No. S218734

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

HIROSHI HORIIKE, Plaintiff and Appellant, v. COLDWELL BANKER RESIDENTIAL BROKERAGE COMPANY, a California Corporation, and CHRIS CORTAZZO, an individual, Defendants and Respondents.	B246606 (Los Angeles County Super. Ct. No. SC110477)

CRC 8.25(b)

SUPREME COURT
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Deputy

REPLY IN SUPPORT OF PETITION FOR REVIEW

KLINEDINST PC
Neil Gunny, Esq., Bar No. 76639
777 S. Figueroa Street, Suite 2800
Los Angeles, California 90017
Telephone: (213) 406-1100
Facsimile: (213) 406-1101
ngunny@klinedinstlaw.com

GREINES, MARTIN, STEIN & RICHLAND LLP
Kent L. Richland, Esq., Bar No. 51413
*Edward L. Xanders, Esq., Bar No. 145779
David E. Hackett, Esq., Bar No. 271151
5900 Wilshire Boulevard, 12th Floor
Los Angeles, California 90036
Telephone: (310) 859-7811
Facsimile: (310) 276-5261
exanders@gmsr.com

Attorneys for Petitioners
Coldwell Banker Residential Brokerage Company
and Chris Cortazzo

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5900 Wilshire Boulevard, 12th Floor
Los Angeles, California 90036
Telephone: (310) 859-7811
Facsimile: (310) 276-5261
exanders@gmsr.com

Attorneys for Petitioners
Coldwell Banker Residential Brokerage Company
and Chris Cortazzo

TABLE OF CONTENTS

TABLE OF AUTHORITIES

TABLE OF AUTHORITIES
(Continued)

INTRODUCTION

Plaintiff Hiroshi Horiike's Answer to the Petition tries to evade review by pretending that the Opinion is simply "business as usual" and that the Petition is nothing more than the defendants' stubborn refusal to accept the obvious. The Answer is a smokescreen.

Horiike treats the Opinion as merely applying settled law to particular facts. But as the Petition explains, the Opinion rests entirely on a *first-impression* construction of Civil Code section 2079.13, subdivision (b), and that construction imposes dual agency obligations in a manner that directly contravenes long-settled agency law. It imposes *non-consensual* agency relationships on salespersons and their clients and effectively creates an unworkable doctrine of respondeat *inferior*.

Horiike also couches the Petition as nothing more than an attack on dual agency. That misconstrues the Petition's fundamental point: In a situation where a buyer or seller has chosen to have an *exclusive* salesperson bearing duties of confidentiality and undivided loyalty, the Opinion nullifies that choice mid-stream and *transforms* the exclusive salesperson into a dual agent whenever the salesperson on the other side ends up being from the same brokerage. Salespersons and their clients have always had the freedom to choose to have one salesperson represent both parties. But the forced, non-consensual, mid-stream dual agency effected by the Opinion is a startling, dangerous new regime that will severely impair intra-firm transactions.

As confirmed by amici supporting review, the California Association of Realtors (*the sponsor of the legislation at issue*), Sotheby's International Realty and the Civil Justice Association of California, the Opinion fundamentally changes existing law and will have disastrous consequences for California real estate consumers, brokerages and salespersons—an impact that cannot be what the Legislature intended.

Horiike tries to avoid this reality by labeling the statutory language "clear and unambiguous." But he ignores, as does the Opinion, that the statutory language supports the more reasonable interpretation that whatever duties a licensee owes a client are imputed to the broker, not vice versa. That is the only interpretation that comports with the surrounding statutory language, settled agency law, the legislative history and sensible public policy.

Granting review will not usurp the Legislature's authority, as the Answer argues. Rather, it will *protect* the legislative function by ensuring that Civil Code section 2079.13, subdivision (b), is applied as the Legislature intended.

If ever a case called for review, this is it.

REVIEW SHOULD BE GRANTED

I. THE PETITION PRESENTS AN IMPORTANT LEGAL QUESTION—ONE OF STATEWIDE IMPORTANCE THAT IMPACTS ANY POTENTIAL BUYER OR SELLER OF A CALIFORNIA RESIDENCE.

A. Horiike's Contention That The Petition Does Not Meet Review Standards Is Specious.

Horiike contends that "[t]he purported conflict in the case law urged by Petitioners to justify review simply does not exist." (Answer 12.) But the Petition does not claim there is a conflict in California case law. It explains that the published Opinion is a *case of first impression* in California—the first case to hold that "when the buyer and the seller in a California residential real estate transaction are each independently represented by a different salesperson from the same brokerage, each salesperson becomes a 'dual agent'—the fiduciary to *both* the buyer and the seller—by operation of law and without regard to the intentions of the parties or their salespersons." (Petition 1.)

This Court's review authority is not limited to "secur[ing] uniformity of decision." (Cal. Rules of Court, rule 8.500(b)(1).) It equally encompasses "settl[ing] an important question of law" (*ibid.*)—which is what granting review here will allow this Court to do.

Horiike makes noises about the Petition not identifying "any important issues of law that need to be addressed." (Answer 2, 11.) Seriously? As the Petition points out, residential sales across California and the entire country frequently involve different salespersons from the same brokerage firms on opposite sides. (Petition 13-14.) The Opinion potentially impacts *any* potential buyer or seller of a California residence who chooses a salesperson affiliated with a large brokerage. As the Petition expressly identifies, "intra-firm transactions are a recurring, important issue across California and the entire country." (Petition 14.)

This Court need not take Petitioners' word. The three amici urgently request review in light of the issue's statewide importance. (CAR 6/05/14 amicus letter, p. 2 ["The situation presented by this case is all too real and commonplace"]; Sotheby 6/10/14 amicus letter, p. 1 ["The issue raised is one of profound importance to residential buyers, sellers, and the real estate community . . . ."]; CJAC 6/25/14 amicus letter, p. 1 ["Left undisturbed, this opinion will substantially increase liability for real estate agents and significantly increase litigation and the price of real estate"].)

B. The Answer Ignores That the First-Impression Opinion Will Upend Intra-Firm Transaction Practice Across California And Is Out Of Step With The Prevailing View Across The Country.

In trying to characterize the Petition as much ado about nothing, Horiike accuses Petitioners of trying to "circumvent a clear statutory scheme that is in line with other jurisdictions that have addressed this issue." (Answer 15.) He claims that "other jurisdictions that have broached this issue have also held that a buyer may avail himself of a cause of action for breach of fiduciary duty against the seller's salesperson in an intra-firm transaction, albeit for different reasons." (Answer 14-15.)

What other jurisdictions? The Answer references only *one* jurisdiction as purportedly supporting Horiike's position, citing a lone decision by an intermediate Iowa appellate court, *Bazal v. Rhines* (Iowa Ct. App. 1999) 600 N.W.2d 327 (*Bazal*). (See Answer 15 fn. 4.)

No case cites *Bazal* for the proposition for which Horiike cites it. The decision's reasoning actually provides Horiike little support. In *Bazal*, a seller sued a buyer's realtor and his brokerage for failing to disclose a restrictive covenant limiting dog ownership, which purportedly caused the transaction not to close because the buyer had four dogs. Although the opinion contains language about the buyer's agent owing a fiduciary duty to the seller under a dual agency agreement, that language was not necessary to holding the buyer's agent liable. The court's reasoning emphasizes that the buyer's agent knew about the "dog clause" but "never informed *the*

[buyers] about it, but should have." (600 N.W.2d at p. 329, emphasis added.) It further emphasizes that realtors owe *non-fiduciary* ethical duties to disclose material facts to all parties and the buyer's broker therefore should have disclosed to all parties the "dog clause" and the buyer's dog-space needs. (*Ibid.*) *Bazal* did not consider the statutory question at issue here. Nor did it even consider an Iowa statute that allows brokers in intra-firm transactions to designate an affiliated licensee as the client's *exclusive* agent. (See Iowa Code, § 543B.59(1)-(2).)

The Answer does not and cannot identify a single statute from across the United States, or any case other than *Bazal,* that even remotely supports the Opinion's view. As the Petition explains and the Answer ignores, the standard view across the country is that where separate licensees from the same brokerage firm are involved in opposite sides of a residential transaction, "'each agent is supposed to be the fiduciary of a different principal and the brokerage erects a 'Chinese wall' to protect confidential information between the two agents.'" (Petition 14, citation omitted.) Twenty-eight states have enacted legislation accommodating intra-firm transactions by specifying that separate licensees from the same brokerage firm owe fiduciary duties only to the respective buyer or seller who retained them. (See statutes at Petition 24 fn. 4.)

Thus, notwithstanding Horiike's attempt to cast the Opinion as consistent with other jurisdictions, the Opinion's misreading of the relevant statute casts California as an outlier. In any event, the prevalence of non-California authority confirms what ultimately matters for review purposes:

The issue presented is important, worthy of review by this Court. (See *Moser v. Bertram* (1993) 115 N.M. 766, 768 [Supreme Court of New Mexico rejecting a home buyer's argument that "'all salespeople employed by a given broker must be bound by all of the fiduciary relationships of that broker'"].)

C. The Answer Ignores The Public-Policy Disaster That The Opinion's Newfound Fiduciary Duties Will Engender.

Horiike also tries to head off review by misleadingly couching the Opinion as nothing new. He asserts that the Court of Appeal "simply corrected the trial court's erroneous application of *established rules* governing duties to purchasers of residential property." (Answer 2, emphasis added; accord, *id.* at 16 [the Court of Appeal "correctly applied existing law to the facts before it"].) Nonsense.

As the Petition explains, the Opinion fundamentally alters California's real estate landscape. No California case has ever treated separate salespersons independently representing a buyer or seller as dual agents of both parties simply because they are affiliated with the same brokerage. (Petition 1-2, 16-24.) As the amici's letters confirm, the Opinion upends California law—it represents a fundamental change, not business as usual. (CAR 6/05/14 amicus letter, p. 10 ["This Court should accept review of the case below so that it can bring reason back to an industry affecting hundreds of thousands of Californians"]; Sotheby 6/10/14 amicus letter, p. 1 ["The *Horiike* decision represents a fundamental shift in

existing law and the structure of transactions where the buyer and seller are separately represented by independent salespersons who are affiliated licensees with the same broker"].)

In trying to downplay the Opinion's paradigm-changing significance, the Answer also ignores the Petition's explanation that the Opinion will trigger a public-policy disaster for real estate brokerage firms, salespersons, and potential buyers and sellers of California residences. Among other things, any time the salespersons representing a buyer or seller of a residence happen to end up being affiliates of the same brokerage firm, the sellers and buyers:

- will be deprived of their choice of a salesperson who can provide undivided loyalty;
- will be deprived of the ability to share sensitive information with their salesperson in confidence;
- will see confidential information harmfully disclosed to the other side after their salesperson transforms mid-stream in the transaction into a dual agent; and
- will face higher costs, or lose access to huge portions of the market, as brokers pass on higher insurance costs or forego intra-firm transactions to avoid the enhanced risks.

(Petition 17-22.) In addition, salespersons will face inherently conflicting duties exposing them and their brokerages to enhanced liability and potential ethical violations no matter what actions they take—and all entirely against their will. (Petition 21-23.)

The Answer does not deny any of this, nor offer any antidote. Instead, it tries to brush aside the Opinion's disastrous ramifications with the following assertion:

> To describe the action of the Court of Appeal as "deeply disruptive" is dramatic, perhaps, but also misleading. In sober truth the decision did this and no more: It applied the existing duties the law imposes on real estate agents and the proper contours of legal principles affecting fiduciaries to the specific facts of this case.

(Answer 11-12.)

But as the amici's letters yet again confirm, the only "sober truth" is that the Opinion—if it stands—will drastically change current practices and severely harm the interests of all residential-property buyers and sellers in California. (CAR 6/05/14 amicus letter, p. 6 ["This court-mandated dual agency can only lead to increased litigation, reduced coverage and greater risk to principals actually harmed – exactly the opposite of the intention of the Legislature in enacting current §§2079.13 et seq."], p. 9 ["Forcing buyers, sellers and brokers to pick among choices that all have nothing but negative consequences is unreasonable and cannot be what the Legislature had in mind"]; Sotheby 6/10/14 amicus letter, pp. 2, 4-6, 9.)

Public policy compels an immediate resolution of this issue.[1] Delay will potentially subject all Californians contemplating residential transactions to incurable harm.

II. THE PROPER CONSTRUCTION OF CIVIL CODE SECTION 2079.13, SUBDIVISION (B), IS AN ISSUE THAT CRIES OUT FOR THIS COURT'S REVIEW.

The proper construction of Civil Code section 2079.13, subdivision (b)—the sole basis for the Opinion's fiduciary-duty holding—is a pure legal question that only this Court can conclusively resolve. In trying to downplay this important statutory question, the Answer tries to cast the Opinion's holding as an obvious no-brainer. Not so.

A. The Opinion Does Not Address, And Squarely Conflicts With, Settled Agency Law.

In trying to transform the Opinion into something less review-worthy, the Answer brims with hyperbolic claims that the Opinion merely follows settled agency law. Horiike's theme is that the Court of Appeal's "thorough and carefully reasoned opinion is entirely consistent with settled

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[1] Horiike argues that these public-policy issues are irrelevant because the Legislature determines public policy, not the courts. (Answer 21-22.) That misses the point. The Opinion's public-policy ramifications demonstrate that it presents an important legal question that warrants review. In addition, it is this Court's job to determine what the Legislature intended in enacting a statute. The Opinion's harmful, absurd results strongly indicate that the Opinion's construction of section 2079.13, subdivision (b), is not what the Legislature intended. (See pp. 17-18, *post.*)

law on the subject of dual agency." (Answer 1; see also *id.* at 12 [the opinion merely "applied the existing duties the law imposes on real estate agents and the proper contours of legal principles affecting fiduciaries to the specific facts of this case"], 2, 16, 19 [same].)

The Opinion, however, does not track existing agency law. In fact, although respondent describes the Opinion as "thorough and carefully reasoned" (Answer 1), the Opinion contains no analysis whatsoever. The Opinion does not discuss whether its interpretation of section 2079.13, subdivision (b), comports with *any* existing agency-law precedent or principles (it doesn't). It does not consider, let alone discuss, any alternative construction. It does not discuss legislative history. Nor does it consider the implications of its holding on sellers, buyers, salespersons or brokers, or any public-policy ramifications.

Instead of a "thorough and carefully reasoned" analysis, the Opinion simply recites its interpretation of section 2079.13, subdivision (b), and calls it a day. The entirety of the Opinion's "reasoning" consists of the following:

> Under Civil Code section 2079.13, subdivision (b), the duty that Cortazzo owed to any principal, or to any buyer who was not a principal, was equivalent to the duty owed to that party by CB. CB owed a fiduciary duty to Horiike, and therefore, Cortazzo owed a fiduciary duty to Horiike.

(Opinion 8.) On this crucially-important issue, that is all the Opinion offers.

As the Petition explains, the Opinion's construction illogically assumes that the Legislature intended to enact a statute that conflicts with two long-settled principles of agency law.

First, the Opinion's construction diverges from settled agency law by imputing a principal's duties downward to its agents, a heretofore unknown and unworkable concept of "respondeat inferior." (Petition 26-28.)[2] The Answer musters no response. Instead, Horiike suggests pre-1986 law supports his dual-agency view because *Godfrey v. Steinpress* (1982) 128 Cal.App.3d 154 held the defendant-seller agent was a fiduciary of the buyer. (Answer 28.) *Godfrey* is inapposite, however, because the defendant there *agreed* to be the broker/agent for both the buyer and the seller. (128 Cal.App.3d at p. 178.) The Opinion, in contrast, involves the context of two different salespersons separately representing the buyer and the seller. Neither *Godfrey* nor any other case supports the Opinion's respondeat inferior concept.

Second, the Opinion diverges from settled agency law by forcing salespersons to become fiduciaries of individuals they never agreed to

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[2] As the Petition explains, the New Mexico Supreme Court applied settled agency principles in *Moser v. Bertram*, *supra*, 115 N.M. at p. 766, in rejecting the plaintiff's contention that the seller's agent owes a fiduciary duty to the prospective buyer if the seller's agent and buyer's agent "work for the same real estate broker." (*Ibid.*; Petition 27.) Horiike tries to confuse matters by citing *Moser*'s comment that the case did not involve a dual agency. (Answer 13.) That comment merely addressed that there was no dual agency *at the salesperson level* because different salespersons represented the buyer and seller. (115 N.M. at p. 768.) Horiike also strains to cast *Moser* as at odds with Petitioners' position. (Answer 13-14.) But *Moser* is directly on point and it squarely rejects Horiike's position. (See 115 N.M at pp. 767-769.)

represent—it creates court-ordered, non-consensual dual agency. (Petition 28-29.) The Answer tries to confuse matters by claiming the seller's salesperson Cortazzo executed agency disclosure documents confirming he was a dual agent. (Answer 23-24.) But the disclosure forms show no such consent. The only disclosure statements executed by Cortazzo and the buyer's salesperson Namba identified only *Coldwell*—the broker—as the dual agent; Cortazzo signed every disclosure and all other documents only as the seller's agent, and Namba signed them only as the buyer's agent. (1AA 154, 156, 169; Petition 7.) As the California Association of Realtors explains in its amicus letter, the disclosure statutes and statutorily-mandated forms focus on advising the buyer or seller about agency relationships *with the broker or brokers*, not the agency relationship with separate salespersons representing the buyer and seller who might happen to be affiliates of the same brokerage. (CAR 6/05/14 amicus letter, p. 5.)

Moreover, the notion that Horiike and Cortazzo agreed to a fiduciary relationship is absurd: Horiike and Cortazzo do not speak the same language and met only once. (Petition 6.) Horiike emphasizes that when his own attorney asked him at trial, "Who did you consider to be your real estate agent during this transaction?," he responded—without explanation— "I believe they are Coldwell Banker, Mr. Cortazzo and Ms. Namba." (6RT 2562-2563; see Answer 23, citing 6RT 2562-2563.) However, the complete trial record reveals that Horiike admitted in his deposition that he never asked Cortazzo to be his agent and that he "had nothing to do with" Cortazzo and "only met him once." (7RT 2823.)

Neither Horiike nor Cortazzo knowingly and willingly agreed that Cortazzo would be Horiike's fiduciary. The Opinion, rather, imposes a fiduciary relationship by operation of section 2079.13, subdivision (b), not by consent. Horiike, thus, proves Petitioners' point when he cites *Brown v. FSR Brokerage, Inc.* (1998) 62 Cal.App.4th 766, 768 for the proposition that dual agency is impermissible "without full disclosure and consent from both [principals]," and this concept is "codified in Civil Code section 2079.14 and 2079.15." (Answer 22-23, emphasis omitted.)

The only dual-agency consent here was at *the broker* level. (Cal. Real Estate Brokers: Law and Litigation (Cont.Ed.Bar 2013) § 3.22 [noting "[a] dual agency may exist, even though the principals are represented by different salespersons in different offices, if the salespersons are licensed under the same broker" and "[i]n such cases, the dual agency exists *at the broker level*"; emphasis added].)

At the salesperson level, Namba consented only to be the buyer's agent and Cortazzo consented only to be the seller's agent.[3] The Opinion foists non-consensual dual agency on the salespersons by operation of law. That scuttles settled agency principles. (Petition 28-29.)

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[3] In contrast, in *Brown*, the buyer and seller were not represented by separate salespersons—as in *Godfrey*, *supra*, the salesperson *chose* to represent both sides. (62 Cal.App.4th at pp. 772, 777.)

B. The Legislative History Demonstrates That The Legislature Did Not Enact Section 2079.13, Subdivision (b), To Address Intra-Firm Transactions.

Referring to the statute's legislative history, which Petitioners submitted by request for judicial notice (RJN) and by citing statutory notes, the Petition explains that the 1986 enactment did not focus on intra-firm transactions. (Petition 30-31, 34.) Instead, the central purpose was to ensure the disclosure of existing agency law, including redressing the problem that listing agreements typically made brokers representing a buyer a sub-agent of the seller, unbeknownst to buyers. (*Ibid.*) The amicus letter from the California Association of Realtors—*the sponsor of the subject litigation*—confirms the point. (CAR 6/05/14 amicus letter, pp. 4-6.)

Not only does Horiike take issue with the Petition's *correct* characterization of the legislative history, he goes so far as to claim:

> "Intra-firm" or "in-house" transactions were precisely why the Legislature introduced this legislation. The Legislature realized that there was the potential for abuse when huge conglomerate brokerage firms controlled the market because the consumer was not at arm's length.

(Answer 26.) *No* support whatsoever exists for this bald assertion. The legislative history does not contain a peep about "huge conglomerate brokerage firms" or intra-firm transactions. (See RJN 1-123; Historical and Statutory Notes, 10A West's Ann. Civ. Code (2014 ed.) foll. former § 2373; Petition 30-34.) Tellingly, the Answer does not mention the actual legislative history. It instead cites secondary authorities *that do not even*

address the legislative-history issue.[4] As confirmed by the legislation's sponsor, amici California Association of Realtors, the 1986 statutes were *not* focused on intra-firm transactions:

> Nearly 30 years ago, C.A.R. was a sponsor of the law at issue in this case. It was the third law designed to add clarity to the responsibilities of buyers, sellers and brokers in real estate transactions. It was not supposed to create a new form of agency, *respondeat inferior* as aptly described in the Petition for Review. The consequences of the court-created dual agency are unreasonable and absurd.

(CAR 6/05/14 amicus letter, p. 10.)

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[4] The Answer claims that "[s]ection 2079 was enacted in response to the growing confusion concerning 'the extent and nature of . . . California real estate licensees' legal responsibilities' when 'associated with the same real estate brokerage firm,'" quoting a student comment. (Answer 25, quoting Hayes, *The Practice of Dual Agency in California: Civil Code Sections 2373-2382* (1986) 21 U.S.F.L. Rev. 81 at pp. 81, 92.) The student comment does not say that. Horiike misleadingly shoves together phrases from different parts of the comment. (See *id.* at pp. 81, 92.) Although the comment discusses intra-firm transactions and brokers being dual agents, the author does not claim—nor provide authority for any such claim—that the Legislature specifically enacted the 1986 statutes to define the duties of separate salespersons affiliated with the same brokerage.

Nor do the other secondary authorities cited by Horiike claim the Legislature intended to address intra-firm transactions. (See Answer 24 [misleadingly stating that "[a] motivating factor that originally propelled this legislation was the fact that intra-company sales yield the greatest net profits for brokerages . . .," citing Olazabal, *Redefining Realtor Relationships and Responsibilities: The Failure of State Regulatory Responses* (2003) 40 Harv. J. On Legis. 65; the article says no such thing]; Answer 26-27 [misleadingly citing *A Reassessment of the Selling Real Estate Broker's Agency Relationship with the Purchaser* (1987) 61 St. John's L. Rev. 560, 563; the article does not discuss *any* California statutes].)

C. Section 2079.13 Does Not "Clearly And Unambiguously" Support The Opinion's Interpretation.

The Answer also claims that "[b]ecause the language is clear and unambiguous," this Court should not bother with review. (Answer 17; see also *id.* at 2, 18, 30.)

The Opinion rests, however, on a single sentence buried in section 2079.13, subdivision (b), that does *not* unambiguously support the Opinion's construction. In fact, as the Petition explains and the Answer ignores, the sentence can more sensibly be read as providing that associate licensees and brokers are in an agency relationship and therefore whatever duties a licensee owes are imputed to the broker. (Petition 34.) That construction comports with the surrounding statutory language, settled agency law, legislative history and rational public policy. (Petition 32-35.) The Opinion's construction, in contrast, renders portions of the provision illogical or nonsensical and imposes absurd results on intra-firm transactions. (Petition 16-23, 33.)

Horiike's repeated invocation of "clear and unambiguous" cannot defeat review. Even if the statutory language were crystal clear—and it is not—courts "'will not give statutory language a literal meaning if doing so would result in absurd consequences that the Legislature could not have intended.'" (*In re D.B.* (2014) 58 Cal.4th 941, 946; accord *Flannery v. Prentice* (2001) 26 Cal.4th 572, 578.) Courts must give statutory provisions:

> a reasonable and commonsense interpretation consistent with the apparent purpose and intention of the lawmakers, practical rather than technical in nature, which upon application will result in wise policy rather than mischief or absurdity. . . . The court should take into account matters such as context, the object in view, the evils to be remedied, the history of the times and of legislation upon the same subject, public policy, and contemporaneous construction.

(*Renee J. v. Superior Court* (2001) 26 Cal.4th 735, 744, internal quotation marks omitted.) Review is warranted to ensure a proper construction.

D. Review Will Protect, Not Usurp, The Legislature's Role.

Horiike argues that granting review will usurp the Legislature's role. (Answer 1-2, 22.) He has it backward: Review will *protect* the Legislature's role by ensuring section 2079.13, subdivision (b), is interpreted as the Legislature intended.

"[S]tatutory construction is a judicial function" and the "'[r]ight to construe a preexisting statute belongs to the judiciary.'" (*Honey Springs Homeowners Assn. v. Board of Supervisors* (1984) 157 Cal.App.3d 1122, 1137.) Although courts "may not usurp the functions of the legislative and executive branches," it is "'well established that it *is a judicial function to interpret the law. . . .*'" (*Nadler v. Schwarzenegger* (2006) 137 Cal.App.4th 1327, 1335, emphasis added.) Review is not only entirely proper, it is urgently needed.

CONCLUSION

For all the reasons above and in the Petition, review should be granted. Delay in resolving this issue will severely harm potential buyers and sellers of California residences and their brokers and salespersons.

Dated: June 30, 2014

Respectfully submitted,

KLINEDINST PC
Neil Gunny

GREINES, MARTIN, STEIN & RICHLAND LLP
Kent L. Richland
Edward L. Xanders
David E. Hackett

By: Edward L Xanders
Edward L. Xanders

Attorneys for Petitioners
Coldwell Banker Residential Brokerage Company and Chris Cortazzo

CERTIFICATE OF COMPLIANCE

Counsel of Record hereby certifies, pursuant to California Rules of Court, rule 8.504(d)(1), that the **REPLY IN SUPPORT OF PETITION FOR REVIEW** contains **4,155** words, not including the tables of contents and authorities, the caption page, signature blocks, or this Certification page.

Dated: June 30, 2014

Edward L Xanders

Edward L. Xanders

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 5900 Wilshire Boulevard, 12th Floor, Los Angeles, California 90036.

On June 30, 2014, I served the foregoing document described as: **REPLY IN SUPPORT OF PETITION FOR REVIEW** on the parties in this action by serving:

Victor Nathaniel Pippins, Jr
401 West "A" Street
Suite 2600
San Diego, California 92101
Appellate Counsel for Plaintiff

David W. Macey
Law Offices of David W. Macey, P.A.
135 San Lorenzo Avenue, PH-830
Coral Gables, Florida 33146
Appellate Counsel for Plaintiff

Robert J. Shulkin
The Law Department
Coldwell Banker Residential Brokerage Company
5161 California Avenue, Suite 250
Irvine, California 92617
Co-Counsel for Defendant/Respondent

Neil D. Kalin
California Association of Realtors
525 South Virgil Avenue
Los Angeles, California 90020
Counsel for Amicus Curiae California Association of Realtors

Fredric W. Trester
Darin L. Wessel
Manning & Kass Ellrod, Ramirez, Trester LLP
550 W. C Street, Suite 1900
San Diego, California 92101
Counsel for Amicus Curiae Sotheby's International Realty

Fred J. Hiestand, General Counsel
The Civil Justice Association of California
2001 P Street, Suite 110
Sacramento, California 95811
Counsel for Amicus Curiae The Civil Justice Association of California

Hon. John H. Reid
Los Angeles County Superior Court
1725 Main Street
Santa Monica, California 90401-3299
[LASC Case No. SC110477]

Clerk of the Court
California Court of Appeal
Second Appellate District, Division Five
300 South Spring Street
Los Angeles, California 90013
[Electronic Service]

(X) BY MAIL: As follows: I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with United States Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

Executed on June 30, 2014, at Los Angeles, California.

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

Anita F. Cole