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The Supreme Court of California
350 McAllister Street
San Francisco, California 94102

Re: *Markow v. Rosner*
Court of Appeal docket numbers B260715 and B262530
Supreme Court docket number S238388

May It Please the Court:

Representation

This firm represents Consumer Attorneys of California for the purposes of its request for an order for depublication of *Markow v. Rosner*.

Statement of Interest

The Consumer Attorneys of California is a voluntary membership organization representing approximately 6,000 attorneys practicing throughout California. The organization was founded in 1962. Its membership consists primarily of attorneys who represent plaintiffs in personal injury, including medical negligence, actions. Consumer Attorneys has taken a leading role in advancing and advocating the rights of injured Californians in the Courts and in the Legislature.

Request for Depublication of Decision

Consumer Attorneys of California requests depublication of *Markow v. Rosner*, Second Appellate District, Division One, docket numbers B260715 and B262530 or, in the alternative, depublication of Sections 2 and 3 of "Background," and Section 1 of "Discussion), Slip op. at 3-6, 9-18, of the opinion. *Markow v. Rosner*, 3 Cal.App.5th 1027, 208 Cal.Rptr. 363 (2016).

Consumer Attorneys takes issue *Markow's* analysis of, and ruling on, the ostensible agency question in this appeal. Instead of employing a substantial evidence standard of review of a jury's verdict, the majority opinion in this medical negligence action employed a *de novo* standard, holding that a patient's signatures on a hospital's standard forms is conclusive notice that the physician is an independent contractor, without regard to any other evidence of ostensible agency.

Markow undermines two important policies. First, as the strong dissent explains, the majority opinion used the wrong standard of review for a denial of a motion for judgment notwithstanding the verdict. *Markow*, 3 Cal.App.5th at 1054, 208 Cal.Rptr.3d at 385 (Johnson, J., dissenting). The record must be reviewed most favorably to the prevailing party and the jury's verdict upheld if there is any substantial evidence, or reasonable inferences from that evidence, to uphold the jury's verdict. The majority treats the issue as a question of law, disregarding the evidence that supports the jury's 11-1 determination that, because of the hospital's acts and representations, Mr. and Ms. Markow reasonably believed that it employed the physician who treated Mr. Markow.

Second, the majority opinion disregards settled California authority that the sufficiency of notice about a physician's agency status is a question of fact for the jury. By holding that the "Conditions of Admission" form is conclusive, instead of merely evidence for the jury to consider along with all other evidence, the majority opinion deviates from settled California authorities and retreated from the nationwide trend.

The Unique Posture of *Markow* and the Need for Depublication

The majority opinion in *Markow* is wrong on the substantive law of ostensible agency and on application of the appellate standard of review, but there is no party to seek review in this Court of those rulings:

- The verdict against the physician, Rosner, was affirmed. He has sought review of the ruling against him, but he had no interest in seeking review of a decision favorable to his co-defendant, the hospital.
- The Markows did not seek review of the ostensible agency ruling, and had no incentive to do so, because they can collect the judgment from Rosner.

If *Markow's* majority opinion remains published, an erroneous ruling on a significant issue, from a divided appellate court, is left unchallenged in this Court. This situation calls for this Court to exercise its power to order depublication of *Markow*.

Importance of the Issue

A hospital's vicarious liability for the negligence of its staff physicians is a recurring issue in medical negligence actions. Modern hospitals increasingly recruit physicians and advertise their expertise in efforts to attract patients and, quite frequently, assign physicians to treat patients. The disregard of a jury's determination, and a decision that a boilerplate form is conclusive notice as a matter of law is, thus, a substantial issue to all Californians who must select physicians and hospitals.

Facts

Michael Markow was experiencing chronic and serious pain due to an automobile collision. A physician referred him to Howard Rosner, an anesthesiologist who specialized in pain management. Markow researched Rosner and learned, *from defendant Cedar-Sinai Medical Center's website*, that Rosner was the medical director of the hospital's pain management center. *Markow*, 3 Cal.App.5th at 1032-1033, 208 Cal.Rptr. at 367. Rosner was a partner in a medical group, General Anesthesia Specialist Partners (GASP). Cedars-Sinai's website did not say anything about Rosner's affiliation with GASP. *Markow*, 3 Cal.App.5th at 1061 n.3, 208 Cal.Rptr. at 390 n.3.

If Rosner's patients, or potential patients, want to make an appointment, they call Cedars-Sinai. *Markow*, 3 Cal.App.5th at 1033, 208 Cal.Rptr. at 368. Rosner's office was in a "building plainly and prominently marked as a Cedars building" with its name and logo. *Markow*, 3 Cal.App.5th at 1041, 208 Cal.Rptr.3d at 374 (majority opinion), 1061 n.3, 208 Cal.Rptr. at 390 n.3 (Johnson, J., dissenting).

Cedars-Sinai also supplied Rosner with business cards, with the hospital's name, logo, and telephone number, which he gave to Markow when they met. *Markow*, 3 Cal.App.5th at 1032-1033, 208 Cal.Rptr. at 367-368. The business cards did not mention GASP. Rosner, with its permission, used Cedars-Sinai's logo on his professional stationary. *Markow*, 3 Cal.App.5th at 1033, 208 Cal.Rptr. at 368.

Even though Cedars-Sinai was thirty to forty miles from his home, Markow selected Rosner because he was the medical director of a pain center and "'he worked for the best hospital, one of the best hospitals in the country.'" *Markow*, 3 Cal.App.5th at 1033, 208 Cal.Rptr. at 368. Even one of Cedars-Sinai's employees at the pain center believes that Rosner was an employee of the hospital (and she had never heard of GASP). *Markow*, 3 Cal.App.5th at 1060, 208 Cal.Rptr. at 390 (Johnson, J., dissenting).

Markow underwent treatment by Rosner at Cedars-Sinai, starting in May 2006 and ending in 2010. As part of those procedures, Markow was required to sign a three-page, single-spaced form, called "Conditions of Admission," which included a clause entitled "Legal Relationship Between Hospital and Physicians." *Markow*, 3 Cal.App.5th at 1034, 208 Cal.Rptr. at 368. At first, this clause said that "physicians are independent contractors and are neither employed by nor agents of this facility. Patient recognizes that Physicians furnishing services to the Patient, including without limitation Emergency Room physicians, radiologists, pathologists and anesthesiologists, are all independent contractors with Patient for the purposes of the provision of professional services and are not employees or agents of Cedars-Sinai Medical Center for such purposes." The paragraph also listed GASP as a physicians group. There is a line for the patient to initial this paragraph. *Markow*, 3 Cal.App.5th at 1034, 208 Cal.Rptr. at 368. A few months later, Cedars-Sinai changed the form, such that it stated, "'All physicians and surgeons furnishing services to the Patient, such as

radiologists, pathologists, anesthesiologists and the like, are independent contractors and are not employees or agents of the Hospital. These physicians may bill separately for their services.'" *Markow*, 3 Cal.App.5th at 1034, 208 Cal.Rptr. at 368-369 (underscore in original).

Markow signed the document and initialed the Conditions of Admission paragraph twenty-five times over the course of the four years that he treated with Rosner. *Markow*, 3 Cal.App.5th at 1033, 208 Cal.Rptr. at 368. Markow explained that he read the document and paragraph the first few times that he had procedures, but then stopped reading because it appeared to be the same paragraph in each form. *Markow*, 3 Cal.App.5th at 1034, 208 Cal.Rptr. at 369.

Markow testified that he believed that the independent contractor disclaimer did not apply to Rosner because he was the director of pain management for the hospital, so he could not be an independent contractor and must be a full-time employee. He had the same belief with regard to another of his physicians, a neurologist who was also the director of a department at Cedars-Sinai and also had an office in the same building as Rosner's. *Markow*, 3 Cal.App.5th at 1035, 208 Cal.Rptr.3d at 369.

Cedars-Sinai also required Markow to sign, on eight occasions, an "Authorization for & Consent to Surgery" form, which included a paragraph (not initialed) that said, "'I understand that the person or persons in attendance at such operation or procedures, as indicated above, for the purpose of administering anesthesia, and the person or persons performing other specialized professional services, such a radiology, pathology, and the like, are not the agents, servants or employees of Cedars–Sinai Medical Center, but are independent contractors performing specialized services on my behalf and, as such, are the agents of myself.'" *Markow*, 3 Cal.App.5th at 1035, 208 Cal.Rptr. at 369.

Because of Rosner's negligence (either using an iodine-based contrast to which Markow was allergic, or a traumatic spinal cord injury during the last procedure), Markow was rendered a quadriplegic. *Markow*, 3 Cal.App.5th at 1035, 208 Cal.Rptr.3d at 369. He filed an action against Rosner and Cedars-Sinai.

The jury determined, 12-0, that Cedars-Sinai held out Rosner as its agent; 11-1, that Markow reasonably believed that Rosner was its agent, and; 10-2, that Markow was harmed as a result of that belief. *Markow*, 3 Cal.App.5th at 1037, 1057-1058, 208 Cal.Rptr.3d at 371, 387. The jury also determined that Rosner was negligent and that his negligence was a substantial factor in causing or contributing to Markow's injuries. *Markow*, 3 Cal.App.5th at 1037, 208 Cal.Rptr.3d at 370-371.

Cedars-Sinai moved for judgment notwithstanding the verdict, contending that the clause in the Conditions of Admission for "conclusively established that Rosner was not Cedar's ostensible agent." *Markow*, 3 Cal.App.5th at 1038, 208 Cal.Rptr.3d at 371. The trial court denied that motion.

The Appellate Court's Ruling and Opinion

The appellate court, citing *Mejia v. Community Hosp. of San Bernardino*, 99 Cal.App.4th 1448, 122 Cal.Rptr.2d 233 (2002), ruled that the issue of whether Markow's belief was reasonable was a question of law because there was no dispute about the underlying facts. The appellate court agreed that the Conditions of Admission form was conclusive and reversed the trial court's denial of the motion for judgment notwithstanding the verdict, holding that, "after de novo review, we conclude that the jury's finding of ostensible agency was contrary to law." *Markow*, 3 Cal.App.5th at 1045, 208 Cal.Rptr.3d at 377. The appellate court also upheld the verdict against Rosner, finding substantial evidence that he was negligent and that his negligence was a substantial factor in causing Markow's injuries. *Markow*, 3 Cal.App.5th at 1045-1051, 208 Cal.Rptr.3d at 377-382.

There are Two Significant Errors in the Majority Opinion That Warrant Depublication of the Decision

The strong dissent in *Markow* highlights two serious errors in the majority's analysis. Each of these errors is a departure from established law, first on JNOV procedure and second on ostensible agency principles applied to the context of hospitals and physicians and their interactions with patients.

The Majority's Incorrect Standard of Review

"A motion for judgment notwithstanding the verdict may be granted only if it appears from the evidence, viewed in the light most favorable to the party securing the verdict, that there is no substantial evidence in support." *Sweatman v. Department of Veterans Affairs*, 25 Cal.4th 62, 68, 104 Cal.Rptr.2d 602, 606 (2001). The appellate court must apply the same standard on review of denial of such a motion. "As in the trial court, the standard of review is whether any substantial evidence — contradicted or uncontradicted — supports the jury's conclusion." *Id.*

The majority opinion incorrectly treats the appeal as *de novo*, because it reasoned that the facts on the issue of ostensible agency — what was said, what was signed — are undisputed. The majority concludes that the question is one of law. *Markow*, 3 Cal.App.5th at 1045, 208 Cal.Rptr.3d at 377.

The dissent in *Markow* correctly and forcefully points out, however, that while it was undisputed that Cedars-Sinai made certain representations and took certain actions, and Markow signed various documents, "the reasonableness of Markow's belief in an agency relationship between Rosner and Cedars was hotly contested." *Markow*, 3 Cal.App.5th at 1055, 208 Cal.Rptr.3d at 387. "Even in cases where the evidence is undisputed or uncontradicted, if two or more different inferences can reasonably be drawn from the evidence this court is without power to substitute its

own inferences or deductions for those of the trier of fact. . . ." *Jonkey v. Carignan Construction Co*., 139 Cal.App.4th 20, 24, 42 Cal.Rptr.3d 399, 402 (2006).

> Here, a critical fact for resolution of the ostensible agency issue — *the reasonableness of Markow's belief* in an agency relationship between Rosner and Cedars — was not settled, but disputed, questioned and resolved by the trier of fact in Markow's favor. Because Cedars's appeal concerns a disputed issue of fact, it does not raise a pure question of law that would allow the majority to disregard the jury's factual findings and determine the issue independently. Instead, the ostensible agency issue must be reviewed under a different standard.

Markow, 3 Cal.App.5th at 1056, 208 Cal.Rptr.3d at 386 (Johnson, J., dissenting) (emphasis added). That standard is, as this Court held in *Sweatman*, the substantial evidence standard.

The question in ostensible agency is whether a party received sufficient notice about a fact, which is uniquely a jury question. "[W]hether notice was given or not, and, if given, whether [the party] understood it, and it was sufficient to put him on his guard, or, in the language of the Code, to put a prudent man upon inquiry, . . . were questions of fact for the jury." *Renton v. Monnier*, 77 Cal. 449, 456, 19 P. 820, 823 (1888) (citation omitted).

A proper review of the trial court's denial order would have viewed all of the evidence, not merely the Conditions of Admission form, in the light most favorable to Markow. *Sweatman*, 25 Cal.4th at 68, 104 Cal.Rptr.2d at 606. This evidence included:

Cedars-Sinai holding Rosner out publicly, through its website, as a director of its pain management center;

Cedars-Sinai holding Rosner out as an employee by having patients call the hospital to schedule meetings and appointments;

Cedars-Sinai authorizing business cards and stationary, using its name and logo (and omitting any reference to Rosner's medical group), for Rosner to use with his patients and referring physicians;

Rosner's office was in a building owned by Cedars-Sinai and marked with its logo;

The apparent agency was so convincing that even a long-term employee of Cedars-Sinai believed that Rosner was an employee;

Markow's explanation that the "Legal Relationship" clause was inapplicable because Rosner was a director of the pain management center;

The Conditions of Admission forms made no mention of Rosner's dual status as agent and independent contractor and, thus, did not draw a distinction between his activities and status in each role.

Of course there was contrary evidence. Markow signed the Conditions of Admission form twenty-five times and he paid GASP's bills. But the issue before the trial court, and thus before the appellate court, was *not* whether a hypothetical verdict in Cedars-Sinai's favor could have been upheld on substantial evidence grounds. The issue was whether the verdict in favor of Markow has substantial evidence to support it. There is substantial evidence that, whatever value the Conditions of Admission form might have, the jury reasonably concluded that it was insufficient to render Markow's belief unreasonable as a matter of law. The jury's 11-1 verdict on this point, and the trial judge's denial of a motion for new trial, demonstrates the reasonableness of Markow's conclusion.

By treating the issue about the sufficiency of notice — and thus the question of agency — as a legal question, the *Markow* majority deviates from the settled procedural jurisprudence of this Court. The majority opinion rests on the Conditions of Admission forms that Markow signed, thus disregarding all of the contrary evidence that supports the reasonableness of his conclusion and the jury's verdict.

Treating the Conditions of Admission Form as Conclusive Is a Departure from, and Regression in, California Ostensible Agency Law

The majority concludes that, as a matter of law, the Conditions of Admission form renders unreasonable Markow's conclusion about Rosner's employment status with Cedars-Sinai. *Markow*, 3 Cal.App.5th at 1045, 208 Cal.Rptr.3d at 278. The majority cites *Mejia* as support for its conclusion that the question is one of law. *Mejia*, and subsequent cases, are valuable as surveys of the national consensus of the law of ostensible agency, but that case does *not* support, much less compel, the conclusion that Mr. Markow's beliefs were unreasonable as a matter of law.

Mejia's ruling must be placed in context of California's jurisprudence, which led the national trend in developing the law of ostensible agency in the context of the hospital, physician and patient relationships. In *Seneris v. Haas*, 45 Cal.2d 811, 291 P.2d 915 (1955), the physician was a member of a group of doctors that, by contract, provided anesthesia services on-call for the hospital. Significantly, the hospital, not the patient, selected the anesthesiologist for the patient. The hospital supplied drugs and equipment for the physician's use, provided the rules and regulations for the physician to follow. The trial court granted a directed verdict in favor of the hospital on the issue of agency, but the Supreme Court reversed, holding that the issue was for the jury to determine. *Seneris,* 45 Cal.2d at 831, 291 P.2d at 927.

After *Seneris*, the hospital in *Quintal v. Laurel Grove Hospital*, 62 Cal.2d 154, 41 Cal.Rptr. 585 (1964), tried to avoid liability for the errors of an anesthesiologist by inserting language in a "Consent to Admission" form that suggested that he was an independent contractor. This Court rejected the argument, holding that, "[a]gency is always a question of fact for the jury." *Quintal*, 62 Cal.2d at 167, 41 Cal.Rptr. at 585 (emphasis added). *See also Brown v. La Societe Francaise De Bienfaisance Mutuelle,* 138 Cal. 475, 71 P. 516 (1903); *Stanhope v. Los Angeles College of*

Chiropractic, 54 Cal.App.2d 141, 128 P.2d 705 (1942) (inference of ostensible agency from the fact that the plaintiff sought treatment at the hospital without being informed that the doctors were independent contractors).

Mejia v. Community Hospital of San Bernardino, 99 Cal.App.4th 1448, 122 Cal.Rptr.2d 233 (2002), reviewed these authorities and surveyed the national trend on this point. In *Mejia*, the Court of Appeal held that an on-call radiologist was the ostensible agent of a hospital, because the hospital chose that radiologist to provide health care to emergency room patient. Reversing a grant of nonsuit, the Court of Appeal applied the well-settled law of California and the modern trend throughout the country. Surveying the national trend, *Mejia* explained:

> Although the cases discussing ostensible agency use various linguistic formulations to describe the elements of the doctrine, in essence they require the same two elements: (1) conduct by the hospital that would cause a reasonable person to believe that the physician was the agent of the hospital, and (2) reliance on that apparent agency relationship by the plaintiff.

Mejia, 99 Cal.App.4th at 1453, 122 Cal.Rptr.2d at 236 (citations omitted).

Mejia also made clear that the issue ostensible agency is a jury question, not a legal one. *Mejia,* 99 Cal.App.4th at 1458, 122 Cal.Rptr.2d at 240 (emphasis added). *Mejia* arose from a grant of nonsuit, which is in essence the same standard as a summary judgment or directed verdict – a determination that the evidence as a matter of law would not support liability. *Aguilar v. Atlantic Richfield Co*., 25 Cal. 4th 826, 851, 107 Cal.Rptr. 841, 862 (2001). In *Mejia*, the patient was not given a Conditions of Admission form, so it is not support for the notion that such a document is *conclusive* notice.

In *Whitlow v. Rideout Mem. Hosp.*, 237 Cal.App.4th 631, 188 Cal.Rptr.3d 246 (2015), the patient arrived in a hospital's emergency department and was required to sign a "Conditions of Admission" form that included a statement that the physicians were independent contractors. The patient was unable to read the form; an admissions clerk instructed the patient where to sign and initial and she did so. The physician diagnosed a massive brain hemorrhage as a muscle tension headache and sent the patient home, where she died two days later. *Whitlow*, 237 Cal.App.4th at 633-634, 188 Cal.Rptr.3d at 247-248. The defendant relied on *Mejia* as support for its position that a Conditions of Admission form is conclusive. The trial court in *Whitlow* agreed and granted summary judgment. *Whitlow*, 237 Cal.App.4th at 635, 188 Cal.Rptr.3d at 248.

The Court of Appeal reversed. "Is it important at the outset to acknowledge what *Mejia* is not. It is not a case exonerating a hospital." *Whitlow*, 237 Cal.App.4th at 636, 188 Cal.Rptr.3d at 249. "Because the issue of agency is quintessentially a question of fact . . . it may be somewhat surprising that a case alleging ostensible agency or apparent agency meets its early demise by summary judgment." *Whitlow*, 237 Cal.App.4th at 635, 188 Cal.Rptr.3d at 249.

Rejecting the contention that the Conditions of Admission form is sufficient to relieve a hospital of vicarious liability, *Whitlow* explained:

> Defendant hospital . . . fails to cite a single case in which a California court has found that a patient who enters an emergency room of a hospital in dire distress and excruciating pain and who is forced to sign admission forms that include the agency disclaimer is provided "notice" the hospital is not responsible for her care and the apparent agency of the emergency room physician is dispelled as a matter of law.

Whitlow, 237 Cal.App.4th at 637, 188 Cal.Rptr.3d at 250. The clear California law is that ostensible agency is a question of fact for the jury to determine, with the Conditions of Admission form merely evidence that the jury can consider.

Mejia and *Whitlow* were emergency room cases and, as the majority opinion points out, Mr. Markow chose Rosner to treat him. The jury reasonably saw the issue as more nuanced. As *Mejia* explained modern hospitals are not merely places for treatment. They employ physicians (Rosner was an employee in his position as director of the pain center), nurses, technicians and support personnel, to provide medical care. *See* Paul, D.P., and Honeycutt, E.D., "Health Care Marketing," *Journal of Hospital Marketing*, vol. 11(1), 1997, p. 74 ("Notwithstanding the fact that physicians admit the patients, a recent study suggested that it is the competence and behavior of the hospital's physicians that are the most important characteristics in the minds of consumers in evaluating hospitals."); Devers, K. J., et al., "Changes in Hospital Competitive Strategy: A New Medical Arms Race?" *Health Services Research*, vol. 38 (1 Pt. 2), Feb. 2003 ("[hospital] efforts to improve specialty care were also designed to attract consumers who have increased choice due to changes in health plan products and provider networks").

The *Markow*-majority disregarded evidence that the jury did consider: That Cedars-Sinai, indisputably a modern hospital, recruited Rosner to be the director of its pain center and, in so doing, effectively assigned all pain management patients to him. *Markow*, 3 Cal.App.5th at 1062-1063, 208 Cal.Rptr.3d at 391 (Johnson, J., dissenting). Cedars-Sinai's efforts to attract such patients was successful, as Markow proved to the jury. He picked Rosner on the strength of Cedars-Sinai's reputation and advertising him as the director of its pain center. *Markow*, 3 Cal.App.5th at 1033, 208 Cal.Rptr.3d at 367. Cedars-Sinai facilitated this promotion by having prospective patients call the

hospital to get an appointment with Rosner, and further holding him out in its building and through his business cards and stationary.

There is no California authority holding or suggesting that the Conditions of Admission form is conclusive notice, in itself, to a patient — either an emergency patient, or a non-emergency patient. The majority opinion is based on a notion of a clear line between "agent" and "independent contract" and that a form that uses the latter description is conclusive. The evidence that the jury heard and saw, however, showed that Cedars-Sinai blurred that line. By disregarding all information that Mr. Markow knew and considered (of which he learned from or due to Cedars-Sinai), and focusing on the Conditions of Admission form, the *Markow*-majority departs from the settled law that boilerplate forms are *not* conclusive. The majority opinion is especially problematic, because it suggests that even one signed Conditions of Admission form is conclusive. *Markow*, 3 Cal.App.5th at 1041 n.5, 208 Cal.Rptr.3d at 375 n.5. At best, as the dissent points out, these boilerplate forms may negate the presumption or inference of agency, leaving it to the patient to show that he could not appreciate the significance of the form or that the hospital's other acts or omissions gave the patient reason to believe that the physician was the hospital's agent or employee. *Markow*, 3 Cal.App.5th at 1065, 208 Cal.Rptr.3d at 393 (Johnson, J., dissenting). The record in *Markow* shows that the patient did just that.

If Review is Granted, This Court Should on Its Own Motion Review the Ostensible Agency Issue as Well

As noted above, *Markow's* majority opinion conflicts with settled procedural principles (denial of a motion for judgment notwithstanding the verdict) and with settled substantive law of ostensible agency, but none of the parties have an incentive to seek review of this erroneous portion of *Markow's* ruling. Rosner has sought review of the decision. The Markows oppose review, but have not raised the ruling in favor of the hospital as an additional issue if review were to be granted.

If this Court grants review, then Consumer of Attorneys of California suggests that review should be granted on the issue of whether a standard form that hospitals require patients to sign as a condition of treatment is conclusive, as a matter of law, of whether the physician is the ostensible agent of the hospital. Because of this unusual procedural posture, and if the Markows are unable or unwilling to brief the ostensible agency issue, Consumer Attorneys is willing to advocate in this Court the patient's position on the ostensible agency issue. This would be without charge to either of the Markows.

Respectfully submitted,

_____

Steven B. Stevens

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 years and am not a party to this action; my business address is Steven B. Stevens, A Prof. Corp., 2934½ Beverly Glen Circle, Suite 477, Los Angeles, California 90077. On December 3, 2016, I served the following document(s) described as **Request for Depublication of Opinion** on the interested parties in this action as follows:

__X__ by placing _____ the original _____ a true copy thereof enclosed in sealed envelopes addressed as stated on the attached service list.

See attached service list

__X_ **BY MAIL**: By placing a true copy thereof in a sealed envelope addressed as above, and placing it for collection and mailing following ordinary business practices. I am readily familiar with the firm's practice of collection and processing correspondence, pleadings, and other matters for mailing with the United States Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business.

_____ **BY PERSONAL SERVICE:**

_____ By personally delivering copies to the person served.

_____ I delivered such envelope by hand to the offices of the addressee pursuant to Civil Procedure Code section 1011.

____ **BY EXPRESS SERVICE CARRIER (C.C.P. Section 1013(c)):** By placing a true copy thereof in a sealed envelope or package, addressed as above, and depositing it in a box or other facility regularly maintained by the express service carrier, or delivered to an authorized carrier or driver authorized by the express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for, addressed to the person(s) on whom it is to be served as stated on the attached airbill.

__X__ (STATE) I declare under penalty of perjury that the foregoing is true and correct.

_____ (FEDERAL) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed December 3, 2016, in Los Angeles County, California.

_____

Steven B. Stevens

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