S193493

In the

Supreme Court

of the

State of California

NANCY CEJA et al.,

Plaintiffs and Appellants,

v.

RUDOLPH & SLETTEN, INC.,

Defendant and Respondent;

PHOENIX CEJA et al.,

Respondent.

CALIFORNIA COURT OF APPEAL · SIXTH APPELLATE DISTRICT · CASE NO. H034826
SANTA CLARA COUNTY SUPERIOR COURT · HON. MARY JO LEVINGER
CASE NOS. CV112520 AND CV115283

REPLY TO ANSWER BRIEF ON THE MERITS

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I. This Court should adopt an objective standard for putative spouses.

A. The cases on point evaluate "good faith belief" using an objective test.

The Answer Brief filed by Respondent Nancy Ceja ("Nancy"), is noteworthy for what it does *not* contain.

To begin with, Nancy cites no case law to support her argument that a sincere belief in a marriage's validity is, without more, sufficient to establish "good faith" for purposes of the putative-spouse doctrine. Other than the decision appealed from, she does not cite a single case in which a court analyzed a putative spouse's "good faith" by using a subjective, rather than an objective, standard.

Nancy has not cited such authority because there is no such authority. With the present case excluded, all the California decisions addressing the issue—from *In re Marriage of Vryonis* (1988) 202 Cal.App.3d 712, to the present—have used an objective test for determining when an alleged putative spouse has a "good-faith belief" in the validity of her marriage.[1] As have California's sister community-

[1] *See In re Marriage of Vryonis* (2d Dist. 1988) 202 Cal.App.3d 712; *In re Marriage of Xia Guo and Xiao Hua Sun* (2d Dist. 2010) 186 Cal.App.4th 1491; *In re Marriage of Ramirez* (4th Dist. 2008) 165 Cal.App.4th 751; *Welch v. State of California* (5th Dist. 2000) 83 Cal.App.4th 1374; *Estate of DePasse* (6th Dist. 2002) 97 Cal.App.4th. 92. *See also In re Domestic Partnership of Ellis & Aiaga* (4th Dist. 2008) 162 Cal.App.4th 1000.

property states.[2] If the Court of Appeal's ruling is left standing, California will be the lone jurisdiction to use a subjective test for "good faith belief."

The best authority that Nancy can muster are the cases *Figoni v. Figoni* (1931) 211 Cal. 354, and *Kunakoff v. Woods* (1958) 166 Cal.App.2d 59. Nancy claims that the putative marriages in these cases would have failed an objective test—*if* the issue had been raised. (Br. at 10-12). But this is just Nancy's speculation about what the courts in those cases *might* have done *if* they had used an analysis they apparently never considered. That is no substitute for an actual precedent holding that courts should use a subjective standard instead of an objective standard when evaluating putative-spouse issues.

Not only does Nancy fail to cite any cases that advocate a subjective approach to the "good faith belief" of a putative spouse, her brief completely ignores the long line of cases from other jurisdictions that analyze the issue using an objective approach. These cases, which R&S cited and discussed at pages 16-18 of its opening brief, unanimously hold

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[2] *See, e.g., Succession of Pigg* (La. 1955) 84 So.2d 196, 197 ("It is well settled that the good faith referred to in these Articles [relating to putative spouses] means an honest and reasonable belief that the marriage was a valid one at the time of its confection."); *Garduno v. Garduno* (Tex. Ct. App. 1988) 760 S.W.2d 735, 740 ("[W]hen the putative spouse is aware that a former marriage existed at one time, the question becomes one of the reasonableness of that party's belief that the former marriage has been dissolved."); *Hicklin v. Hicklin* (Neb. 1994) 509 N.W.2d 627, 631 ("Good faith, in the context of a putative marriage, means an honest and reasonble belief that the marriage was valid at the time of the ceremony. . . . [A] party cannot close his or her eyes to suspicious circumstances."); *Williams v. Williams* (Nev. 2004) 97 P.3d 1124, 1128 ("'Good faith' has been defined as an honest and reasonable belief that the marriage was valid.").

that—in the putative-spouse context—"good faith belief" has an objective-reasonableness component.[3]

As the decisions from other states explain, a would-be putative spouse "cannot close . . . her eyes to suspicious circumstances." *Hicklin v. Hicklin* (Neb. 1994) 509 N.W.2d 627, 631. A party's "negligent failure to ascertain a fact" about her fiancé's marital status will preclude putative-spouse status where the overlooked fact is of "easy ascertainment." *Walker v. Walker* (Tex. Civ. Ct. App. 1911) 136 S.W. 1145, 1148. And "when the putative spouse is aware that a former marriage existed at one time, the question becomes one of the reasonableness of that party's belief that the former marriage has been dissolved." *Garduno v. Garduno* (Tex. Ct. App. 1988) 760 S.W.2d 735, 740. The relevant case law, in short, establishes that those who assert putative-spouse status "cannot act blindly or without reasonable precaution."[4] *Williams v. Williams* (Nev. 2004) 97 P.3d 1124, 1128.

These principles have been settled for over a century and are now black-letter law. *See, e.g.*, 52 Am. Jur. 2d Marriage § 91 ("The term 'good

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[3] Nancy disparages the objective standard as "some rigid test based on the hypothetical actions of a 'reasonable man.'" (Br. at 3). The reasonable-man standard is not an unusual or rigid standard. To the contrary, it is a mainstay of Anglo-American jurisprudence and appears in countless legal contexts. Moreover, numerous courts have applied this standard without difficulty in the putative-spouse context. There is no basis for Nancy's suggestion that an objective standard is unusually onerous or rigid.

[4] In her brief, Nancy claims that "there is *no* case law which says that 'inquiry notice' is the test." (Br. at 14). This statement is not accurate. To the contrary, the putative-spouse cases unanimously hold that parties cannot act blindly, without reasonable precaution, or in ignorance of easily ascertainable facts. *See infra* at pages 15-17. This is precisely the inquiry-notice standard that Nancy claims is absent.

faith,' when used in connection with a putative marriage, means an honest and reasonable belief that the marriage was valid."). Nancy's argument for a subjective standard, by contrast, does not have a case-law leg to stand on.

B. The Answer Brief's statutory analysis is unsound.

Nor does Nancy's Answer Brief present any cogent statutory-interpretation arguments.

To begin with, Nancy's construction of Code of Civil Procedure § 377.60(b) suffers from the same deficiencies as the Court of Appeal's analysis. As R&S pointed out in its opening brief, the Court of Appeal's decision effectively equated "believed in good faith" with "believed"—thereby rendering meaningless the qualifying phrase "in good faith." This violates the interpretive canon that courts should avoid constructions that render statutory terms superfluous. Thus, R&S observed, the Court of Appeal's analysis must be wrong.

Nancy responds to R&S's argument by committing the same error as the Court of Appeal—only more blatantly. She states in her brief that "'believed in good faith' . . . requires only a finding of 'belief.'" (Br. at 8). Yet if, as Nancy argues, "believed in good faith" requires only a finding of belief, then the phrase "in good faith" is wholly superfluous. The phrase could be stricken from the statute without altering its meaning. So Nancy's interpretation of the statute cannot be correct.

Elsewhere in her brief, Nancy accuses the trial court of "engrafting" an objective standard onto § 377.60(b). (Br. at 5, 7-8). The problem with this argument is that "believed in good faith" is not self-defining. Thus, treating the phrase as imposing a subjective standard—which is what Nancy does in her brief—is just as much an "engrafting" on the statute as is

treating it as imposing a objective standard. The "engrafting" argument therefore provides no principled basis for this Court to choose one construction over another.

Nancy also attempts to distinguish *Vryonis* by pointing out that *Vryonis* was a marital-dissolution case, not a wrongful-death case, and involved a different statue. This is a distinction without a difference. In both contexts, the issue is whether a party was a putative spouse. And the statutory definition of "putative spouse" in the marital-dissolution context is identical to the statutory definition of "putative spouse" in the wrongful-death context. *Compare* Family Code § 2251[5] *with* Code of Civil Procedure § 377.60. Both definitions require a finding that the would-be putative spouse "believed in good faith that the marriage was valid." So the holding in *Vryonis* is relevant to the present case.[6]

Nancy's argument also ignores the fact that—under the *in pari materia* doctrine—terms in statutes that cover the same issues should be harmonized. *Lexin v. Superior Court* (2010) 47 Cal. 4th 1050, 1091 ("Two statutes are considered to be *in pari materia* when they relate to the same person or thing, to the same class of person[s or] things, or have the same purpose or object.") (citations and quotation marks omitted) (brackets in original). Section 377.60(b) is *in pari materia* with the statute governing rights of putative spouses in a divorce, as both statutes "relate to the same class of person[s or] things" (i.e., putative spouses) and both statutes "have the same purpose or object" (i.e., affording putative spouses with certain of

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[5] At the time *Vryonis* was decided, this was codified as Civil Code § 4452.

[6] And as stated *infra*, later cases from the Courts of Appeal have used an objective standard when analyzing wrongful-death claims. *See infra* at 7.

the rights of married persons). Thus, the two statutes should be harmonized, with identical phrases being construed identically.

Nancy likewise fails to provide any rationale for why this Court should construe the phrase "believed in good faith that the marriage was valid" differently in similar legal contexts. Nor can she. Inconsistent interpretations would lead to confusion and absurd consequences. The very same person could be deemed a putative spouse for purposes of a wrongful-death statute, but not a putative spouse for a divorce. And there might even be a third interpretation of "putative spouse" in the probate context. There is no reason why the same concept—using the same language, covering the same people, and accomplishing the same policy objectives—should be applied differently in these similar contexts. Nancy's invitation for the Court to do so should be seen for what it is: a request to make an *ad hoc* exception to save her particular case.

Finally, Nancy makes a similar argument to oppose R&S's argument—on pages 23-24 of its opening brief—that the Legislature tacitly approved *Vryonis's* objective interpretation when it later amended the Family Code and the wrongful-death statute without amending the definition of putative spouse. She claims that this is immaterial, as *Vryonis* was not a wrongful-death case and it involved then-Civil Code § 4522, not Code of Civil Procedure § 377.60. (Br. at 13).

This argument fails for two reasons. First, as explained above, the two statutes cover similar issues and so should be treated *in pari materia.* Second, and more to the point, California courts have—since at least 1989—used an objective standard to evaluate putative-spouse status *in wrongful death claims* under § 377.60 and its predecessor. *See Centinela Hosp. Med. Ctr. v. Superior Court* (1989) 215 Cal.App.3d 971, 975-76; *Welch v. State of California* (2000) 83 Cal.App.4th 1374, 1378. And as

R&S pointed out in footnote nine of its opening brief, the Legislature has amended the wrongful death statute four times since *Centinela* was decided in 1989. Yet it failed to change the statutory requirements for putative spouse. Thus, the Legislature can be deemed to have assented to the construction placed on the statute by *Centinela Hospital* and *Welch*.

C. The Answer Brief offers no legitimate policy reasons for choosing a subjective standard over an objective standard.

Nancy's brief is equally devoid of more general policy arguments to support her position.

As R&S pointed out in its opening brief, it is sound public policy to construe "believed in good faith" as requiring both: (1) an actual belief that the marriage was valid, and (2) a reasonable belief that it was valid. Doing so protects the innocent without rewarding the negligent. A purely subjective standard, by contrast, gives parties no incentive to take care that they effect their marriages validly. And that, in turn, will generate further unreasonable errors—eroding the institution of marriage and resulting in ever more putative-spouse claims.

Nancy responds to this argument by saying that the putative-spouse doctrine is founded on principles of "simple justice" and that public policy treats marriage "with especial favor." (Br. at 25-26). She claims that the putative-spouse doctrine is designed to protect the "innocent." (Br. at 21-22). And she argues that R&S's objective construction of "believed in good faith" would require a citizen to know all the ins and outs of marriage law to ensure that his or her marriage was valid. (Br. at 21).

These arguments are unfounded. As an initial matter, Nancy attacks a straw man. An objective test does not require *perfection* on the part of the would be putative spouse—only *ordinary prudence*. And the putative-

spouse cases are clear that where, as here, a person knows that her fiancé was previously married, she must take reasonable steps to assure herself that the prior marriage is terminated before the wedding: "when the putative spouse is aware that a former marriage existed at one time, the question becomes one of the reasonableness of that party's belief that the former marriage has been dissolved." *Garduno v. Garduno* (Tex. Ct. App. 1988) 760 S.W.2d 735, 740.

Contrary to Nancy's arguments, reasonable care does not demand that the would-be putative spouse be a "sophisticated, highly educated individual." (Br. at 20). The legal principle at issue in this case is an elementary one: a woman cannot marry a man who has not yet divorced his first wife. This is not rocket science—or even the rule against perpetuities.

Nor need the would-be putative spouse undertake a lengthy or complicated factual investigation. Here, all Nancy needed to do was to ask her fiancé about the status of his prior marriage, or—if this was not possible or if no answer was immediately forthcoming—to check the relevant public records. Indeed, this was exactly the information that the marriage-license form prompted her and Robert to provide. It is not unfair or unjust for society to require parties who wish to enjoy the benefits of marriage to possess common sense and to undertake some minimal effort.

Nancy's invocation of broad principles of "innocence" and "simple justice" is both unhelpful and question-begging. The ultimate issue presented in this case is, after all, whether courts may justly require that persons who wish to avail themselves of the benefits of the putative-spouse doctrine act with reasonable care. And the answer to that question—repeated in the numerous decisions on point—is a clear "yes." Indeed, until the Court of Appeal's decision in the present case, *every* court that had addressed the issue had required that a would-be putative spouse act

reasonably. Put differently, a person who acts negligently in entering into an invalid marriage is not an "innocent" person in the eyes of the putative-marriage doctrine. *See* Raj Rajan, The Putative Spouse in California Law, 11 J. CONTEMP. LEGAL ISSUES 19 (2000) ("The concept of innocence for which most courts reach in pondering good faith is that of the ordinary person who would reasonably believe that the marriage was truly valid.").

Equally unavailing are Nancy's general appeals to the societal importance of marriage. Legal institutions, like marriage, are defined by sets of rules. Those rules, in turn, derive their force from the consequences of their non-observance. An institution dies if society no longer enforces the rules that constitute it. A purely subjective putative-spouse standard would mean that *no* adverse consequences would flow from a party's negligent disregard of the legal rules defining marriage. That would erode, not preserve, the institution of marriage. Thus—contrary to Nancy's arguments—an appeal to the societal importance of marriage is an argument *for* an objective standard, not against it.

Nancy, however, claims that these concerns are "overblown" because "the finder of fact will act as a gate-keeper," and recognize only those putative-spouse claims that are supported by the evidence.[7] (Br. at

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[7] Nancy also claims that she does not advocate a purely subjective standard—that a finding of good-faith belief often depends on the particular circumstances of a given individual and on the credibility of witnesses. (Br. at 3). Nancy is conflating (1) the fact to be established in a subjective test (i.e., whether or not a would-be putative spouse actually believed that the marriage was valid), with (2) the proof needed to establish that fact (e.g., the would-be putative spouse's testimony and what other facts she knew at the time). Factfinders are not mindreaders. So even under a purely subjective standard, a would-be putative spouse would have to prove her beliefs through extrinsic evidence—including her own testimony about her beliefs and what else she knew at the relevant time. This would be

(note continued on following page . . .)

22, 24). But the problem with the subjective standard is substantive, not procedural. As a matter of *substantive* law, it would confer putative-spouse status on a person who (1) acted in negligent disregard of the facts, yet (2) believed that she had a valid marriage.

This problem would remain even if the claimant's assertion is tested by the most demanding "gate-keeper," applying the most exacting standard of review, and employing the most stringent evidentiary rules. The subjective standard's flaw is substantive: it attaches no adverse consequences to a party's negligent disregard of facts that, to any reasonable person, would reveal a marriage to be invalid. Such a standard would be corrosive to the legal institution of marriage. Contrary to Nancy's argument, no "gate-keeper" can repair this substantive problem.

* * *

Nancy's arguments for a subjective putative-spouse standard have no support in the case law, in the general principles of statutory interpretation, or in the public policies underlying marriage. This Court should reject those arguments, and should join the other community-property jurisdictions, which all interpret "good-faith belief" to have an objective-reasonableness component.

(. . . note continued from previous page)
vulnerable to attacks on the would-be putative spouse's credibility. But this would still be a purely subjective test, as it would depend, as a substantive matter, only on what the would-be putative spouse believed, not on the reasonableness of those beliefs.

II. Nancy's willful blindness to suspicious circumstances rendered any belief in the validity of her marriage unreasonable.

Applying an objective standard to the undisputed facts in this case show that Nancy was—as best—willfully blind to suspicious circumstance that, to any reasonable person, would have revealed her marriage to be invalid. Her belief in a valid marriage therefore was not reasonable. Because Nancy did not have a reasonable belief in the validity of her marriage, she did not qualify as a putative spouse.

Responding to these points, Nancy claims that a factfinder should have decided the question. Yet Nancy does not dispute the following key facts:

- Before marrying Robert, Nancy knew that he had been married before. (AA II: 348).
- Until after his death, Nancy never determined precisely when Robert was divorced from his first wife.[8] (AA II:349).

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[8] In her brief, Nancy claims that the record is unclear about whether Robert had assured her that his divorce was final, claiming that "Nancy has not been asked that question here, or allowed even to testify." (Br. at 19). She thereby suggests that she has been deprived of an opportunity to present relevant facts.

This is false. Nancy was deposed. And in opposing R&S's summary judgment, Nancy filed a Declaration. (AA II:347-50). If—on the eve of their marriage—Robert had lied to Nancy and told her that his divorce was final, then Nancy could have, and should have, included this fact in her Declaration. But she did not do so. In ruling on R&S's summary judgment motion, the Trial Court was under no obligation to guess what additional facts Nancy might have had up her sleeve. Nancy needed to lay her cards on the table.

- The Marriage License and Certificate falsely states that Robert had never been married before and contains blanks for when and how any prior marriage was terminated. (AA I:157).

- Nancy signed the Marriage License and Certificate, thereby attesting that—to the best of her knowledge—the statements on the application were true. (AA I:157).

- Robert did not finalize his divorce until three months *after* Robert and Nancy's wedding. (AA I:159-61).[9]

- The cover of the final divorce decree stated, in bold capital letters, that Robert could not marry until his divorce was final. (AA I:159).

- After Robert obtained his final divorce, Nancy faxed the decree to Robert's union—though she claims not to have looked at the document. (AA I:147).

These facts are either unrebutted or affirmatively admitted by Nancy in her deposition testimony and affidavit.[10]

The undisputed facts are fatal to Nancy's claim. A reasonable person would *not* have acted the way Nancy did. A reasonable person—knowing that her fiancé had previously been married—would have asked

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[9] Nancy's brief incorrectly states that Robert's marriage to Christine was "formally dissolved . . . one month" after Robert and Nancy's September 27, 2003 wedding. (Br. at 1). In fact, the divorce was not final until December 31, 2003.

[10] In footnote three of her brief, Nancy states that R&S's summary judgment motion "relied on an implicit discrediting of Nancy's statements." This is not so. The summary judgment motion was based on the undisputed facts. R&S assumed, for purposes of the motion, that Nancy believed that her marriage was valid. (AA I:68; II:526). But it argued that such belief, even if sincere, was unreasonable and, hence, not a "good faith belief" for purposes of the putative-marriage doctrine. (*Id.*).

him when his divorce had become final. A reasonable person would review a Marriage License and Certificate before signing it. A reasonable person, seeing her fiancé's false statement on the license that he had not been married before, would have demanded an explanation. A reasonable person would be suspicious about why the decree that finalized the divorce for her husband's first marriage did not arrive in the mail until three months *after* her wedding to him. A reasonable person would have demanded to know when the divorce became final. At the very least, a reasonable person—holding the divorce decree in her hands and faxing a copy to her husband's benefits administrator—would have glanced at it to see when the divorce became final. Nancy, however, did none of these things. And her marriage was, in fact, invalid.

Where, as here, a party to an invalid marriage turns a blind eye to suspicious circumstances, that party cannot claim putative-spouse status. *In re Marriage of Ramirez* (2008) 165 Cal. App. 4th 751, 757; *Spearman v. Spearman* (5th Cir. 1973) 482 F.2d 1203, 1207; *Walker v. Walker Estate* (Tex. Civ. App. 1911) 136 S.W. 1145, 1148. *See also Williams v. Williams*, 120 Nev. 559, 565-66, 97 P.3d 1124, 1128 (2004) (holding, in putative spouse context, that "[p]ersons cannot act 'blindly or without reasonable precaution.'") (quoting *Garduno v. Garduno*, 760 S.W.2d 735, 740 (Tex. App. 1988)).

In *Ramirez*, a divorce case from the Fourth Appellate District, the parties were married in Moreno Valley by an official from State of Jalisco, Mexico. The official issued a marriage license—an "Acta de Matrimonio"—that recited, incorrectly, that the marriage was performed in Jalisco. The court held that this false statement was "enough to put a reasonable person on notice that the marriage license, and hence the marriage itself, was not valid." 165 Cal. App. 4th at 757. Thus, it held that

the husband was not a putative spouse as to that marriage. *See also In re Marriage of Xia Guo and Xiao Hua Sun* (2010) 186 Cal.App.4th 1491, 1498 (holding that husband who failed to mention a prior, undissolved, marriage on marriage license did not have a good faith belief in the validity of his marriage).

In *Spearman*, a life-insurance case, the would-be putative spouse married the decedent even though she knew that he had had children by another woman, that those children had taken his name, that the other woman had secured a support decree, and that the insured periodically returned to this woman's home on vacations. The United States Court of Appeals for the Fifth Circuit—applying and predicting California law[11]—held that, in light of this constellation of facts, the would-be putative spouse's belief in the validity of her marriage was not objectively reasonable. 482 F.2d at 1207. Her consequent failure to take any "steps to perfect her marital status" negated her alleged good-faith belief in the validity of her marriage. *Id.* The mere fact that she did not believe her marriage to be invalid did *not* suffice to confer putative-spouse status upon her.

In *Walker*, a probate case, the would-be putative spouse had previously been married. Her first husband had sued for divorce, but the suit was dismissed for failure to prosecute. The first husband, however, told her that the divorce was granted. The would-be putative spouse did not verify this—even though she lived "within a few hundred yards" of the courthouse. Relying upon her first husband's assertion that the divorce had been granted, she married decedent. The Texas appellate court held that the

[11] The second marriage occurred in Monterey County, California, and the decedent obtained his life-insurance policy while in California.

woman was not the decedent's putative spouse because she did not make any effort to confirm her divorce from her first husband:

> Good faith, we think, cannot be predicated upon negligent failure to ascertain a fact which was of so much importance to her, and which was of such easy ascertainment. We therefore concur with the trial court in its holding that the second marriage was not in good faith.

136 S.W. at 1148.

In the present case, the effort that Nancy needed to make to determine the status of Robert's divorce was small compared with the actions the courts demanded of the parties in *Ramirez, Spearman* and *Walker*. She did not need to check the records of a distant jurisdiction or even walk "a few hundred yards." All she needed to do was glance down at documents—the marriage license and Robert's divorce decree—that literally were staring her in the face.[12] Alternatively, she could have asked Robert, her fiancé, when his divorce had become final.[13] Because she did

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[12] Nancy claims that the events occurring after the wedding (e.g., the faxing of Robert's divorce decree) were not germane to the putative-spouse inquiry. This is false. Putative-spouse status lasts only until the party learns, or should have learned, that the marriage was invalid. *See, e.g., Gallaher v. State Teacher's Retirement Sys.* (1965) 237 Cal.App.2d 510, 520 (holding that putative-spouse status ceased if party learned, after her marriage, that husband's divorce might not have been final at the time of party's marriage); *Lazzarevich v. Lazzarevich* (1948) 88 Cal. App. 2d 708, 718-19 (holding that putative-spouse status ceases once party learns that marriage was invalid); *Burks v. Apfel* (10th Cir. 2000) 233 F.3d 1220, 1224 (same) (applying California law). Thus, Nancy's actions in handling Robert's divorce decree are relevant to the putative-spouse inquiry.

[13] *See supra* note 8.

neither of these things, she lacked the requisite "good faith" that the law requires of a putative spouse.

Nancy, however, defends her conduct by claiming that she and Robert went through the motions of a valid marriage—obtaining a marriage license and conducting a public ceremony. She thereby attempts to distinguish the present case from *Vryonis*. (Br. at 16-17). But the mere fact that Nancy and Robert went though the motions of a valid marriage did not make Nancy's actions reasonable—as noted above, she ignored obvious red flags that should have alerted her to the problems with the marriage. Although her particular circumstances were different, Nancy's actions were no more reasonable than the parties' actions in *Vryonis*. To paraphrase Tolstoy—"good faith" marriages are all alike; marriages lacking "good faith" are each different in their own peculiar way.

Indeed, Nancy's position on the marriage-license issue is incoherent. On one hand, Nancy claims that the legal institution of marriage is important and that it is significant that she and Robert took steps to obtain a marriage license. Yet when Nancy actually participated in this process, she claims that she did not review the license "in any detail" and that she "simply signed the document." (AA II:348). In other words, Nancy did not then believe the marriage-license process was important enough to warrant the minimal effort of glancing down and reviewing the facts represented on the license—facts as to the truth of which she attested by signing the document. Blindly going through the procedural motions of a lawful marriage does not make Nancy's actions reasonable. By not paying attention to steps that she now claims are important, Nancy showed a reckless disregard for the legal requirements of a valid marriage.

The facts of this case illustrate why it is so important that parties do *not* act with willful blindness when applying for a marriage license. Had

Nancy reviewed the (very short) form that she and Robert signed, she would have seen that there was a misstatement to the clerk regarding Robert's prior marital status. But Nancy knew that Robert had been married before. So this misstatement should have alerted her to the problem that Robert had not yet been validly divorced. And that, in turn, would have enabled Robert and Nancy to cure the problem promptly—either by delaying their wedding to allow time for Robert to finalize his divorce from Christine or by later conducting a smaller, official, ceremony to correct the error. Instead, they did nothing, giving rise to a legal morass.

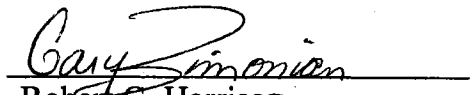
The putative-marriage doctrine is designed to protect persons who, through no fault of their own, enter into invalid marriages. It is not intended to save parties from the consequences of their own negligence. Because Nancy willfully disregarded suspicious circumstances that would have alerted any reasonable person to the potential invalidity of her marriage, she did not "believe[ ] in good faith that the marriage to the decedent was valid." Code of Civil Procedure § 377.60. Accordingly, she was not a "putative spouse," and so lacked standing to bring a wrongful death claim.

CONCLUSION

For the foregoing reasons—and for the reasons stated in Petitioner's opening brief—this Court should reverse the decision of the Court of Appeal and remand with instructions that the Trial Court judgment be affirmed and the case dismissed.

DATED: January 4, 2012

RESPECTFULLY SUBMITTED
LECLAIRRYAN, LLP

By: 
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DATED: January 4, 2012

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For the Hon. Mary Jo Levinger,

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