

Siegel,
Yee,
Brunner
& Mehta

December 1, 2022

Via Electronic Filing

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❖ ALAN S. YEE
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Honorable Tani Gorre 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:

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

Honorable Chief Justice Cantil-Sakauye and Associate Justices:

We represent the putative class of pre-trial detainees who bring this action. We write to urge this Court to reject defendants' plea to deny the Ninth Circuit's reasonable request that you take up the important question of law at the heart of this case, that is:

Do non-convicted incarcerated individuals performing services in county jails for a for-profit company to supply meals within the county jails and other custodial 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?

In light of the years-long course of this case, it is hardly a surprise that defendants County of Alameda and Aramark Correctional Services, LLC are attempting to persuade this Court that the Ninth Circuit was incorrect to certify this question. Defendants have generally been dissatisfied with the courts' decisions in this case. In 2020, defendants moved to dismiss this case, and when they were unsuccessful, tried again in 2021. Then, unsatisfied with District Court Judge Jon S. Tigar's rulings on their motions to dismiss, defendants sought leave to appeal his decision on the question of law above to the Ninth Circuit Court of Appeals.

Judge Tigar granted defendants' motion for interlocutory appeal, which is granted only in "rare circumstances" (*Dalie v. Pulte Home Corp.*, 636 F. Supp. 2d 1025, 1027 (E.D. Cal. 2009) and only when "under 28

U.S.C. § 1292(b) as raising an important and unsettled question of law whose disposition will advance the ongoing proceedings.” *James v. Price Stern Sloan, Inc.*, 283 F.3d 1064, 1067 (9th Cir. 2002). The district court stated, “[t]he question presented here is a question of first impression,” in other words, a question that has not previously been decided by any controlling legal authority in this jurisdiction. In granting permission for the appeal to proceed, the Ninth Circuit agreed with Judge Tigar’s conclusion. 28 U.S.C. § 1292(b). As such, it is a question appropriate for a state court to answer rather than a federal court.

Now, defendants disagree with the Ninth Circuit Court and write to you for reprieve. But, as the Ninth Circuit panel recognized, the question before you is a paradigmatic example of an issue of law ripe for your review.

The Ninth Circuit cited well-established case law that supports its decision to certify the question and made clear that certification is particularly appropriate given that “the answer to the certified question will not only determine the outcome of defendants’ appeal of the district court’s denial of dismissal, but also resolve a novel and important question of California statutory interpretation regarding the applicability of state Labor Code provisions to non-convicted individuals incarcerated in county jails.” *Ruelas v. County of Alameda et al.* (9th Cir. Nov. 1, 2022), No. 21-16528, ECF No. 69 at 7.

The Ninth Circuit Court has in the past advised that the certification procedure is reserved for such cases, that is, those in which “state law questions ... present significant issues, including those with important public policy ramifications, and that have not yet been resolved by the state courts.” *Kremen v. Cohen*, 325 F.3d 1035, 1037 (9th Cir. 2003). Certification has been granted where no state court had interpreted the applicable state statute, but the interpretation would have a significant impact on both the public entities involved and the ability of individuals to enforce their rights. *Beauchamp v. City of Long Beach*, 730 F.3d 986, 992 (9th Cir. 2013). Here, both the Ninth Circuit Court and defendants acknowledge the impact resolution of the question will have on both the County of Alameda and detainees within its custody.

Nevertheless, defendants argue that certification is inappropriate here because the issue presented is a “straightforward” question that can be resolved using this state’s rules of statutory construction. This issue, however, is novel and thus not “straightforward,” as acknowledged by the Ninth Circuit panel that put it before you. While this Court is not obligated to take cases based on their difficulty, it is important to note that resolution of this issue does not depend on the application of rules of statutory construction to one or even two statutes but to a number of intertwined

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statutory provisions, including §§ 3370 and 6304.2 of the Labor Code and §§ 2811, 4017, 4325 and 4327 of the Penal Code. *Ruelas v. County of Alameda et al.* (9th Cir. Nov. 1, 2022), No. 21-16528, ECF No. 69 at 9.

In trying to persuade you to disregard most of the statutory provisions that the Ninth Circuit determined relevant in its certification order, defendants repeat the arguments made in their district court and Ninth Circuit briefs. They essentially ask this Court to decide the issue on its merits based on their letters to you.

We believe it is both unnecessary and inappropriate to reproduce our briefing on this complex issue in this letter. Instead, we ask this Court to defer to the Ninth Circuit Order on Certification and review our briefs should it decide to entertain the lengthy merits arguments defendants have reiterated in their letters to you.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dan Siegel", with a stylized flourish at the end.

DAN SIEGEL

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:

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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.

12/1/2022

Date

/s/Sara Beladi

Signature

Siegel, Dan (56400)

Last Name, First Name (PNum)

Siegel, Yee & Brunner

Law Firm