Case No. S250047

IN THE SUPREME COURT OF CALIFORNIA

NATIONWIDE BIWEEKLY ADMINISTRATION, INC.; LOAN PAYMENT ADMINISTRATION, LLC; DANIEL LIPSKY,

Petitioners,

v.

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF ALAMEDA,

Respondent,

THE PEOPLE OF THE STATE OF CALIFORNIA

Real Party in Interest.

First Appellate District, Division 1, Case No. A150264
Superior Court, County of Alameda, Civil Case No. RG15770490

CONSOLIDATED ANSWER TO *AMICI CURIAE*

*Nathaniel Garrett (SBN 248211)
JONES DAY
555 California Street, 26th Floor
San Francisco, CA 94104
Tel: (415) 626-3939
Fax: (415) 875-5700

James R. Saywell
(admitted *pro hac vice*)
JONES DAY
901 Lakeside Avenue East
Cleveland, OH 44144
Tel: (216) 586-3939
Fax: (216) 579-0212
jsaywell@jonesday.com

Counsel for Nationwide Biweekly, et al.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES
(continued)

Page

OTHER AUTHORITIES

INTRODUCTION

A small-business owner and his company face a lawsuit from California prosecutors that seeks billions of dollars in civil penalties. To defend against that grand exercise of governmental power, all the business owner and his company want is the constitutional check of a jury. But the government has now piled on—having two other sets of prosecutors, including the State's top prosecutor, argue that defendants like Dan Lipsky and Nationwide Biweekly Administration must face the power of government without a jury of their peers. And even worse, all of these prosecutors insist that this is unique to California—that even though these same defendants in the federal system *would* be entitled to a jury, these defendants, in California, are not.

Like the prosecutors who brought this suit, however, neither *amicus* offers persuasive reasons for their argument. Neither *amicus* (in point of fact) adds much at all to what the local prosecutors have already argued. Most importantly, neither *amicus* can refute the fundamental point in this case: that by 1850, the jury right in civil actions brought by the government seeking statutory penalties was well established—both in the United States generally and in California specifically. That principle, already recognized and enshrined as constitutional law by the Supreme Court of the United States, resolves this case in favor of Nationwide and the other defendants. (See *Tull v. United States* (1987) 481 U.S. 412, 420.)

ARGUMENT

The *amicus* briefs are essentially carbon copies of the local prosecutor's briefs. They make the same faulty legal arguments (that the "gist" of all UCL and FAL actions is "equitable") and the same flawed practical arguments (that Nationwide's rule will undermine the "equity first" doctrine and will weaken consumer protection in California). Nothing the prosecutors say, though, changes the conclusion that Nationwide is entitled to a jury trial to defend against this government action seeking statutory civil penalties, among other forms of relief. (See Cal. Const., art. I, § 16.)

I. *AMICI* REPEAT THE GOVERNMENT'S MERITLESS LEGAL ARGUMENTS

A. *Amici* Correctly State, But Then Misapply, This Court's Test.

Amici agree that the California jury right is tied to the right as it existed in 1850, and thus that it necessitates a historical inquiry. (See Brief of Cal. Atty. Gen. as *Amicus Curiae* at p. 11 [AG Br.]; Br. of Cal. District Attorneys Association as *Amicus Curiae* at p. 19 [CDAA Br.].) And *amici* agree that when this Court engages in that historical inquiry for a modern action, one that did not exist in 1850, the Court first determines the "true nature of the cause of action," and then compares the "gist" of the modern action to an analogous action in 1850. (E.g., AG Br. 15–16 [calling it a

"comparative analysis"].) If that analogous historical action was tried to a jury, then the modern action must be tried to a jury today as well.

But when it comes time to apply this test, *amici* go badly astray. Rather than finding and focusing on an analogous action, imagining what would happen if these UCL and FAL actions existed in 1850, *amici* tout the great benefits of these modern statutes and explain how they bear "no resemblance" to the dozens of historical statutes Nationwide cited—a wide variety of statutes under which a citizen was liable to the government for a civil penalty only if a jury found him so liable. (CDAA Br. 28–29.) Like the local prosecutors, *amici*'s reasoning consists mainly in pointing out the obvious: that the UCL and FAL are "new and different" statutes that are not an "outgrowth" of the common law. (Reply Br. 22; see CDAA Br. 22–30; AG Br. 19–21.) These causes of action, *amici* spend pages and pages explaining, "simply did not exist" in 1850. (CDAA Br. 29.) And from that patent premise, *amici* essentially conclude that *because* these statutes are new, they are therefore "equitable."

But that is not how it works. If it were, *every* modern legislative response to modern problems would be considered equitable. A modern cause of action under a statute seeking to curb today's environmental problems, for example, certainly would be thought equitable. (Contra *Tull*, *supra*, 481 U.S. at pp. 418–420.) So would a "special proceeding" to recover a car under a statute that came with "new remedies and new

judgments and decrees in form equitable." (Contra *People v. One 1941 Chevrolet Coupe* (1951) 37 Cal.2d 283, 299.)

This Court, however, interprets the Constitution differently than *amici* do. It asks whether the action at issue is "of the same class as"—not is *the same as*—"a common law right of action" in which a jury trial was available. (*Franchise Tax Bd. v. Superior Court* (2011) 51 Cal.4th 1006, 1012, 1018, internal quotation marks omitted.) Mindful that "the constitutional right of trial by jury is not to be narrowly construed" (*id.* at p. 1018), "of the same class" does not mean *identical*, as *amici* seem to think. "The provision of the Constitution" protecting the "inviolate" right to a jury trial, after all, "does not permit the Legislature to confer on the courts the power of trying according to the course of chancery any question which has always been triable according to the course of the common law by a jury." (*1941 Chevrolet*, at p. 299.)

The underlying question at issue here—whether a citizen has violated a statutory law entitling the government to civil penalties—"has always been triable according to the course of the common law by a jury." (*1941 Chevrolet*, *supra*, 37 Cal.2d at p. 299.) This case thus falls into the "same class" of actions tried by a jury in 1850, even though the statutes at issue are new and not exactly like any specific common-law statute. (*Id.* at p. 300.)

The Supreme Court of the United States, applying this Court's same historical test and surveying this same history, has held exactly that. (*Tull*, *supra*, 481 U.S. at pp. 417–420.) "[T]aking into consideration the nature of the cause of action and the remedy as two important factors," the U.S. Supreme Court held that the "close[st] historical analog" for a "statutory action" brought by the government seeking civil penalties and equitable relief was an action in debt, which was "within the jurisdiction of the courts of law" and tried to a jury in 1791. (*Id.* at pp. 418–421 and fn. 6.) And regardless of the closest historical analog, the Court went on, "[a] civil penalty was a type of remedy at common law that could *only* be enforced in courts of law"—and thus that could *only* be pursued in trials before juries. (*Id.* at p. 422, emphasis added.) All told, the Court thus held, a statutory suit for civil penalties and equitable relief under a modern statute—one that "simply did not exist" at common law (CDAA Br. 29)—could not be tried by a court, but instead had to be tried by a jury. (*Tull*, at p. 425.) And so such a statutory suit must be tried by a jury today, too.

Nor does it matter what exactly the statute prohibits—whether emitting pollutants, "selling wine without a license," deceiving consumers, falsely advertising a product, or something else entirely. (CDAA Br. 28–29.) Historically, the statutes under which the government sought civil penalties for statutory violations could be "very miscellaneous" (4 Blackstone, Commentaries on the Laws of England (1807), pp. *161–162),

prohibiting a wide variety of conduct, some of which seems quite antiquated today (see, e.g., *1941 Chevrolet*, *supra*, 37 Cal.2d at p. 295, fn. 15 [collecting 28 English cases under different statutes].) The *class* of actions is what matters. And the class of actions here consists of statutory actions—of all sorts—by the government for civil penalties, among other forms of relief. *That* class of actions, though "arising under a broad range of [statutory] civil penalty and forfeiture provisions," was historically tried to a jury. (*United States v. J. B. Williams Co., Inc.* (2d Cir. 1974) 498 F.2d 414, 422–424 [Friendly, J.] [collecting cases].) And so *this* action—a UCL and FAL statutory action by the government seeking civil penalties and other relief—must be tried by a jury as well.

B. *Amici* Do Not Offer Persuasive Reasons Why Defendants in California Should Have Less Protection Than Defendants in Federal Court.

Amici do not dispute that if this same action were in federal court, Nationwide would have the right to a jury under the Seventh Amendment. And yet that gives away more than *amici* realize. Yes, this Court *may* "give its charter a different meaning." (Reply Br. 40.) But that does not mean that it *must*, or even that it *should*, stray from the U.S. Supreme Court's interpretation of the Seventh Amendment. "The sine qua non of independence in state constitutional interpretation is not" (as the prosecutors seem to think) "reliance on state-specific reasoning; it is *analytical independence*, as opposed to a posture of deference, in

evaluating whatever materials are brought to bear on a particular issue." (Goodwin Liu, *State Courts and Constitutional Structure* (2019), 128 Yale L.J. 1304, 1331.)

In evaluating the historical materials bearing on this issue, this Court thus "properly look[s]" to a case like *Tull*, which "interpret[ed] similar language in the Federal Constitution" using the same historical test and using the same historical materials presented here. (Liu, *supra*, 128 Yale L.J. at pp. 1330–31.) And in fact, this Court has held that it *will follow* such federal precedent "unless persuasive reasons are presented for taking a different course." (E.g., *People v. Teresinski* (1982) 30 Cal. 3d 822, 835.)

1. *Amici*'s evidence does not present a persuasive contrary case.

The prosecutors have not offered persuasive reasons to veer off the federal course. They first attempt to do so with this Court's precedent, contending (as the local prosecutors also have) that California courts employ a different test for the jury right than federal courts do. But "[s]emantics aside," California's test is "the same as the federal test" (except that it analyzes the historical jury right from the perspective of 1850 rather than 1791). (Answer Br. 44.) *Amici* stress that the U.S. Supreme Court views the "relief sought" as "more important" than "analogizing the cause of action" (AG Br. 18; see CDAA Br. 41), but this Court does that too (see, e.g., *C & K Engineering Contractors v. Amber Steel Co.* (1978) 23

Cal.3d 1, 9 [gist of action "ordinarily" determined by relief sought].) And in neither system, state or federal, is the relief "conclusive." (*Ibid.*; see *Dairy Queen, Inc. v. Wood* (1962) 369 U.S. 469, 477–478.) Both systems instead view the relief sought and the closest-analog action as factors in answering the "purely historical question" whether "the right to trial by jury" existed in the same class of actions at the adoption of the respective Constitutions. (E.g., *1941 Chevrolet*, *supra*, 37 Cal.2d at p. 287.)

Without a different test, then, *amici* are left to try to offer different historical evidence. (See, e.g., Liu, *supra*, 128 Yale L.J. at pp. 1328–1330 [collecting examples of state cases that came out differently because of unique state evidence].) That will not be easy. The Supreme Court of the United States in *Tull* has already "ascertained" the historical "fact" that the jury right existed for this class of actions in 1791 (*1941 Chevrolet*, *supra*, 37 Cal.2d at p. 287), and no one argues that the right changed by 1850 (cf. *Franchise Tax Bd.*, *supra*, 51 Cal.4th at p. 1013.)

Amici start off on the wrong track, offering generalized evidence that was available to the Supreme Court when it decided *Tull* and that is equally applicable under the Seventh Amendment—so this evidence will not get them far in showing "persuasive reasons" for "taking a different course." (*Teresinski*, *supra*, 30 Cal. 3d at p. 835.) They cite evidence that "courts sitting in equity[] have played" an "important role" in the "English and

United States court systems" (AG Br. 11), which is no doubt true but also no doubt far too generic to speak to the specific question presented here.

More specifically, *amici* contend that equity "comprehends every matter of law that by the common law is left without remedy" as well as "wrong[s]" that are done without "impinging on any right . . . of another." (AG Br. 12–15.) But that does them no good in a case involving a statutory civil penalty allegedly owed for deceiving another out of money. For one thing, the common law did not leave such statutory violations "without remedy"; indeed, "civil penalt[ies] w[ere] a type of remedy at common law that could *only* be enforced in courts of law." (*Tull*, *supra*, 481 U.S. at p. 422, emphasis added.) And for another thing, these alleged statutory violations involve "wrongs" that *do* impinge on the rights of others. So *amici*'s generic evidence—which is the only new evidence they add to this case—is not California-centric and fails on its face.

Amici next repeat an argument from the local prosecutor's brief, which was not only available to the Supreme Court in *Tull* but which the Supreme Court specifically rejected in that case. *Amici* emphasize that the civil penalties here are not "fixed" and thus "would not have been obtainable through an action for debt." (AG Br. 20; see CDAA Br. 23–24.) "The Government" in *Tull*, though, also "distinguishe[d] th[at] suit from other actions to collect a statutory penalty on the basis that the statutory penalty [wa]s not fixed or readily calculable from a fixed formula." (*Tull*,

supra, 481 U.S. at p. 422, fn. 7.) The U.S. Supreme Court did "not find this distinction to be significant," pointing out that classically legal relief such as punitive damages are also not fixed and yet come with a constitutionally required jury trial. (*Ibid.*; see *Shaw v. Superior Court* (2017) 2 Cal.5th 983, 1005, fn. 19 [jury trial for punitive damages].) For that reason and the others discussed at length in the Answer Brief (at 53–56), a court's discretion to set the *amount* of the penalties does not make the underlying liability finding that *enables* the penalties equitable in nature.

Amici finally offer state-specific evidence, but it is the same evidence the local prosecutors have already offered—namely, that this Court has called the UCL and FAL "equitable." (AG Br. 21–24; see CDAA Br. 25–28, 30–32.) That fails for the reasons given in the Answer Brief (at 50–53): Even if those non-jury-right cases established the proposition that UCL and FAL actions brought by private parties for purely equitable relief were triable by a court, they do not establish that UCL and FAL actions brought by the government for civil penalties are triable by a court. They are not.

Like the local prosecutors, then, *amici* have not presented "persuasive reasons" for "taking a different course" than the one charted by the Supreme Court of the United States in *Tull*. (*Teresinski*, 30 Cal. 3d at p. 835.) That High Court answered the question presented in this case, using the same test and the same historical materials. Given the

prosecutors' inability to offer contrary state-specific sources, this Court should follow the U.S. Supreme Court's path.

2. The state-specific evidence in fact helps Nationwide.

Performing a California-centered analysis, independent of the analysis done in *Tull*, only confirms this conclusion: Statutory actions by the government seeking civil penalties and other relief require trial by jury.

This Court has already held that defendants in California have "a constitutional right to a trial by jury of the issues of fact" in governmental actions to "recover[] money or other chattels" allegedly owed to the government under a statute, including "[c]ases involving penalties." (*1941 Chevrolet, supra*, 37 Cal.2d at pp. 289, 300; see *id.* at pp. 286–300, collecting authorities; Answer Br. 30–33 [explaining why *1941 Chevrolet* controls this case].)

That speaks to the *nature* of the action at issue; the *remedy* here also requires a jury trial: Civil penalties under the UCL and FAL are "designed to penalize a defendant for past illegal conduct," "constitute a severe punitive exaction by the state," and are "unquestionably intended [to serve] as a deterrent"—all legal rather than equitable purposes. (*State v. Altus Finance* (2005) 36 Cal.4th 1284, 1308; *People v. Superior Court (Kaufman)* (1974) 12 Cal.3d 421, 431; see also Answer Br. 33–37.) (The Attorney General's argument to the contrary (at 26–27) is surprising given what he has said about UCL and FAL civil penalties in other cases. (See Answer Br.

35.)) And as also explained in the Answer Brief (at 37–39), adding equitable relief on top of that legal relief and legal action does not make the underlying action any less legal, especially when the potential equitable relief pales in comparison to the potential legal relief. (See *C & K Engineering*, *supra*, 23 Cal.3d at p. 11.)

Amici attack Nationwide's state-specific evidence, but with one exception their attacks are unfounded. (See, e.g., CDAA Br. 28–30.) Start with the exception. One of the many cases cited in the Answer Brief for the proposition that "actions to recover statutory penalties [around 1850 were] properly submitted for determination by the jury" did not actually involve statutory penalties. (See *Orcutt v. Pacific Coast Ry. Co.* (1890) 85 Cal. 291, 296–297.) That case, cited as a "see also" (at 30), was an action brought under a statute that gave prosecutors the right to seek civil penalties, but the facts of the specific case cited involved a private party seeking traditional money damages for the statutory violation. (See also Reply Br. 27.) So this Court can disregard that damages case. (It should not, however, disregard the other early California cases cited, which show that California courts had jury trials on a variety of issues in statutory-penalty actions. (See, e.g., *Greenberg v. Western Turf Assn.* (1905) 148 Cal. 126, 127; *O'Callaghan v. Booth* (1856) 6 Cal. 63, 65–66.))

But ignoring *Orcutt* still leaves the general rule well intact and supported by overwhelming evidence: In England, the United States

generally, and California specifically, courts held jury trials in cases in which one party sought civil penalties for a statutory violation. (See Answer Br. 25–33, collecting cases.) In the words of this Court, "[c]ases involving penalties to the Crown . . . were [historically] tried by a jury." (*1941 Chevrolet, supra*, 37 Cal.2d at p. 295.) The Supreme Court of the United States has said the same thing, too, over and over again. (See, e.g., *Stockwell v. United States* (1871) 80 U.S. 531, 543, collecting cases.)

Perhaps even more important than the numerous cases Nationwide cited are the cases the prosecutors do *not* cite. None of the prosecutors have discovered a single historical case—not one—in which a party sought civil penalties for a statutory violation and appeared before a judge rather than a jury: not in England; not in the United States; and not in California. All of those cases were instead tried by a jury, which leads to the inescapable conclusion that this case must be tried to a jury all the same. The Court of Appeal correctly so held, and this Court should affirm.

II. ONE *AMICUS* REPEATS THE GOVERNMENT'S IMMATERIAL AND UNFOUNDED PRACTICAL ARGUMENTS

The Attorney General wisely does not discuss the practical effects of the constitutional rule in this case, likely recognizing that those consequences are "immaterial" if defendants possess a constitutional right to a jury trial. (*Jehl v. Southern Pacific Co.* (1967) 66 Cal.2d 821, 829.) But the CDAA does argue two practical considerations, repeating the same

contentions made by the local prosecutors: first that the Court of Appeal's holding contradicts the so-called "equity first" rule (CDAA Br. 43–45), and second that Nationwide's rule will "weaken consumer protection" in several ways (*id.* at 45–56). These same arguments should meet the same fate: Not only are they "immaterial" (*Jehl*, at p. 829), they are also unfounded. (See Answer Br. 60–64.)

First, there are no "severability" or "equity first" problems—which arise when a legal action and an equitable action are joined in a single suit—because this is not a mixed case; all the government's claims are legal. As the Court of Appeal explained, "we are not dealing with separate *claims* in the sense that one claim for statutory penalties is legal and the other is equitable." (*Nationwide Biweekly Admin., Inc. v. Superior Court* (2018) 24 Cal.App.5th 438, 456.) The CDAA *agrees* with this statement, noting that "the UCL and FAL are single causes of action." (CDAA Br. 43.) The local prosecutors also agree. (See Opening Br. 42, 48.) *All* thus agree that the so-called "equity first" doctrine is not really "implicate[d]" by this case; the government's causes of action in this case are either legal or equitable, not a mix of the two. (See Answer Br. 60–61.)

The question, then, is whether the "single causes of action" brought here would have been tried to a judge or a jury in 1850. And for the reasons explained, the answer is a jury: All of the causes of action at issue "flow from what are historically legal *claims* by the government and as to

which there is a right to jury trial." (*Nationwide*, *supra*, 24 Cal.App.5th at p. 456.) The addition of equitable *remedies* does not change this conclusion: "[U]nder the English common law as it stood in 1850," when a plaintiff sought equitable remedies along with legal relief in a legal action, a jury was required. (*Pacific Western Oil Co. v. Bern Oil Co.* (1939) 13 Cal.2d 60, 67–69; see *Hughes v. Dunlap* (1891) 91 Cal. 385, 389; see also Answer Br. 37–39, 61–62.) A jury must therefore hear this case, too.

Second, the other "practical effects" the CDAA points to are immaterial, academic, and hostile toward juries. (CDAA Br. 45–56; see Answer Br. 62–64.) They are "immaterial" because if this Court concludes that Nationwide has the right to a jury trial, no amount of "practical considerations" can prevent the Court from enforcing the Constitution. (*Jehl*, *supra*, 66 Cal.2d at p. 829.) The whole point of enshrining rights in a Constitution, rights meant to remain forever "inviolate," is to "secure[] [those rights] to all" (Cal. Const., art. I, § 16)—regardless of the practical consequences a later legislature (or prosecutors) think might result. (See *Grim v. Norris* (1861) 19 Cal. 140, 142–43.) It should thus "go[] without saying that the fact that a given law or procedure is efficient, convenient, and useful in facilitating functions of government, standing alone, will not save it if it is contrary to the Constitution." (*Stern v. Marshall* (2011) 564 U.S. 462, 501, internal quotation marks omitted.) The supposed "efficien[cy]" gained by UCL and FAL "bench trials" (CDAA Br. 18)—

and the supposed "streamlined procedure" behind those laws (*id.* at p. 53)—cannot, therefore, prevent the constitutionally required jury trial.

The CDAA's proffered practical consequences, like the local prosecutors' same imagined consequences, are purely academic in any event. No one cites a single real-world example, only theoretical suppositions, of problems caused by juries resolving liability under statutes like the UCL and FAL. And this lack of real-world examples is not for a lack of comparable cases: The federal system has been resolving such claims with juries since at least 1987, when the Supreme Court held in *Tull* that statutory suits by the government for civil penalties and equitable relief require a jury. (See Answer Br. 63.)

Even the CDAA's *hypothetical* problems are overstated. The CDAA acts as though judges will be removed entirely from the UCL/FAL process, but that of course is far from true. In addition to monitoring cases from start to finish (and resolving all legal issues that arise), judges—not juries—will still determine the *amount* of penalties. They will thus still, in the words of the CDAA (at 46), "weigh and balance multiple complex factors and arrive at a just and equitable result." They just won't determine a defendant's liability, for under the Constitution that is the jury's job.

Finally, and sadly, the CDAA shows hostility toward juries. Although it pays lip service to juries, claiming to "highly respect the role" they play (at 46), the CDAA does not *show* that respect. Much of its

argument boils down to this: Juries are too ignorant to decide questions about whether a company's business practices or advertisements have a "tendency to deceive or confuse the public." (CDAA Br. 49; see *id.* at pp. 46–51.) But who *better* to decide whether a business practice may deceive the public than . . . the public? Juries are up to the task.

* * *

Perhaps the best way to summarize this practical-consequences discussion is to quote this Court from a recent criminal jury-right case: "Despite the costs and practical burdens associated with juries," they remain an integral part in "[o]ur state Constitution." (*People v. Daniels* (2017) 3 Cal.5th 961, 967 [lead opinion].) That statement applies equally to the constitutional right to have a jury decide a defendant's liability in a statutory action for civil penalties and other relief—a type of action that has been tried by juries around the world for hundreds of years. Despite any "practical burdens" associated with having juries in such actions, juries must remain an integral part in those actions—the integral part California's Constitution guarantees that they will play.

CONCLUSION

This Court should affirm.

July 8, 2019

Respectfully submitted,

James R. Saywell
(admitted *pro hac vice*)
JONES DAY
901 Lakeside Ave.
Cleveland, OH 44144
Tel: (216) 586-3939
Fax: (216) 579-0212
jsaywell@jonesday.com

*Nathaniel Garrett (SBN 248211)
JONES DAY
555 California Street, 26th Floor
San Francisco, CA 94104
Tel: (415) 626-3939
Fax: (415) 875-5700
ngarrett@jonesday.com

Counsel for Nationwide Biweekly, et al.

CERTIFICATE OF COMPLIANCE

This brief is submitted under Rule 8.520(f)(7). I hereby certify that this brief complies with Rules 8.520(b)(1) and 8.204(b) because it has been prepared using proportionately spaced, 13-point Times New Roman typeface. This brief complies with the volume limitation of Rule 8.520(c) because it contains 4,247 words, as counted using the word-count function on the Microsoft Word software.

I declare under penalty of perjury that this Certificate of Compliance is true and correct.

July 8, 2019

Nathaniel Garrett

PROOF OF SERVICE

I am more than eighteen years old and not a party to this action. My business address is Jones Day, 555 California Street, 26th Floor, San Francisco, CA 94104. On July 8, 2019, I served true copies of the **CONSOLIDATED ANSWER TO** *AMICI CURIAE* on the interested parties of this action by placing a true copy thereof in sealed envelopes, addressed as follows:

SEE ATTACHED SERVICE LIST

I am employed in an office of a member of the bar of this court at whose direction the service was made.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 8, 2019, at San Francisco, California.

M. Landsborough

Margaret Landsborough

SERVICE LIST

Superior Court of Alameda County 1225 Fallon Street, Dept. 17 Oakland, CA 94612	Petitioner
Sean Michael Rooney Department of Business Oversight 1350 Front Street, #2024 San Diego, CA 92101 Email: sean.rooney@dbo.ca.gov	Counsel for The People, Real Party in Interest
John Fulton Hubanks Monterey County District Attorney 1200 Aguajito Road, Room 301 Monterey, CA 93940 Email: hubanks@co.monterey.ca.us	Counsel for The People, Real Party in Interest
Andres Humberto Perez District Attorney of Marin County 3501 Civic Center Drive, #130 San Rafael, CA 94903 Email: aperez@marincounty.org	Counsel for The People, Real Party in Interest
Matthew Beltramo Office of the District Attorney County of Alameda 7677 Oakport Street, Suite 650 Oakland, CA 94621 Email: matthew.beltramo@acgov.org	Counsel for The People, Real Party in Interest
John Thomas Mitchell Kern County District Attorney's Office White Collar Crime Division 1215 Truxtun Avenue Bakersfield, CA 93301-4619 Email: da@kernda.org	Counsel for The People, Real Party in Interest
Sean Eric Ponist Attorney at Law 100 Pine Street, Suite 1250 San Francisco, CA 94111 Email: sponist@ponistlaw.com	Co-Counsel for Nationwide Biweekly Administration, Inc., et al., Respondents

Clerk of the Court First District Court of Appeal 350 McAllister Street San Francisco, CA 94102	Office of the Attorney General Consumer Law Section 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102 https://oag.ca.gov/services-info/172909/brief/add
Xavier Becerra Nicklas A. Akers Michele Van Gelderen Sheldon H. Jaffe Vivian F. Wang Office of the Attorney General 455 Golden Gate Avenue Suite 11000 San Francisco, CA 94102 Telephone: (415) 510-3544 Vivian.wang@doj.ca.gov	Counsel for amicus curiae, the Attorney General of California
Mark Zahner Chief Executive Officer California District Attorneys Association 921 11th St #300, Sacramento, CA 95814 Telephone: (916) 443-2017 Fax: (916) 930-3073 E-mail: MZahner@cdaa.org	Counsel for amicus curiae, the California District Attorneys Association

Matthew T. Cheever Deputy District Attorney Sonoma County District Attorney's Office 2300 County Center Dr. Ste. B1 70 Santa Rosa, CA 95403 Telephone: (707) 565-3161 Fax: (707) 565-3499 E-mail: Matthew.Cheever@sonoma-county.org	Counsel for amicus curiae, the California District Attorneys Association
Patrick Collins Deputy District Attorney Napa County District Attorney's Office 1127 First Street, Suite C Napa, CA 94559 Telephone: (707) 253-4211 Fax: (707) 253-4041 E-mail: Patrick.Collins@countyofnapa.org	Counsel for amicus curiae, the California District Attorneys Association
Clerk of Court First District Court of Appeal 350 McAllister Street San Francisco, CA 94102	