CIVIL NO. S253458

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

DAVID KAANAANA *et.al.*,

Plaintiffs and Respondents,

vs.

BARRETT BUSINESS SERVICES, INC., *et.al.*,

Defendants and Appellants.

AFTER A DECISION OF THE COURT OF APPEAL
SECOND APPELLATE DISTRICT, DIVISION EIGHT
Case Nos. B276420, B279838

REPLY BRIEF

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Michael Alvarez

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INTRODUCTION

At issue in this appeal is whether the recyclable sorting activities conducted by Plaintiffs and Respondents David Kaanaana, *et. al.* ("Respondents") for Los Angeles County Sanitation District No. 2 should be treated as public work subject to California's Prevailing Wage Law ("PWL"). Key to its resolution is the meaning and scope to be accorded to the phrase "*work done* for irrigation, utility, reclamation, and improvement

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

districts, and other districts of this type" in *Labor Code* section 1720(a)(2) of the PWL.

Defendants and Appellants Barrett Business Services, Inc. and Michael Alvarez (collectively, "BBSI") maintain that the construction compelled by the PWL's history, intent and statutory scheme as well as by long-standing judicial and statutory interpretations of "public work" is that the phrase "work done" in Section 1720(a)(2)[1] refers to the same types of "construction, alteration, demolition, installation, or repair work" described in Section 1720(a)(1) and in all the other categories of "public work" set forth in Section 1720. Since the sorting of recyclables at issue in this case does not fall into these categories, it is not within the ambit of the PWL.

Placing primary reliance on the text and structure of Section 1720(a)(2), Plaintiffs and Respondents David Kaanaana, *et. al.* ("Respondents") counter that Section 1720(a)(2) is broad enough to encompass their sorting activities and ought to be so interpreted to give full meaning to all of its parts.

The legal question before the court is one of first impression.

Contrary to Respondents' assertions, limiting the phrase "work done" in Section 1720(a)(2) solely to those activities affiliated with construction and physical infrastructure works no

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1 Further statutory references shall be to the California Labor Code unless otherwise stated.

violence on any part of the statute, is supported by the statutory scheme, is consistent with industry practice as well as judicial and administrative interpretations of "public work" and best comports with the PWL's history and purpose.

LEGAL ARGUMENT

I. SECTION 1720(A)(2)'S OPERATION WORK EXCEPTION DOES NOT PRECLUDE LIMITING ITS APPLICATION TO CONSTRUCTION AND INFRASTRUCTURE - AFFILIATED ACTIVITIES

Respondents argue most strenuously that Section 1720(a)(2)'s exclusion of "the operation of the irrigation or drainage systems" from the definition of "public work," displayed the Legislature's intent to include "operation work" in its scope. Any other interpretation would assertedly render the exception meaningless.

Section 1720(a)(2) does not sustain Respondents' suggested interpretation.

The wording of Section 1720(a)(2) dates back to the original enactment of California's Public Wage Rate Act in 1931. In its original iteration, Section 1720(a)(2) (Section 4 of the 1931 Public Wage Rate Act) read as follows:

> ***Construction work done for*** irrigation, utility, reclamation, improvement and other districts, or other

> public agency, agencies, public officer or body...shall be held to be public works' within the meaning of this act. (emphases supplied.)
>
> [Stats. 1931, ch. 397, §4.]

By specifying "construction" work in former Section 4, the Legislature is deemed to have excluded "operation work" from the Public Wage Rate Act. [See California Code Commission, Proposed Labor Code (1936) p. 85]

In 1937, the Legislature consolidated in Section 1720, the various definitions of "public work" found in the following five California statutes: (i) Stats. 1931, ch. 398, p. 913 - 1931 Public Wage Rate Act governing the payment of prevailing wages on public works; (ii) Stats. 1931, ch. 1144, p. 2430 - 1931 Alien Labor Law dealing with the employment of aliens on public work; (iii) Stats. 1933, ch. 154, p. 606 - limiting the hours of labor on public work; (iv) Former Penal Code §653d - dealing with wrongfully retaining wages of employees on public work and (v) Stats. 1933, ch. 17 4, p. 620 - dealing with charging fees for obtaining work on public works. By its own pronouncement and by all other judicial and administrative accounts, the Legislature, in effecting the consolidation, had no intent to change the substance of the labor law statutes, including the PWL. [*See* Discussion in AOB at pp. 20-27.]

But, as the Respondents point out in their Answer Brief, the 1937 Code Commission did observe that of the five disparate

statutes containing definitions of "public work", two statutes had definitions "broad enough to include as public work the operation of irrigation and drainage districts... D. A. 6430 (aliens) and Pen. C. 653(d) (retaining wages)." [California Code Commission, Proposed Labor Code (1936) p. 85.]

Consequently, in enacting Section 1720(a)(2), the Legislature accounted for this distinction by designating the "operation of irrigation and drainage systems" as "public work" but only as to the same two statutes: the Alien Labor Law and Section 1778 (former Pen. Code §653d). Section 1720(a)(2) (then Section 1720(b)) was thus revised to expressly provide:

> Work done for irrigation, utility, reclamation and improvement districts, and other districts of this type.
>
> "Public work" shall *not* include the operation of the irrigation or drainage system of any irrigation or reclamation district, *except* as used in *sections 1850 to 1854 of this code relating to employment of aliens,* and *section 1778 relating to retaining wages*. (emphases supplied.)[2]

Respondents make much of the italicized exception, arguing that if operations were not at least included in the

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2 Because the Alien Labor Law was repealed in 1970, present-day Section 1720(a)(2) has deleted all references to it. Only the reference to Section 1778 remains.

compass of "work done" for purposes of the PWL, there would be no need for the exception. But the statute does not incontrovertibly lend itself to this interpretation.

Had Section 1720(a)(2) read: "Work done for irrigation, utility, reclamation and improvement districts, and other districts of this type *except* the operation of irrigation or drainage systems...", Respondents' position would carry more weight. But it does not.

Instead, all that the wording of Section 1720(a)(2) indisputably manifests is a legislative intent to *include* the operation of irrigation or drainage systems in the definition of "public work" *but only* with reference to the now-repealed Alien Labor Law (Sections 1850 to 1854 of the Act) and the wrongful retention of wages set forth in Section 1778. Except as called out, there is little in Section 1720(a)(2) to suggest that the Legislature meant to include any other kind of operational work as public work.

Indeed, as to the PWL, the opposite is true. The PWL is conspicuously excluded from Section 1720(a)(2)'s "operation work" carve-out. As to the PWL, therefore, the general rule and not the exception, applies - *i.e.*, that operation work for irrigation or drainage systems, like all operation work, is not public work triggering the payment of prevailing wages.

In fact, despite their detailed account of the historical prelude to Section 1720(a)(2), Respondents have not directed

attention to any authority interpreting the PWL as covering "operation work" prior to the establishment of the Labor Code, nor has there been any such authority in the seven decades since.

Interpreting "work done for" in Section 1720(a)(2) as excluding operation work as to the PWL dovetails best with its established statutory goal of benefitting the construction worker on public construction projects. *O. G. Sansone Co. v. Department of Transportation* (1976) 55 Cal.App.3d 434, 456-463 ("*Sansone*"). As the California Attorney General opined:

> "...[P]ublic works contracts generally feature construction projects of substantial dimension - including such undertakings as the erection, alteration, improvements, repair, and demolition of structures.
>
> The operation of a system, on the other hand, embraces more routine activities; it connotes the day-to-day business of running the system. Accordingly, we conclude that public works contracts are distinguishable from contracts associated with the procurement of goods and services that are used for the regular operational needs of the Authority or its enterprises."

[Attorney General Opinion 11-304, 95 Ops. Cal. Atty. Gen. 102 (Dec. 24, 2012)(internal quotations omitted).]

Finally, contrary to Respondents' assertion, the "operation work" exception in Section 1720(a)(2) using BBSI's interpretation, would be left wholly undisturbed and intact.

Respondents additionally warn that construing Section 1720(a)(2)'s "work done for" phrase to cover "operation work" is the only way to "give meaningful effect" to the clause "except as used in Section 1778..." Otherwise, Respondents posit, the operation of irrigation or drainage systems would be the only type of operation work for which retaining wages would be a felony under Section 1778.

To begin with, if as Respondents suggest, "work done for" in Section 1720(a)(2) already encompassed "operation work" vis-à-vis Section 1778, then the carve-out for irrigation or drainage systems would seem to be a redundancy.

More importantly, Section 1778 was intended to penalize only the retention of wages for workers engaged in public work. It was not meant to penalize the wrongful retention of wages in all areas. As so designed, Section 1778's reach is necessarily limited to those activities that the Legislature saw fit to deem "public work" - like the operation of irrigation or drainage systems. The fact that an otherwise correct reading of "work done" in Section 1720(a)(2) would lead to that result does not argue in favor of a different construction.

Constitutionally, the Legislature was free to single out the operation of irrigation and drainage systems as the only type of operation work deemed to be public work for purposes of Section 1778. See e.g., *Brown v. Merlo* (1973) 8 Cal.3d 855, 861. Having ascertained the existence of a situation in this field which called for remedial action, the Legislature could act to remedy that situation without making the legislation applicable to every situation. *Sansone, supra* 55 Cal.App.3d at 456-463.

II. EXCLUSION OF OPERATION WORK FROM SECTION 1720(A)(2)'S AMBIT IS SUSTAINED BY THE PWL'S HISTORY AND LEGISLATIVE INTENT

Respondents next theorize that by codifying the Labor Code, the Legislature intended to require payment of prevailing wages for public work that previously had only been subject to restrictions regarding hours of labor and employment of aliens. Respondents glean this alleged intent from: (i) including in Section 1720, the definition of "public works" derived from those statutes; (ii) the structuring of the "public works" definition into coequal parts; and from (iii) making that definition applicable to the "Public Works" chapter as a whole.

At the threshold, the premise at the foundation of Respondents' contention is of dubious validity. Other than for irrigation or drainage systems, Respondents have pointed to no evidence - and research has unearthed none - that "public work" as used in either the Alien Labor Law or in former Penal Code section 653 was ever understood or construed to apply to the

routine operational work of any public agency. [See discussion *infra.*] The exception for irrigation or drainage systems, meanwhile, has been specifically made inapplicable to the PWL by Section 1720(a)(2).

Secondly, there is no need to resort to tortuous linguistic extrapolations to try to arrive at the Legislature's intent in codifying the Labor Code. In a prefatory section titled "GENERAL PROVISIONS," the Legislature explicitly stated that:

> §2: The provisions of this code, in so far as they are substantially the same as existing provisions relating to the same subject matter, *shall be construed as restatements and continuations thereof and not as new enactments.*
>
> * * *
>
> §5: Unless the context otherwise requires, the general provisions hereinafter set forth *shall govern the construction of this code.*
>
> §6: Division, part, chapter, article and section headings contained herein shall not be deemed to govern, limit modify or in any manner affect the scope, meaning or intent of the provisions of any

> division, part, chapter, article or section hereof. (emphases supplied.)

Respondents acknowledge that even the California Supreme Court in *State Building & Construction Trades Council of California v. City of Vista* (2012) 54 Cal.4th 547 fairly recently confirmed that the PWL's "general ***purpose and scope*** [was] largely unchanged" by the 1937 codification. *Id.*, at 555 (emphasis supplied.) Notably, Section 1720(a)(2)'s scope at the time of the codification was limited to "construction work done for" the specified districts.

Nevertheless, Respondents insist that this "does not mean that in every case the prevailing wage provisions of the Labor Code must be construed identically to the Public Wage Rate Act, regardless of any linguistic differences." [Answer Brief at p. 27.] The difficulty with this position is that the interpretation urged by Respondents - *i.e.*, the inclusion of operational work as public work - is no mere variation from the Public Wage Rate Act but one that portends a radical and sweeping expansion of its scope void of any support in the expressed intent of the Legislature.

Nor does it have any support in the revisions effected by the 1937 codification. The 1931 version of the PWL defined "public work" as follows:

> Construction work done for irrigation, utility, reclamation, improvement and other districts, or other

> public agency, agencies, public officer or body, ***as well as*** street, sewer and other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision, district or municipality thereof operates under a freeholder's charter heretofore or hereafter approved or not, ***also*** any construction or repair work done under contract, and paid for in whole or in part out of public funds . . . shall be held to be public works' within the meaning of this act. (emphases supplied.)

Though not divided into subparts, it is clear from the textual context of the 1931 statute that "public work" under the PWL, consisted of the same three separate categories that in 1937 found their way into Section 1720(a) through (c). The 1937 codification merely divided essentially the same three categories into formal sub-parts, as follows:

> As used in this chapter "public works" means:
>
> (a) Construction or repair work done under contract, and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the

> Railroad Commission or other public authority.
>
> (b) Work done for irrigation, utility, reclamation and improvement districts, and other districts of this type. "Public work" shall not include the operation of the irrigation or drainage system of any irrigation or reclamation district, except as used in sections 1850 to 1854 of this code relating to employment of aliens, and section 1778 relating to retaining wages.
>
> (c) Street, sewer or other improvement work done under the direction and supervision or by the authority of any officer or public body of the State, or of any political subdivision or district thereof, whether such political subdivision or district operates under a freeholder's charter or not.

Vis-à-vis the PWL, therefore, the only change wrought by Section 1720(b) (precursor to Section 1720(a)(2)) was the deletion of the word "construction" as a qualifier for the phrase "work done."[3]

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3 As discussed infra, the operation work carve-out in Section 1720(b), now Section 1720(a)(2), had no application to the PWL.

Respondents read far too much into this deletion. It is well-settled that as here, "a mere change of phraseology, or punctuation, or the addition or omission of words in the revision or codification of statutes, does not necessarily change the operation or effect thereof, and will not be deemed to do so *unless the intent to make such change is clear and unmistakable.*" *Childs v. Gross* (1940) 41 Cal.App.2d 680, 687-688 (emphasis supplied.)

"Usually a revision of statutes simply iterates the former declaration of legislative will. No presumption arises from changes of this character that the revisers or the legislature in adopting the revision intended to change the existing law; but the *presumption is to the contrary, unless an intent to change it clearly appears.* The reasons assigned are that the changes made by the revision may usually be accounted for by the desire to render the provisions more concise and simple, and to bring the laws into some system and uniformity..." *Childs, supra* at 688 (emphasis supplied.)

Certainly, missing from this case is the requisite "clear and unmistakable" indication from the Legislature that in codifying Section 1720(a)(2), it meant to stretch the scope of public work to cover the day-to-day operations of a public agency. Indeed, the Legislature's expression of intent is to the opposite effect – *i.e.*, that the 1937 codification is that the provisions of the code are mere restatements and continuations, and not new enactments. *Labor Code* §2. Respondents offer no compelling rationale for subverting that intent.

III. NEITHER THE INTENT NOR PURPOSE OF THE PWL SUPPORTS CONSTRUING SECTION 1720(A)(2) TO INCLUDE OPERATION WORK

Invoking public policy, Respondents contend that paying prevailing wages to non-public employees contracted to perform a public agency's operational work serves the PWL's purpose of ensuring "superior efficiency" through " well-paid employees" and of "compensate[ing] nonpublic employees with higher wages for the absence of job security and employment benefits enjoyed by public employees." [Answer Brief at 37.]

The PWL was enacted as a response to economic conditions during the Great Depression when an oversupply of workers allowed unscrupulous contractors to underbid local contractors for lucrative government building contracts by importing migratory labor and paying them wages far below local rates. *State Building & Construction Trades Council v. Duncan* (2008) 162 Cal.App.4th 289, 294; *Sansone, supra* 55 Cal.App.3d 434, 458 Fn.4.) California, following the federal government's footsteps, sought to stave off this erosion of area labor standards through the PWL.

The unusual nature of construction industry labor markets made them uniquely vulnerable to this type of predatory behavior. Employment with any given employer in the construction industry is typically short-term and intermittent. See *Associated Builders & Contractors, Inc. v. San Francisco Airports Com.* (1999) 21 Cal.4th 352, 359-360. Unlike most

employers, construction contractors have fluctuating workforces; they hire employees to meet the demands of a particular project and then discharge those employees when they are no longer needed.

In the absence of a prevailing wage law, contractors could continue to recruit cheap labor to underbid their competitors, and public work would place downward pressure on wages and benefits throughout regional labor markets. See *Lusardi Constr. Co. v. Aubry* (1992) 1 Cal.4th 976, 987 (prevailing wage law is intended "to protect employees from substandard wages that might be paid if contractors could recruit labor from distant cheap-labor areas.")

By contrast, there is little risk of this result from public agencies contracting out their operational work. Operational work, by its nature, is regular, steady and of longer duration. Of necessity, the employees for such endeavors – whether public or private - would likely have to be recruited from local markets at the area standard rates, without need for the compulsion of the PWL. Thus, the impetus to apply the PWL to avoid undermining area labor standards does not exist with public contracts for operational work.

Respondents claim that prevailing wages ought to be paid under Section 1720(a)(2) whenever the covered districts "transfer their statutory responsibilities to nonpublic employees." [Answer Brief at pp. 37-38.] In aid of this novel proposition, they cite to *Reliable Tree Experts v. Baker* (2011) 200 Cal.App.4th 785 and

Reclamation Dist. No. 684 v. Dept. of Indus. Relations (2005) 125 Cal.App.4th 1000. Neither case provides any backing for Respondents' proposition.

In *Reliable Tree*, plaintiff entered into a contract with the Department of Transportation ("Caltrans") for tree pruning and removal of diseased trees along state highways. Plaintiff argued that its work was not subject to the PWL because it was not construction work under Section 1720 and not maintenance work under Section 1771.

Section 1771, which provides for the payment of prevailing wages to all workers employed on public work, specifically extends its application to "contracts let for maintenance work." Plaintiff reasoned, however, that "its onetime contract does not qualify as maintenance because the great majority of the work under the contract involved tree removal." *Id.* at 786. The court disagreed, holding that the work was "maintenance work" because tree removal and pruning, are routine, recurring and usual activities for Caltrans. "Tree work on a Caltrans right-of-way is not a 'one time project' but an on-going task which requires the use of many contracts throughout the state." *Reliable Tree, supra*, 200 Cal.App.4th at 798.

In *Reclamation District No. 684, supra,* the disputed contract was between plaintiff Reclamation District and Holt Repair and Manufacturing, Inc. ("Holt"). Under the contract, Holt was to place 13,480 tons of earth fill and 400 tons of class 2 aggregate base on a levee to maintain it in a condition to

withstand flooding. *Id.* 125 Cal.App.4th at 1003. As in *Reliable Tree*, the court held the work subject to the PWL because it was maintenance work under Section 1771.

Quite plainly, these decisions can provide Respondents no succor as neither pinned the applicability of the PWL on the fact that the public agency involved had "transferred their core statutory responsibilities to nonpublic employees." Each decision was arrived at because the courts found in each case that the work involved consisted of maintenance work expressly covered by Section 1717.

IV. RESPONDENTS HAVE IDENTIFIED NO REASON FOR TREATING SPECIAL DISTRICTS MORE ONEROUSLY THAN OTHER PUBLIC AGENCIES UNDER THE PWL

In the Opening Brief, BBSI called attention to the fact that Respondents' version of Section 1720(a)(2) would impose upon special districts prevailing wage obligations far more onerous than that borne by any other public agency or political subdivision.

More particularly, under the view espoused by Respondents and the Court of Appeal, special districts would be liable for prevailing wages for all work done within their jurisdictions by any contract worker; without regard for the type of work being performed or how the work was paid for. In contrast, other government entities would bear the same prevailing wage

obligations only if the restrictive criteria in Section 1720(a)(1) *et. seq.* are met.

There is no reason for this drastic difference in treatment. The Answer Brief, ironically, has no answer to this issue. This alone furnishes ample ground to overturn the appellate decision. Legislative classification must rest upon some substantial and intrinsic difference which suggests a reason for and justifies the particular legislation. There is neither authority nor persuasive reasoning for the proposed arbitrary imposition of burdens upon special districts.

V. EXCLUSION OF OPERATION WORK FROM SECTION 1720(A)(2)'S AMBIT IS SUSTAINED BY THE PWL'S STATUTORY SCHEME, SUBSEQUENT HISTORY AND IMPLEMENTATION

Though Respondents concentrate their analysis on the statutory language, Section 1720(a)(2) cannot properly be construed in isolation. *Azusa Land Partners v. Department of Industrial Relations* (2011) 191 Cal.App.4th 1, 22; *State Building & Construction Trades Council v. Duncan* (2008) 162 Cal.App.4th 289, 294-295. Rather, it must be viewed in the context of the statute as a whole and in light of the overall statutory scheme. *Azusa, supra.* A proper interpretation of Section 1720, according to the court in *Duncan,* cannot be "reached by examining bits and pieces of the statute, but after a consideration of all parts of section 1720 in order that we may effectuate the Legislature's intent." *Duncan, supra* 162 Cal.App.4th at p. 310.

In keeping with the intent to benefit construction workers and considered as a whole, Section 1720(a), as originally enacted and modified over the years, evinces a legislative pattern of only including within the "public work" rubric, those activities which pertain or relate to "construction, alteration, demolition, installation, or repair" of public infrastructure. [See AOB at pp. 28-31.]

The same intent and pattern of limiting public work to construction and infrastructure-related activities is evident in the PWL's implementation. Under the PWL, the Department of Industrial Relations ("DIR"), the agency charged with its enforcement, is responsible for setting prevailing wage rates for each craft and geographic area. *Labor Code* §§ 1773, 1773.4, 1773.9; *Cinema West, LLC v. Baker* (2017) 13 Cal.App.5th 194, 205-206. The proper rate to be paid is established "according to the craft, classification or type of worker needed for the project in the particular locality in which the work is to be performed." *Department of Industrial Relations v. Nielsen Construction Co.* (1996) 51 Cal.App.4th 1016, 1020.

Prevailing rates and related scope of work provisions for the affected craft, classification or type of worker are regularly posted on the DIR's Web site by its Division of Labor Statistics and Research. *Sheet Metal Workers International Association, Local Union No. 104 v. Rea* (2007) 153 Cal.App.4th 1071, 1075. Contractors for public work projects are then required under the PWL to pay their employees at least the wages and benefits

determined by the DIR to be prevailing for the craft and geographic area. Significantly, the crafts and trades in the DIR's 2019 Prevailing Wage Rates only pertain to those in the building and construction industry, and do not include routine operators. [See https://www.dir.ca.gov/OPRL/2019-1/PWD/Southern.html.]

The PWL also requires contractors on public projects that employ workers "in any apprenticeable craft" to hire apprentices indentured in state approved programs to perform at least 20 percent of the work. *Labor Code* §1777.5(d), (g). The DIR likewise publishes apprentice prevailing wage rates at https://www.dir.ca.gov/DAS/PWAppWage/badentry.htm. Here, too, the listed occupations are confined to those involved in the construction and building trades, not routine operations.

If Respondents' version of Section 1720(a)(2) were to prevail and the appellate decision is allowed to stand, it would wreak havoc on these existing practices. Prevailing wages would have to be paid and concomitant rates would have to be determined by the DIR for a vast array of activities which in the PWL's nearly 90-year history have never been deemed public work, performed by personnel the PWL was never designed to protect.

Further, entire projects would become public work because of the mere fact that the project either lies within the boundaries of or are performed for a special district.

In *People ex rel. Lungren v. Superior Court* (1996) 14 Cal.4th 294, the California Supreme Court stated: "[W]here the

language of a statutory provision is susceptible of two constructions, one of which, in application, will render it reasonable, fair and harmonious with its manifest purpose, and another which would be productive of absurd consequences, the former construction will be adopted. In other words, where uncertainty exists consideration *should be given to the consequences that will flow from a particular interpretation.* A court should not adopt a statutory construction that will lead to results contrary to the Legislature's apparent purpose." *Id.* at 305 (emphasis supplied.)

Here, upholding the Court of Appeal's decision and adopting its analysis would upend entrenched interpretation and application of the PWL and industry practice to far-reaching and costly consequence unjustified by the PWL's purposes.

CONCLUSION

For the foregoing reasons, Defendants and Appellants respectfully request that this Court reverse the judgment of the Court of Appeal.

DATED: August 15, 2019

HINSHAW & CULBERTSON LLP

By: _____
Filomena E. Meyer
Attorneys for Defendants and Appellants
BARRETT BUSINESS SERVICES and MICHAEL ALVAREZ

CERTIFICATE OF COMPLIANCE WITH RULE 8.520

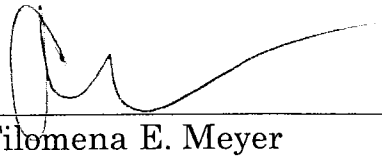
I, the undersigned, Filomena E. Meyer, declare that:

1. I am an attorney licensed to practice in all courts of the state of California and an attorney in the law firm of Hinshaw & Culbertson LLP.

2. This certificate of compliance is submitted in accordance with rule 8.520 of the California Rules of Court.

3. This brief was produced with a computer. It is proportionately spaced in 13 point Century Schoolbook typeface. The brief contains 4,614 words, including footnotes, as counted by Microsoft Word 2002, the word-processing program used to generate the brief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California on August 15, 2019.

By: 

Filomena E. Meyer
Attorneys for Defendants and Appellants

PROOF OF SERVICE

CASE NAME: KAANAANA, ET AL. V. BARRETT BUSINESS SERVICES, ET AL.
IN THE SUPREME COURT OF THE STATE OF CALIFORNIA
CASE NO. S253458

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I declare as follows: at the time of service, I was at least 18 years of age and not a party to the within action. I am a resident or employed in the county where the within-mentioned service occurred. My business address is 11601 Wilshire Blvd., Suite 800, Los Angeles, CA 90025

On August 15, 2019, I served the foregoing **REPLY BRIEF** on the following parties.

SEE ATTACHED SERVICE LIST

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

Executed this 15th day of August 2019, at Los Angeles, California.

Veronica Perez

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