid this Court's review by attempting to obscure the obvious – the fact that *Natarajan* and *Yaqub v. Salinas Valley Memorial Healthcare System* (2004) 122 Cal.App.4th 474 are in direct conflict on the question of what standard of bias applies to hospital hearing officers. It seeks to paper over that conflict by arguing that any analysis of hearing officer bias must begin and end with the language of Business and Professions Code Section 809.2, subd. (b),[1] without consideration of *Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017. Based on this premise, Dignity asserts that *Yaqub* has been relegated to the dustbin of California law, since it did not discuss the statute.

Dignity's argument that this Court should not resolve the conflict between *Natarajan* and *Yaqub* boils down to an argument that *Natarajan* was correctly decided and that it effectively overruled *Yaqub.* It claims that "*Yaqub* simply erred" and is therefore "irrelevant." (Answer, p. 7.) Under fundamental principles of California appellate law, however, the Third District cannot overrule the Sixth District. This Court therefore needs to grant review because it is necessary to secure uniformity of decision.

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[1] All unspecified statutory references are to the Business and Professions Code.

Dr. Natarajan's second ground for granting review is to settle an important question of law. Dignity concedes that the standard applicable to hearing officer bias is an important question of law, when it states, "But the standard for hearing officer financial bias, while important, is not unresolved." (Answer, p. 12.) Its claim that this important question has been resolved is again simply an argument that *Natarajan* was decided correctly and *Yaqub* was not. Dignity makes the same argument to assert that the conflict between *Natarajan* and *Yaqub* does not create uncertainty in the law, predicting, without evidence, that all trial courts will now follow the "correctly decided" *Natarajan* opinion. (Answer, pp. 13-14.)

As described further below, there is ample reason for trial courts (and this Court) to question the analysis of *Natarajan* and to instead agree with *Yaqub.* Given the clear conflict between the two cases, the undisputed importance of this issue to physicians, hospitals and the public, and the uncertainty created by the publication of *Natarajan,* this Court should grant review.

II. *NATARAJAN* AND *YAQUB* CONFLICT ON BOTH THE STANDARD OF BIAS FOR HEARING OFFICERS AND WHETHER THE COMMON LAW APPLIES TO BUSINESS AND PROFESSIONS CODE SECTION 809.2.

Dignity does not dispute that the hearing officer had a financial incentive to favor Dignity, in order to increase his chances of obtaining future work as a hearing officer at a Dignity hospital. Instead, it argues, as *Natarajan* holds, that an appearance of bias is insufficient to disqualify a hearing officer in a private hospital hearing. If *Yaqub* was decided correctly, and the appearance of bias standard does apply, the outcome of this case should be different, demonstrating the conflict between the two cases.

Dignity's argument that there is no conflict approaches absurdity. *Yaqub* relied on *Haas* to decide that hospital hearing officers must be disqualified if they have an appearance of bias. (*Id.,* 122 Cal.App.4th at 484-486.) *Natarajan* relied almost exclusively on Section 809.2, subd.(b) to hold that the correct standard is actual bias, while also holding that the codification of Section 809 et seq. supplanted the common law and that post-enactment common law could not be considered when interpreting Section 809.2, subd. (b). (Opinion ("Op."), pp. 6-11.) *Natarajan* identified the chasm between the two cases when it asserted that *Yaqub* was a

"derelict on the waters of the law." It is difficult to imagine a more clear conflict between two appellate opinions. One is correct and the other is not.

Both are still the law. Dignity's argument that *Yaqub* is no longer good law because *Natarajan* is purportedly more persuasive is incorrect. *Yaqub* remains California law "until and unless disapproved by this court or until change of the law by legislative action." (*Cole v. Rush* (1955) 45 Cal.2d 345, 351.) No case or statute has ever given one appellate panel the power to overrule another panel's opinion.

Dignity tries to bolster its claim that *Yaqub* is no longer good law through its claim that no published opinion has ever followed its holding. (Answer, p. 7.) While that is technically true, it would be more accurate to say that no published opinion has ever questioned the validity of *Yaqub.* Dignity notes that only two published cases have cited *Yaqub*, *El-Attar v. Hollywood Presbyterian Med. Center* (2013) 56 Cal.4th 976, 996, and *Thornbrough v. W. Placer Unified Sch. Dist.*, (2013) 223 Cal.App.4th 169, 188. Both *El-Attar* and *Thornbrough* cited *Yaqub* as valid California precedent without any implied or express criticism of its holding. Given that this Court refused review of *Yaqub* and then cited it with apparent approval, Dignity's suggestion that *Yaqub* has never had any precedential value is untenable.

The fact that the standard of bias for hospital hearing officers has not been addressed in the 15 years between *Yaqub* and *Natarajan* highlights one of the most important reasons why this Court should grant review. As discussed in the Petition For Review ("Petition"), pp. 19-20, only two published opinions have addressed this issue in the 60 years since hospital hearings began. There may not be another opportunity for this Court to decide the standard of bias applicable to hospital hearing officers. Because physicians' careers are at stake, as well as the quality of patient care and the effectiveness of hospital peer review, it is incumbent on this Court to address this unsettled question of California law now.

Dignity's contention that *Yaqub* is so poorly reasoned that no court will ever follow it in the wake of *Natarajan* also lacks substantive merit, for reasons discussed further below.

III. *NATARAJAN* AND *APPLEBAUM* CONFLICT ON WHETHER FAIR HEARING PROCEDURE PROVIDES THE SAME PROTECTION AS DUE PROCESS.

Natarajan squarely holds for the first time that the requirement for fair hearing procedure provides less protection than constitutional due process. As described in the Petition, pp. 9 and 26, *Applebaum v. Board of Directors* (1980) 104 Cal.App.3d 648 and three other cases have held that fair hearing procedure provides the same protection to physicians as

constitutional due process. The *Applebaum* holding is also implicitly supported by the many cases that have used the terms "fair hearing" and "due process" interchangeably and held that physicians are entitled to fundamental due process. (See, e.g., *Pinsker v. Pacific Coast Soc. of Orthodontists* (1969) 1 Cal.3d 160, 166; *Anton v. San Antonio Community Hospital* (1977) 19 Cal.3d 802, 815, *El-Attar v. Hollywood Presbyterian Med. Ctr., supra,* 56 Cal.4th at 986-987.

Dignity denies that any conflict exists between *Applebaum* and *Natarajan* based on factual differences between the two cases and because Section 809.2, subd. (a), adopted another part of the *Applebaum* holding when the Legislature codified the fair hearing process. (Answer, p. 10-11.) Neither of those arguments negates the reality that *Natarajan* conflicts with *Applebaum* on the question of whether fair hearing procedure provides less protection than constitutional due process.

The *Natarajan* opinion is the best proof of the importance of this conflict. In *Haas,* this Court wrote an extensive analysis of both federal and state precedents addressing financial bias of adjudicators. (*Id.,* 27 Cal.4th at 1024-1036.) In that analysis, it emphasized the fundamental importance of adjudicators who have no pecuniary interest in favoring one side over another. It then held that a procedure that gives an adjudicator even an implicit possibility of future employment in exchange for favorable

decisions creates an objective and impermissible risk and appearance of bias. (*Id.* at 1034.) *Natarajan* refused to apply the *Haas* doctrine, which reflects and applies a core precept of Anglo-American jurisprudence, based on its assertion that fair procedure provides less protection than constitutional due process.

As discussed in the Petition, p. 9, under *Applebaum,* cases analyzing constitutional due process can be used as guidance to determine what constitutes common law fair procedure. Under *Natarajan*, those cases do not apply. This conflict between *Natarajan* and *Applebaum* requires resolution by this Court so that the lower courts will know how to decide cases alleging violations of common law fair procedure.

IV. DIGNITY'S ARGUMENT THAT *NATARAJAN* IS OBVIOUSLY CORRECT, AND YAQUB OBVIOUSLY WRONG, DOES NOT WITHSTAND ANALYSIS.

The purpose of granting review is not to correct erroneous Court of Appeal decisions, but rather to secure uniformity of decision and to settle disputed questions of law. (*Briggs v. Brown* (2017) 3 Cal.5th 808, 861; California Rule of Court 8.500(b)(1).) The merits of the decision below are ordinarily not central to a petition for review. However, Dignity's Answer urging a denial of review is almost entirely based on its argument that *Natarajan* was correctly decided and that *Yaqub* is so obviously wrong

that no trial court will ever follow it. Petitioner will therefore address that argument.

Trial courts (and this Court, if it grants review) may find *Yaqub* more persuasive than *Natarajan* for, inter alia, the following reasons:

A. *Natarajan* Permits Hearing Officers With a Financial Incentive to Favor the Hospitals That Appoint Them.

Despite the importance under both federal and California law of impartial adjudicators without an appearance of bias, as discussed in *Haas*, the *Natarajan* decision allows private hospitals to select hospital attorneys with whom they have long-standing financial relationships to repeatedly serve as hearing officers, giving them a financial incentive to favor the hospitals. The fact that *Natarajan* approves a hearing officer that Dignity had paid over $210,000 at the time of his appointment, and another $200,000 during and after the Natarajan hearing, with the possibility of future employment at 33 other Dignity hospitals, supports a conclusion that *Natarajan* was wrongly decided. (1 PAR 251-252; 20 PAR 4846-4847; AAR 53-59.AAR 38-47, 53-59, 314-318.)

B. Hospitals Have a Financial Incentive to Appoint a Hearing Officer That Will Favor Them.

Under *Westlake Community Hospital v. Superior Court* (1976) 17 Cal.3d 465, 485-486, physicians cannot make common law tort claims

against hospitals unless they can overturn an adverse hearing decision. Although these hearings were originally intended to protect physicians from unjustified damage to their careers, hospitals can use them to prevent a physician from ever filing a civil damages action against the hospital. Of course, a hospital is only protected from a civil action if it prevails in the hearing and any subsequent writ proceeding. (*Ibid.*) Hospitals thus have a financial incentive to appoint hearing officers that will favor them to help them win the hearing. *Natarajan* permits them to do so.

C. *Natarajan* Makes It Almost Impossible to Prove a Hearing Was Unfair.

After *Westlake,* this Court decided in *Anton v. San Antonio Community Hospital, supra,* 19 Cal.3d at 822-825, that physicians were entitled to an independent review of hospital decisions terminating their privileges, because of physicians' fundamental vested right to those privileges. *Anton* thus provided additional protection to physicians following *Westlake.* However, in 1978 the Legislature amended Code of Civil Procedure § 1094.5 to permit hospitals to terminate privileges with only a substantial evidence review by the courts. Substantial evidence review provides virtually no protection to physicians. If enough charts are reviewed, and enough hospital staff interviewed, hospitals can be expected to always find something to criticize about a physician's clinical

performance or behavior, and the substantial evidence standard is deferential. (*In re I.C.* (2018) 4 Cal.5th 869, 892.) In most or all cases, a physician's only hope for overturning a decision terminating privileges is to show that the hearing was unfair. *Natarajan* makes it almost impossible for a physician to do so. If a hearing officer with a financial interest in favoring the hospital is not unfair, what would constitute an unfair hearing?

D. Actual Bias of a Hearing Officer Is Effectively Impossible to Prove in Hospital Hearings.

Other than a hearing officer's admission, there is no other method for a physician to prove actual bias, since erroneous adverse rulings of a hearing officer do not prove bias. (*Thornbrough, supra,* 223 Cal.App.4th at 190, n. 18.) Dignity asserts that Dr. Natarajan has not explained why the voir dire process will be insufficient to identify actual bias in most cases. (Answer, p. 15.) However, as stated in the Petition, p. 19, as a practical matter hospital attorneys who have been appointed as hearing officers are not going to admit bias during the voir dire process. *Haas* explicitly holds that both hiring entities and ad hoc hearing officers must be presumed to act in their own self-interest. (*Id.,* 27 Cal.4th at 1029.) A hearing officer who admitted actual bias would not only lose the fees for that hearing, but would also lose any possibility of being hired in the future by that hospital or hospital system.

The presumption that hospitals and hearing officers will act in their own financial self-interest is a fundamental reason why *Haas* applied the objective appearance of bias standard to ad hoc hearing officers, rather than the actual bias standard. Dignity argues that the actual bias standard has been "proven perfectly workable" in contexts other than financial bias. (Answer, pp. 15-16.) *Haas* recognizes that financial bias holds a greater risk to the integrity of quasi-judicial hearings than other types of bias, because of the power of money to influence people.

E. *Natarajan's* Holding That Section 809 et seq. Replaced the Common Law Is Contrary to This Court's Decision in *El-Attar*.

As described in the Petition, p. 29, *Natarajan's* holding that the "former" common law governing hospital fair procedure was supplanted in 1989 with the enactment of section 809 et seq., is completely inconsistent with this Court's holdings in both *Fahlen v. Sutter Central Valley Hospital* (2014) 58 Cal.4th 655, 669 and *El-Attar*. *Natarajan's* holding on this question is especially inexplicable given its recognition that *El-Attar* "seemed" to suggest that the common law of fair procedure applies unless expressly contrary to Section 809 et seq. (Op., p. 7.) *El-Attar* actually expressly rejects the analysis adopted by *Natarajan*. In *El-Attar,* the plaintiff physician argued that Section 809.6 should be strictly enforced so

that a violation of the hospital bylaws required the reversal of an adverse hearing decision. This Court rejected that contention and was very explicit in its application of the common law of fair procedure. On page 990-991, *El-Attar* states that it is applying the common law doctrine of fair procedure. It then applied the common law to interpret Sections 809.05 and 809.6, expressly holding that the Legislature did not intend to displace the common law. (*Id.,* 56 Cal.4th 976, 990-991.) On p. 994, *El-Attar* also states that the holding in *Mileikowsky West Hills Hospital & Medical Center* (2009) 45 Cal.4th 1259 was "consistent with the peer review statute and the common law fair procedure doctrine." *Natarajan's* failure to follow *El-Attar* and *Fahlen* has no support in the law and violates the obligation of a court of appeal to adhere to Supreme Court decisions. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450*,* 455.)

Dignity attempts to minimize this issue by quoting *Natarajan's* comment that the question of whether the common law applies is only of "academic" interest, because no pre-1989 case addresses the financial bias of hearing officers. (Answer, pp 17-18, Op., p. 7.) However, *Natarajan's* holding that the common law has been supplanted by the enactment of Section 809 is one of the two analytical foundations for its refusal to apply the *Haas* doctrine, along with its assertion that common law fair procedure provides lesser protection than constitutional due process.

Furthermore, *Natarajan's* analysis that only pre-1989 cases might possibly be used to interpret Section 809.2 is unsupported by a citation to any authority that post-enactment common law cannot be used to interpret a statute. (Op., pp. 7-11.) *Natarajan's* analysis on this point is contrary to California law. For example, *El-Attar*, 56 Cal.4th at 990, cites *Dougherty v. Haag* (2008) 165 Cal.App.4th 315, 338–343, as support for its holding. In *Fahlen, supra,* the issue presented was the interpretation of Health and Safety Code § 1278.5, which was adopted in 1999 and then amended to protect physicians in 2007. (*Id.,* 58 Cal.4th at 667.) Nonetheless, the Court relied primarily on the cases of *State Bd. of Chiropractic Examiners v. Superior Court* (2009) 45 Cal.4th 963 and *Runyon v. Board of Trustees of California State University* (2010) 48 Cal.4th 760 to make its decision. (*Id.,* at 671-678.) *Natarajan* contradicts itself on this issue, twice citing *Powell v. Bear Valley Community Hospital* (2018) 22 Cal.App.5th 263, 280, in support of its conclusion that the appearance of bias standard does not apply to hospital hearing officers. (Op., p. 8, n. 11; pp. 10-11.)

F. Physicians Working at Private Hospitals Are Entitled to the Same Protection as Physicians Working at Public Hospitals, Since All Hospital Hearings are Official Hearings That Serve a Public Function.

Natarajan and Dignity's Answer both completely fail to address the holding in *Kibler v. Northern Inyo County Local Hospital Dist.* (2006) 39 Cal.4th 192, 198-200 that hospital hearings are official proceedings comparable to quasi-judicial public agencies. (Petition, p. 27.) Under *Kibler,* hospital and medical staff participants in hospital hearings are given the same anti-SLAPP protection from lawsuits as government officials participating in public administrative hearings. Under *Natarajan,* on the other hand, physicians who are subject to those official proceedings, and whose careers are at stake, are not given the same protection from financially-biased hearing officers as physicians working at public hospitals. There is no rational basis for the law to provide special anti-SLAPP protection to private individuals because they are participating in official proceedings, while refusing to provide equal protection to private doctors subject to those same official proceedings.

More generally speaking, *Natarajan* fails to address the fundamental irrationality of having different standards of bias applicable to public and private hospitals. Why should a physician working at a private hospital be

at risk of having his career damaged or destroyed by a hearing presided over by a hearing officer with a financial incentive to favor the hospital, when a physician working down the street at a public hospital is entitled to a hearing officer without an appearance of bias?

G. *Natarajan* Violates Fundamental Rules of Statutory Construction.

Natarajan relies almost entirely on its interpretation of Section 809.2, subd. (b) for its decision. In deciding that the *Haas* doctrine does not apply to the interpretation of the statute (Op., p. 10-11), it fails to apply the rule that statutes should be harmonized with the common law unless the Legislature expressly provides otherwise or there is a conflict between the statute and the common law. (*Laguna Beach v. Ca. Ins. Guarantee Assn.* (2010) 182 Cal.App.4th 711, 715-716.) Nothing in Section 809 et seq. indicates that the Legislature intended to supplant the common law when it adopted those laws.

There is also no conflict between Section 809.2, subd. (b) and the *Haas* doctrine. To the contrary, Section 809.2, subd. (b) can be easily harmonized with *Haas* because both use remarkably similar language. The statute prohibits a "direct financial benefit from the outcome," while *Haas* prohibits the "direct, personal, substantial and pecuniary interest" that arises when an ad hoc hearing officer has a financial incentive to favor the hiring

entity to obtain future work. (*Id.,* 27 Cal.4th at 1032.) "Interest" is commonly listed as a synonym for "benefit" so on their face these phrases are nearly identical. *Natarajan* nonetheless refused to harmonize *Haas* and Section 809.2 based on the erroneous conclusion that post-enactment common law cannot be used to interpret a statute.

Another fundamental rule of statutory construction is that statutory language must be construed in the context of the statute as a whole and the overall statutory scheme. (*Smith v. Superior Court* (2006) 39 Cal.4th 77, 83.) *Natarajan* fails to do so, ignoring Section 809.2, subd. (c) and failing to reconcile it with subdivision (b). The language of subdivision (c) plainly confers a right to an impartial hearing officer. It indicates that the Legislature wanted to avoid hearing officer bias based on *any* ground, and not solely on the ground of the hearing officer receiving a direct financial benefit from the outcome. *Natarajan's* analysis is especially flawed given that Subdivision (b) appears only to prohibit actions of the hearing officer *after* his appointment. Subdivision (c) applies to the selection process, requiring both voir dire and impartiality. The right described in subdivision (c) is eviscerated by limiting hearing officer bias to the question of whether the hearing officer has a direct financial interest in the outcome.

The most fundamental rule of statutory construction is to interpret a statute in a manner that effectuates its purpose. (*Smith v. Superior Court,*

supra, 39 Cal.4th at 83.) Section 809.2 subds. (a), (b) and (c) all have the clear purpose of protecting physicians from an unfair hearing by requiring an unbiased hearing panel and an impartial hearing officer.

To limit bias to only a direct financial interest in the outcome undermines Section 809.2's purpose rather than effectuating it. ". . . [A]n adjudicator's financial stake in the outcome of a dispute, creates exceptional situations 'in which the probability or likelihood of the existence of actual bias is so great that disqualification of a judicial officer is required to preserve the integrity of the legal system, even without proof that the judicial officer is actually biased towards a party.'" (*Haas,* 27 Cal.4th at 1033.)

A final rule of statutory construction is that if the statute does not have a plain meaning and legislative history is unhelpful, the court must "`apply reason, practicality, and common sense to the language at hand.'" (*Halbert's Lumber, Inc. v. Lucky Stores, Inc.* (1992) 6 Cal.App.4th 1233, 1239.) No legislative history sheds light on the meaning of Section 809.2. *Natarajan* holds that Section 809.2, subd. (b) only applies to hearing officers with a "present" tangible stake in the outcome, such as competitors, and not those with a future expectation or possibility of employment. (Op., p. 10.) This extremely narrow interpretation of Section 809.2 defies *Haas.* *Haas* holds that possible temptation for bias is sufficient and that "such a

temptation can arise from the hope of future employment as an adjudicator is easy to understand and *impossible in good faith to deny*." (*Id.,* 27 Cal.4th at 1030, emphasis added.) *Natarajan's* holding that anything other than a direct financial benefit from the outcome is not sufficient bias also defies common sense.

H. Dignity Was an Economic Competitor of Dr. Natarajan.

Dignity asserts that Dr. Natarajan is estopped from claiming Dignity was economically motivated to terminate his privileges because the hearing decision rejected that claim, and Dr. Natarajan did not challenge that finding. (Answer, p. 19, citing *Johnson v. City of Loma Linda* (2000) 24 Cal.4th 61, 69-70.) Dignity does not dispute that it was in fact an economic competitor with Dr. Natarajan. The hospital's innocent motives have not been established as a matter of law, because, unlike in *Johnson*, Dr. Natarajan's writ timely challenged the hearing decision as the fruit of an unfair proceeding. *Johnson* holds only that an administrative decision that is not timely challenged is binding. (*Id.,* 24 Cal.4th at 69.)

More importantly for purpose of this Petition, *Natarajan* allows a hospital that is an economic competitor to a physician to appoint a hearing officer with a financial incentive to favor it, when the hearing's outcome will have a direct impact on the hospital's bottom line. The confluence of the hospital's financial interest in removing Dr. Natarajan from its medical

staff, and the hearing officer's interest in future employment with Dignity, violates the fundamental requirements of both due process and fair hearing procedure.

V. CONCLUSION

Dignity's assertion that all trial courts will look to *Natarajan* for guidance is not credible. Given the significant questions about *Natarajan's* reasoning raised above, there is no reason to believe that all courts will follow it. "As a practical matter, a superior court ordinarily will follow an appellate opinion emanating from its own district even though it is not bound to do so." (*McCallum v. McCallum* (1987) 190 Cal.App.3d 308, 315, n.4.) If this Court does not grant review, we may therefore face a situation where most courts in San Jose follow *Yaqub,* most courts in Sacramento follow *Natarajan*, and courts in other districts follow one or the other, depending on the judge. (*Ibid.*) This Court should also decide whether keeping *Natarajan* as California law would effectuate the purpose of Section 809.2; whether it would serve or damage the public health; and whether it would be fair to physicians whose careers are at stake in hospital hearings.

Dignity, the California Hospital Association, the California Medical Association, most of the largest hospital systems in the State and leading hospital hearing officers have all agreed in briefs and/or requests for

publication that this case is of great importance to the proper functioning of California's peer review system. That peer review system, in turn, is of critical importance to the public health, hospitals and physicians.

Given the clear conflict between *Natarajan* and *Yaqub,* the importance of the issue presented, and the current uncertainty as to whether the correct standard is actual bias or the appearance of bias, this Court should grant review.

Dated: January 13, 2020

Respectfully submitted,

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CERTIFICATE PURSUANT TO RULE 8.360, subd. (b)(1)

Pursuant to Rule 8.360, subd. (b)(1), I certify that the attached brief uses the 13 point Times New Roman font and contains 4193 words.

Dated: January 13, 2019

By Stephen D. Schear
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Sundar Natarajan, M.D.

PROOF OF SERVICE

Re: *Natarajan v. Dignity Health,* Court of Appeal Case No. C085906

I, the undersigned, hereby declare:

I am a citizen of the United States of America over the age of eighteen years. My business address is 2831 Telegraph Avenue, Oakland, CA 94609. I am not a party to this action.

On January 13, 2020, I served this document entitled **Reply Brief in Support of Petition for Review** on the following persons/parties by electronically mailing a true and correct copy through the True Filing filing and service electronic mail system to the e-mail addresses, as stated below, and the transmission was reported as complete and no error was reported.

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I declare under penalty of perjury the foregoing is true and correct.

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Electronically FILED on 1/13/2020 by Karissa Castro, Deputy Clerk

STATE OF CALIFORNIA
Supreme Court of California

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Supreme Court of California

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Case Number: **S259364**
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