

Case No. S279622

**IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA**

HECTOR CASTELLANOS, JOSEPH DELGADO, SAORI
OKAWA, MICHAEL ROBINSON, SERVICE EMPLOYEES
INTERNATIONAL UNION CALIFORNIA STATE COUNCIL,
and SERVICE EMPLOYEES INTERNATIONAL UNION,
Plaintiffs and Respondents,

v.

STATE OF CALIFORNIA, and KATIE HAGEN, in her official
capacity as Director of the California Department of Industrial
Relations,
Defendants and Appellants,

PROTECT APP-BASED DRIVERS AND SERVICES, DAVIS
WHITE, and KEITH YANDELL,
Intervenors and Appellants.

First Appellate District, No. A163655
Alameda County Superior Court, No. RG21088725
Hon. Frank Roesch, Judge

**PLAINTIFFS' OPPOSITION TO INTERVENORS'
MOTION FOR JUDICIAL NOTICE**

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**PLAINTIFFS’ OPPOSITION TO INTERVENORS’
MOTION FOR JUDICIAL NOTICE**

Intervenors ask the Court to take judicial notice of a newspaper editorial as an aid in interpreting article XIV of the California Constitution. They state that they offer this editorial “not for its truth, but to demonstrate what was said to the public ... in advance of the 1918 election” at which voters adopted an amendment to article XIV. (Intervenors’ RJN at p. 7.) The trial court and Court of Appeal denied Intervenors’ requests for judicial notice of the same editorial. (*Id.* at p. 5.) This Court should do so as well.

“Although a court may judicially notice a variety of matters [citation], only *relevant* material may be noticed.” (*Mangini v. R. J. Reynolds Tobacco Co.* (1994) 7 Cal.4th 1057, 1063 (*Mangini*), emphasis in original, overruled on other grounds by *In re Tobacco Cases II* (2007) 41 Cal.4th 1257, 1276.)

Unlike ballot materials directly presented to voters, a newspaper editorial is not relevant evidence of voter intent because, among other things, it is impossible to know how many voters read the editorial.¹ (See, e.g., *Robert L. v. Superior Court* (2003) 30 Cal.4th 894, 904–905 [emphasizing that materials “ ‘not directly presented to the voters ... are not relevant to our

¹ The editorial at issue appeared on page 6 of the Sacramento Bee in October 1918. (AA 798.) The 1920 U.S. Census found that less than two percent of California’s population resided in the City of Sacramento. (See Bureau of the Census, U.S. Dept. Commerce, Fourteenth Census of the United States Taken in the Year 1920 (1921), vol. 1, pp. 16, 82, at <<http://tinyurl.com/4abxmsz>>.)

inquiry’ ” and considering only “ ‘the electorate’s intended goal as reflected in the language of the [statute] and in the ballot arguments’ ” (omission and alteration in original); *Farmers Ins. Exchange v. Superior Court* (2006) 137 Cal.App.4th 842, 857 [“We cannot presume that the electorate as a whole was aware of statements made in an article....”]; *Mobilepark West Homeowners Assn. v. Escondido Mobilepark West* (1995) 35 Cal.App.4th 32, 43, fn. 6 [“ballot arguments are the only proper extrinsic aid which could be considered on th[e] subject [of voter intent]”].)

Where, as here, a document has “ ‘ no bearing on the limited legal question[s] at hand,’ ” judicial notice should be denied. (*Mangini, supra*, 7 Cal.4th at p. 1063.)

Dated: February 1, 2024

Respectfully submitted,

ALTSHULER BERZON LLP

OLSON REMCHO, LLP

SERVICE EMPLOYEES
INTERNATIONAL UNION

By: /s/ Scott A. Kronland

*Attorneys for Plaintiffs-Respondents
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Plaintiffs' Opposition to Intervenors' Motion for Judicial Notice

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I declare under penalty of perjury under the laws of the
State of California that the foregoing is true and correct.
Executed February 1, 2024, at San Francisco, California.



Jean Perley

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **CASTELLANOS v. STATE OF CALIFORNIA (PROTECT APP-BASED DRIVERS AND SERVICES)**

Case Number: **S279622**

Lower Court Case Number: **A163655**

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2/1/2024

Date

/s/Scott Kronland

Signature

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