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November 21, 2022

Honorable Tani Cantil-Sakauye, Chief Justice of California
Honorable Associate Justices of the Supreme Court of California
Supreme Court of California
Earl Warren Building
350 McAllister Street
San Francisco, CA 94102-4797

Re: *Ruelas, et al. v. County of Alameda, et al.*, No. S277120
Certification Request from the United States Court of Appeals for the Ninth Circuit

Dear Chief Justice Cantil-Sakauye and Associate Justices:

Pursuant to California Rules of Court, rule 8.548(e)(1), defendant-appellant County of Alameda respectfully opposes the request by the United States Court of Appeals for the Ninth Circuit for this Court to decide the following question:

Do non-convicted incarcerated individuals performing services in county jails for a for-profit company to supply meals within the county jails and related custody facilities have a claim for minimum wages and overtime under Section 1194 of the California Labor Code in the absence of any local ordinance prescribing or prohibiting the payment of wages for these individuals?

Without dispute, the question posed falls within the category of issues this Court may review under rule 8.548(a); it is a question of California law that would resolve the interlocutory appeal in the Ninth Circuit, and no published case has squarely considered it. Nonetheless, as discussed in greater detail in the letter submitted by defendant-appellant Aramark Correctional Services, LLC, this Court's review is not warranted. The issue is one of pure constitutional and statutory construction; it can and should be resolved through application of the rules of construction this Court has thoroughly explained in its prior decisions. (See, e.g., Code Civ. Proc., § 1859; *In re Corrine W.* (2009) 45 Cal.4th 522, 529 (*Corrine W.*); *Legislature v. Eu* (1991) 54 Cal.3d 492, 504 (*Eu*)). The Ninth Circuit can apply those settled standards as well as this Court, and no new or case-specific guidance is needed.

As demonstrated by the parties' briefs in the Ninth Circuit and in Aramark's November 21 letter to this Court, the wage claims presented by Armida Ruelas and the other plaintiff-appellees reflect a policy objective, but they have no basis in constitutional or statutory text, context, history, or other indicia of legislative intent. (See *Corrine W.*, *supra*, 45 Cal.4th at p. 529; *Eu*, *supra*, 54 Cal.3d at p. 504.) When California voters approved Proposition 139, they enacted a constitutional amendment and related Penal Code provisions that prescribed limited financial compensation to state prisoners, but they expressly and intentionally granted counties discretion to decide whether and how much to pay county inmates participating in work programs. (See Cal. Const. art. XIV, § 5; 3-ER-503.) The discretion voters granted counties, in turn, was limited

by an existing provision of the Penal Code that caps the financial compensation counties may authorize for county inmates at no more than two dollars per eight-hour shift. (Penal Code, § 4019.3.) In the absence of a county ordinance prescribing financial compensation, county inmates are entitled to non-monetary benefits, such as sentence reductions, job training, and other privileges conferred by counties, such as special housing, special food, and expanded opportunities for being out of their cells during the day. (Penal Code, § 4019; 2-ER-285–286; 3-ER-503–504.) But neither this law nor any other expresses an intent to grant county inmates a right to minimum wages under the Labor Code.

Even Plaintiffs and the district court acknowledge that, under Proposition 139 and the Penal Code, convicted county inmates are not entitled to any financial compensation for their participation in jail work programs. Yet Plaintiffs have argued, and the district court agreed, that non-convicted inmates are entitled to the minimum wages prescribed by the Labor Code, at least so long as no local ordinance provides otherwise. The question certified by the Ninth Circuit, in turn, reflects that distinction; it asks this Court to consider whether *non-convicted* inmates are entitled to the Labor Code’s protections *in the absence* of a contrary local ordinance, tacitly recognizing that convicted inmates have no such rights and that county ordinances enacted under Proposition 139 and the Penal Code would govern to the exclusion of the Labor Code.

Nothing in the text, context, or history of Proposition 139, the Penal Code, or even the Labor Code, however, suggests any intent to distinguish between convicted and non-convicted inmates for purposes of determining whether and how to compensate county inmates for work.¹ Nor do these laws or their legislative backgrounds require counties to enact local ordinances setting wages for county inmates, let alone provides for the Labor Code’s wage provisions to govern in the absence of a local ordinance. (See Cal. Const., art. XIV, § 5, subd. (a); see also 3-ER-503 [reflecting voters’ intent that local laws are “not required to contain any specific fiscal provisions.”].) In the absence of any indication that California’s voters or Legislature intended to confer special rights to non-convicted inmates or to impose the Labor Code unless abrogated by local ordinance, Plaintiffs’ belief that they *should* be provided financial compensation for their work cannot be sustained by a court. (*Cornette v. Dept. of Transportation* (2001) 26 Cal.4th 63, 73-74 [courts “may not rewrite a statute, either by inserting or omitting language, to make it conform to a presumed intent that is not expressed.”].) Only the voters or the Legislature can grant Plaintiffs’ the rights they seek.

These fundamental and well-settled standards of construction control resolution of the issue presented in this interlocutory appeal. The Ninth Circuit thus has the tools it needs to decide the

¹ Without dispute, the Thirteenth Amendment to the U.S. Constitution *does* distinguish between convicted and non-convicted inmates in terms of who may and who may not be compelled to work. (See *United States v. Kozminski* (1988) 487 U.S. 931, 943; *McGarry v. Pallito* (2d Cir. 2012) 687 F.3d 505, 511. Plaintiffs have alleged claims that they are forced to work in violation of their federal constitutional rights, but those claims are disputed and are currently being litigated in the district court. (See 1-ER-28–30.) If Plaintiffs are right that their federal constitutional rights have been violated, they will be entitled to an appropriate remedy under federal law, as determined by the federal court. But those distinct claims have no bearing on whether non-convicted inmates are entitled to the wages prescribed by the California Labor Code.

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question, their application can lead to only one result, and this Court's further guidance is not needed. The County respectfully requests that this Court deny review.

Respectfully submitted,



Adam W. Hofmann

cc: All parties

PROOF OF SERVICE

**Armida Ruelas, et al v. County of Alameda, et al.
California Supreme Court Case No. S277120**

STATE OF CALIFORNIA, COUNTY OF SACRAMENTO

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Sacramento, State of California. My business address is 500 Capitol Mall, Suite 1500, Sacramento, CA 95814.

On November 21, 2022, I served true copies of the following document(s) described as **2022-11-21 LETTER TO SUPREME COURT OPPOSING REVIEW** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY ELECTRONIC FILING: By submitting an electronic version of the documents to TrueFiling, who provides e-serving to all indicated recipients through email.

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

Executed on November 21, 2022, at Sacramento, California.



Emily P. Griffing

SERVICE LIST
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California Supreme Court Case No. S277120

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(Via UPS)

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **RUELAS v. COUNTY OF ALAMEDA**

Case Number: **S277120**

Lower Court Case Number:

1. At the time of service I was at least 18 years of age and not a party to this legal action.
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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.

11/21/2022

Date

/s/Emily Griffing

Signature

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Last Name, First Name (PNum)

Hanson Bridgett LLP

Law Firm