2d. Civ. No. B292539
San Luis Obispo No. 16CVP0060

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

MIKAYLA HOFFMANN, by and through her Guardian ad Litem AMY JABCOBSEN, Plaintiff and Appellant, *vs.* CHRISTINA M. YOUNG, et al., Defendants and Respondents.	No. **S266003**

ANSWER TO PETITION FOR REVIEW

AFTER A DECISION BY THE COURT OF APPEAL, SECOND APPELLATE DISTRICT, DIVISION SIX, REPORTED AT 56 Cal.App.5th 1021

ANDRADE LAW OFFICES, APC
Steven R. Andrade – SBN 079718
Taylor R. Dann – SBN 312083
211 Equestrian Avenue
Santa Barbara, CA 93101
Tel. (805) 962-4944
steve@andrade4law.com

Counsel for Plaintiff and Appellant

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

TABLE OF AUTHORITIES (Continued)

2nd Civ. No. B292539
San Luis Obispo No. 16CVP0060

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

MIKAYLA HOFFMANN, by and through her Guardian ad Litem AMY JABCOBSEN, Plaintiff and Appellant, *vs.* CHRISTINA M. YOUNG, et al., Defendants and Respondents.	No. **S266003**

ANSWER TO PETITION FOR REVIEW

AFTER A DECISION BY THE COURT OF APPEAL, SECOND APPELLATE DISTRICT, DIVISION SIX, REPORTED AT 56 Cal.App.5th 1021

Introduction & Summary of Answer

Respondents' Petition for Review poses a single, deceptively unremarkable question: "Can an invitation by a nonlandowner, made without the landowner's knowledge or express approval, abrogate the landowner's recreational use immunity?" (Petition ("Pet."), p. 5.) Actually, the petition seeks to *create* a conflict between state and federal court decisions by broadly miscasting the specific question articulated (and answered) by the Court of Appeal in this case: "If a person is living with

his parents, must he ask his parents for permission to bring a friend onto his parents' property? Or do his parents, by allowing him to live on the property, impliedly permit him to invite friends to the property? We use a modicum of common sense in selecting the latter alternative. Absent very unusual circumstances, such as an express order not to bring a friend to the property, it is reasonable to say that, so long as they are living together, a child may invite a guest onto the parents' property." (*Hoffmann v. Young* (2020) 56 Cal. App. 5th 1021, 271 Cal. Rptr. 3d 33, 37, reh'g denied, review filed (Dec. 8, 2020).)[1]

Indeed, here the Court of Appeal pointedly stated, and even labelled, its *core* "Holding" in "…clear language as a guidepost for the trial courts and the bar to properly evaluate cases:"

> We therefore repeat our holding: Where the landowner and the landowner's child are living together on the landowner's property with the landowner's consent, the child's express invitation of a person to come onto the property operates as an express invitation by the landowner within the meaning of section 846, subdivision (d)(3), unless the landowner has prohibited the child from extending the invitation.

(*Hoffmann*, supra, 271 Cal. Rptr. 3d 33, 39; italics added.)

---

[1] The only error in the decision gleaned by appellant's counsel is that the official report, preceding the Headnotes, mistakenly attributes the dissent from the decision to Justice Tangeman, when in fact it was by Justice Perren. (Compare, Slip Opinion appended to Pet. at p. 42, with 271 Cal. Rptr. 3d 33.)

The "question" set forth by Respondents on page 5 of their Petition bears little resemblance to that framed, and answered, by the Court of Appeal, which Respondents inexplicably failed to quote until the bottom of page 10 of that Petition. Truth be told, the holding of the Court of Appeal in this case conflicts with none of the authority cited by Respondents because none of those other cases concerned the efficacy of an invitation extended by a living-at-home child of the landowners.

On the other hand, Respondents also assert a backhanded condemnation of an antecedent decision of the Fourth District Court of Appeal, based on similar facts, by again distorting the actual holding of the appellate panel. (See, Pet., p. 6 ["But another decision takes a conflicting position, treating the landowner's express authorization as unnecessary—without explaining why the statute permits that result. (See *Calhoon v. Lewis* (2000) 81Cal.App.4th 108, 113–114 (*Calhoon*).)"].)

In fact, the *Calhoon* Court, like the Court of Appeal here, observed that the plaintiff had been expressly invited onto the property by the defendant-landowners' live-at-home son, and that, therefore, "This would

seem to easily bring this case into section 846, item [(d)'s] "'expressly invited'" exception." (*Calhoon*, supra, 81 Cal. App. 4th 108, 113.)[2]

In brief, Respondents' argument is hamstrung by their reliance on the *truthiness*[3] that has recently displaced, in some precincts, the factual predicates required for principled legal reasoning. Here, it is undisputed that the landowners' 18 year old son and co-defendant, Gunner, lived at home with his parents---as he had done uninterrupted for the 8 years prior to the time Appellant ("Mikayla") was injured (8 Tr. 2132 – 2133.); that he not only invited 15 year old Mikayla onto the Young's property, he transported her and her motorcycle there on the fateful day. (4 Tr. 951 – 952; 954 – 955; 8 Tr. 2175 – 2181.).

---

[2] As the court below noted, "The [*Calhoon*] opinion does not indicate the age of plaintiff or [landowners' son.]." (*Hoffmann*, supra, 271 Cal. Rptr. 3d 3, 37; Slip Opinion, p. 3) However, the docket of the Court of Appeal in this case reflects Appellant's Request for Judicial Notice ("RJN") filed on 5/20/2019 was "granted" on 6/6/2019. That RJN included the Respondents' Brief and other matter filed in *Calhoon* reflecting that the landowner's son was sued as a named party, *not as a minor*. (See, RJN, pp. 5 – 6 and Exhibit D.) The aforesaid docket is at https://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=2&doc_id=2262553&doc_no=B292539&request_token=NiIwLSEmXkg9W1BBSCItXEtIUFA6USxTKiI%2BUzlRICAgCg%3D%3D

[3] "Truthiness is what you want the facts to be as opposed to what the facts are. What feels like the right answer as opposed to what reality will support." (Stephen Colbert, The Colbert Report, October 17, 2005.)

The "issue" is as stated by the Court of Appeal, rather than as miscast at p. 5 of Respondents' Petition for Review. The Court of Appeal here expressly and correctly found that, "Because Gunner was acting as his parents' agent when he expressly invited appellant onto the property, the invitation is deemed to have been expressly extended by his parents, the landowner." (*Hoffmann*, supra, 271 Cal. Rptr. 3d 33, 38.) The *Calhoon* Court was also correct when it *impliedly* found that the same *agency* applied 20 years ago. (*Calhoon*, supra, 81 Cal. App. 4th at 113.).

Contrary to Respondents' assertion, the *Calhoon* Court did NOT "treat[] the landowner's express authorization as unnecessary," and the more apt question, evoked by the facts here, is whether a landowner may avoid application of the exception to recreational use immunity by the simple expedient of *tacitly* allowing only non-owner/non-titled family members of his household to issue *express invitations* to persons coming onto his property?

There being no actual conflict between the decision of the court below and those of any other court of competent jurisdiction, there is no need for review. The Court of Appeal here, and in *Calhoon*, merely harmonized Civil Code section 846 with Civil Code section 2295, et seq. ["An agent is one who represents another, called the principal, in dealings with third persons. Such representation is called agency."]

The Petition for Review filed December 8, 2020 should be DENIED.

Salient Matter Omitted from Respondents' Petition

Appellant submits that the following undisputed matter, appearing in the record on appeal, support the Court of Appeal's finding of implied, or ostensible agency, but were omitted from the decision and from the Respondents' Petition:[4]

- Respondents' trial counsel made an oral motion *in limine* to exclude witnesses who had been invited to use the Youngs' motocross track, to which Mikayla's counsel replied, "we'd be fine with that as long as there's no evidence presented to the effect that Mikayla wasn't invited to use the track. That's a primary issue in this case." (1 Tr. 76.) (AOB, p. 26.)
- Respondents' counsel then responded, "The fact of the matter is, it's an assumption of risk case. Track design. That's it. ¶ I'm not arguing status of the Plaintiff as a trespasser. That's not an issue in the case." (1 Tr. 77; emphasis added.) (AOB, pp. 26 – 27.)
- In ruling on Mikayla's *motions in limine* to admit evidence that other non-family members had been invited to social gatherings at

[4] Respondents concede that the property owners' son did, in fact, invite Appellant to visit the property, and that Appellant accepted that invitation. (Pet., pp. 8; 24.)

the Young residence by Gunner, including to ride motocross bikes, the trial court said, "If your (sic) talking about permission to use or not bringing other people there, I think that there is another motion that addresses that that I'm denying also." (1 Tr. 39.) (AOB, p. 41.)

- Donald Young, Gunner's father, testified, "Unaware to me, [Mikayla] was riding on the track, but never invited by me *or any of our family..."* (6 Tr. 1605; AOB, p. 22) (Emphasis added.)
- When Gunner and Mikayla arrived at the Young residence, Donald and Christina, Gunner's mother, were in the house. (4 Tr. 965 – 967; 8 Tr. 2139; 2182; AOB, p. 21.)
- Gunner testified, "I live with my mom and my dad." (8 Tr. 2169.) He said, as to providing Mikayla with proper attire, "I just figured I had extra gear. My mom's got like the female chest protectors and stuff, so I'd use that and her boots, and we had spare gear just from over the years." (8 Tr. 2181.) When asked, "Did you ask permission of your mom to use that gear that day," Gunner replied, "No, not at all." (8 Tr. 2181; AOB, p. 23.)
- Throughout examination of Gunner by his counsel, the Young residence was, understandably, referred to as "*your* house" (e.g., 8 Tr. 2237), just as the motocross track was referred to as "*your* track." (8 Tr. 2180.) (AOB, p. 22.)

- Gunner unloaded Mikayla's bike, helped put his mother's gear on her, exchanged the old gas in her tank for new fuel, got Mikayla's bike to start, bump-started his bike, told Mikayla he'd be right back, and then drove onto and around the dirt track. (8 Tr. 2182 – 2188.) He told Mikayla to drive her bike up and down the driveway a couple of times. (4 Tr. 954.)

Legal Argument

I.

THE DECISION BY THE COURT OF APPEAL IS CORRECT AND NEITHER CREATES, NOR AGGRAVATES ANY CONFLICT IN AUTHORITY.

It appears that Respondents are asking this Court to rule, as a matter of law, that the settled law of agency does not pertain to "landowners" within the meaning of the recreational use immunity codified at Civil Code section 846.[5] In other words. Respondents' implicit argument is that only the landowner personally, i.e., himself, or herself, has the authority to issue the "express invitation" that would negate

[5] As noted, the exception to the recreational use immunity conferred by the Legislature provides, in part, "[t]his section does not limit the liability which otherwise exists for… [a]ny persons who are expressly invited rather than merely permitted to come upon the premises by the landowner." (Civ. Code § 846, subd. (d)(3); underlining added.)

immunity, ***or***, *if* the landowner may delegate that authority, it must be express.

The Court of Appeal, in addressing the dissenting panel member's similarly strict construction, exposed its infirmities:

> The statute does not even purport to deal with the law of agency, which is a staple of both common and statutory law. By the dissent theory, only a fee simple owner of property is a "landowner" and only he or she, personally, can give consent. We do not purport to confer principal-agent status to son for business or other purposes. We only hold that for purposes of section 846 immunity, the son of a "landowner" can invite, i.e., expressly consent, to bring a person onto the land. This eviscerates section 846 immunity and this is the fair import of *Calhoon*.
>
> Can a managing agent of real property, expressly employed for such purpose, expressly consent for a person to come upon his principal's land with the principal still enjoying section 846 immunity? No. Here, of course, there is no express agency. But, there is implied agency to let son invite, and expressly consent, to allow a person to come onto his parents' land. This eviscerates section 846 immunity.

(*Hoffmann v. Young*, supra, 271 Cal. Rptr. 3d 33, 40; Slip Opinion, pp. 9 – 10; emphasis added.),

On appeal, but tellingly not in their instant Petition, Respondents focused on the use of the property for dirt-bike riding, rather than on more general social purposes. In their Respondents' Brief below, they emphasized that, "Gunner's parents prohibited anyone other than family

members *from using that track*. (7 RT 1901:13-27; 8 RT 2135:25-2137:9, 2172:26-2173:19.)." (RB 15.) (Emphasis added.)

That evidence, along with Donald Young's testimony that "Unaware to me, [Mikayla] was riding on the track, but never invited by me *or any of our family..."* (6 Tr. 1605; AOB, p. 22) (Emphasis added), implies that while Gunner's authority to invite persons onto the property *seemingly* did not extend to the use of the dirt-bike track, it was not otherwise restricted, or limited.

But, as one of the decisions cited and relied on by Respondents has clarified, "…**the invitation need not be for the specific purpose of engaging in recreation**." (*Jackson v. Pac. Gas & Elec. Co.* (2001) 94 Cal. App. 4th 1110, 1116, as modified (Jan. 7, 2002), as modified on denial of reh'g (Jan. 24, 2002).) (Emphasis added.) In other words, it does not matter whether Mikayla was invited for the specific purpose of dirt-bike riding, but only that she was "expressly invited" onto the Young's property for any purpose to implicate the exception to recreational use immunity. (See, also, *Pac. Gas & Elec. Co. v. Superior Court* (2017) 10 Cal. App. 5th 563, 588, as modified on denial of reh'g (Apr. 20, 2017), review denied (July 19, 2017) ["…the express invitation exception applies even when the plaintiff has no recreational purpose in visiting a premises;

immunity is abrogated by an invitation **for any purpose**."].) (Emphasis added.)[6]

None of the authority cited by Respondents holds that the "landowner" may not delegate the authority to extend an "express invitation" within the meaning of Civil Code section 846, subdivision (d)(3). Indeed, it would be remarkably obtuse for Respondents to so promiscuously cite ("passim") *Ravell v. U.S.* (9th Cir. 1994) 22 F.3d 960, and then deny that the Ninth Circuit's decision turned on whether Ms. Ravell had been "expressly invited" to attend an air show at a U.S. military installation open to the general public, rather on whether someone other than the Commander-in-Chief, the Secretary of Defense, the Secretary of the Air Force, etc., *personally* was authorized to issue that invitation. The presumption that such delegation of authority existed, and was cognizable under Civil Code section 846, is clear:

---

[6] Despite Respondents' argument to the contrary (RB, p. 47), the court below held that, "The trial court instructed the jury with CACI No. 1010, which provides in part that the express invitation exception to the immunity defense applies only if the invitation was for a "'recreational purpose."' **This language is erroneous and should be deleted from the instruction.** Nowhere in the statute (§ 846, subd. (d)(3)) is there such a requirement. (*Calhoon*, *supra*, 81 Cal.App.4th at p. 114, 96 Cal.Rptr.2d 394; *Pacific Gas & Electric Co. v. Superior Court*, *supra*, 10 Cal.App.5th at p. 588, 216 Cal.Rptr.3d 426; *Jackson v. Pacific Gas & Electric Co.* (2001) 94 Cal.App.4th 1110, 1116, 114 Cal.Rptr.2d 831.)." (*Hoffmann*, supra, 271 Cal. Rptr. 3d 33, 39; Slip Opinion, p. 7.) That holding is not challenged by Respondents' Petition for Review.

> Ravell's son's request that she come to the show does not advance her cause. She presented no facts to indicate that he was, in any sense, authorized to make express invitations on behalf of the United States which went beyond the advertised invitation to the general public. Liability cannot turn on such ephemera as a son's asking his mother to come to a public event.

(*Ravell v. United States*, 22 F.3d 960, 963, n. 3; emphasis added.)

Similarly unavailing is Respondents' manful attempt (at Pet., p. 15, *et seq*) to not only distance themselves from *Ravell's* footnote 3, but to also create a conflict between that decision and a United States District Court's ruling that a subordinate officer *apparently* had authority to issue such an "express invitation" within the meaning of Civil Code section 846.

As Appellant noted in her Reply Brief below, following the filing of the AOB, but prior to the filing of the RB, Honorable Barry Teb Moskowitz, United States District Judge, Southern District of California, had occasion to consider the *Ravell* decision in a context analogous to that presented here. (*H.S. by & through Parde v. United States*, No. 317-CV-02418-BTM (KSC), 2019 WL 3803804, (S.D. Cal. Aug. 13, 2019).)

An extended recitation of the pertinent passages of the district court's ruling is appropriate, but apparently misunderstood by Respondents, who cited it at Pet., pp. 18 – 23:

> …as to the "express invitation" exception (*i.e.*, § 846(d)(3)), Plaintiff argues that H.S. was expressly invited to the Armory by way of Captain Rankin's statements in

the Newsletters and/or by SSG Shears via the authority delegated to him by Captain Rankin via his statements in the Newsletters. In response, the United States argues that, because the Newsletters "did not specifically address particular family members by name, type of family member, or otherwise", it was not a direct and personal invitation and therefore insufficient to constitute an express invitation. (ECF No. 50, at 23-25.) It further argues that SSG Shears had "no authority to personally invite family members on behalf of the United States." (ECF No. 52, at 8 n.4.) Yet there is no support in the case law for the purported requirement that H.S. be personally-named in the Newsletters to constitute a "direct and personal" invitation. Rather, all that is required is that the invitation be direct, personal, and to a person personally selected by the landowner. *See Wang v. Nibbelink*, 4 Cal. App. 5th 1, 32 (2016) (" 'Express invitation' in section 846 refers to a direct, personal request by the landowner to persons whom the landowner personally selects to come onto the property") (citations omitted). Further, the parties do not cite, and the Court is unable to locate, prior decisions that directly define what constitutes a "direct, personal" request or what it means for a landowner to "personally select" a person to invite. Rather, these concepts have generally been defined by exclusion. *See Phillips v. United States*, 590 F.2d 297, 299 (9th Cir. 1979) ("[I]t seems evident to us that the Legislature did not intend to include within the concept of express invitation, used in section 846, any invitation to the general public."); *Calhoon v. Lewis*, 81 Cal. App. 4th 108, 115, 96 Cal. Rptr. 2d 394, 398 (2000) ("[P]ersons responding to advertisements, brochures, promotional materials, and other public offers **are not express invitees** under the [Recreational Use] statute."); *Johnson*, 21 Cal. App. 4th at 317 (employer's execution of a rental agreement with landowner in connection with use of premises for employer's company picnic did not constitute an express invitation from landowner to employer's employees).

> … Moreover, the United States' reliance on a footnote in *Ravell* for the proposition that an invitation from a service member to his family members cannot constitute an express invitation from the United States **overstates the holding in *Ravell***. *Ravell*, 22 F.3d at 961, 963 n.3 (invitation by service member to his mother to attend "widely-attended" airshow advertised to the general public attended by over 300,000 people was insufficient to constitute express invitation where the mother "presented no facts to indicate that [service member] was, in any sense, authorized to make express invitations on behalf of the United States which went beyond the advertised invitation to the general public"). Unlike in *Ravell*, Plaintiff has presented facts indicating that SSG Shears *was* authorized to extend an invitation on behalf of the United States by Captain Rankin exhortations in the Newsletters
>
> Nevertheless, because genuine disputes of material fact exist as to whether Captain Rankin and/or SSG Shears had sufficient authority, whether through delegation or otherwise, to invite H.S. onto the Armory on behalf of the United States, and therefore whether the "express invitation" exception to the Recreational Use statute is triggered, summary judgment in favor of either party is inappropriate.

(*H.S. by & through Parde v. United States*, 2019 WL 3803804, at *5 – 6.) (Underlining added.)

Here, the consistent, persistent argument of Respondents, prior to the decision by the court below, has been that Gunner did not have authority to invite Mikayla *to ride on the Young's dirt-bike track*, NOT that he lacked authority to invite her onto the property for *any purpose.*

The question, then, is whether under California law the holding by the Court below (and in *Calhoon*) of implied agency is appropriate. (Cf. 32

Cal. Jur. 3d Family Law § 358 ["The parent-child relation, taken in connection with other circumstances, may be entitled to considerable weight tending to establish the fact of agency. Also, as is true generally in the law of agency, a child's unauthorized act can become binding on the parent through the latter's ratification."].)

Certainly, the fact that it was the landowners' living-at-home child who issued the "express invitation" fills the evidentiary void noted in *Ravell* by Judge Moskowitz in the penultimate paragraph quoted above; it supports the Court of Appeal's finding of "implied agency" in the case of a living-at-home adult child:

> Actual authority may be conferred either expressly or by necessary implication. Thus, in the law of agency, actual authority takes two forms: (1) express authority, and (2) authority that is implied or incidental to a grant of express authority.[1] Thus, actual authority may be implied by the words and conduct of the parties.[2] This principle finds recognition in the statute defining actual authority as including that which the principal intentionally, or by want of ordinary care, allows the agent to believe himself or herself to possess.[3] As indicated by this statute, no implied authority exists unless the agent believes that he or she has such authority,[4] and this belief must be reasonable.[5]

(2B Cal. Jur. 3d Agency § 66; emphasis added.) (See, also, *Hoffmann*, supra, 271 Cal.Rptr. 33, 37 – 38.)

As noted, Respondents acknowledge that Gunner invited to Mikayla to come onto the Young's property---he even transported Mikayla and her

dirt-bike to the residence while his parents were at home. Presumably, then, Gunner believed that he was authorized to invite her, and under California law (Civ. C. § 2316), there cannot be "implied authority" unless the purported agent believes that he has such authority. (*Columbia Outfitting Co. v. Freeman* (1950) 36 Cal. 2d 216, 219.) Indeed, and as noted, Respondents have never denied that Gunner had authority to invite Mikayla, or anyone, to come onto the property.

Similarly, Mikayla, by accepting Gunner's invitation to visit the home he shared with his parents---the titled "landowners"---implicitly and reasonably believed that Gunner was authorized to issue that invitation. Under California law, " 'Ostensible authority is such as a principal, intentionally or by want of ordinary care, causes or allows a third person to believe the agent to possess.' (Civ.Cide section 2317; see also Restatement, Agency §§ 8, 27.) 'A principal is bound by acts of his agent, under a merely ostensible authority, to those persons only who have in good faith, and without want of ordinary care, incurred a liability or parted with value, upon the faith thereof.' (Civ.Code section 2334.)." (*Columbia Outfitting*, supra, 36 Cal. 2d 216, 219–20.)

The Court of Appeal's reliance on "common sense" is justified and beyond dispute because anyone receiving Gunner's invitation to visit <u>his</u> home would unquestionably assume he was authorized to issue it. It was

also an appropriate harmonization of Civ. C. §846(d)(3) with the statutory scheme that is the codification of the common law pertaining to "agency," Civ. C. § 2295, et seq. (See, e.g., *Younger v. Superior Court* (1978) 21 Cal.3d 102, 113, citations omitted ["It is a settled principle of statutory interpretation that language of a statute should not be given a literal meaning if doing so would result in absurd consequences which the Legislature did not intend."]; see, also, *People v. Pieters* (1991) 52 Cal. 3d 894, 898, citation omitted ["… we do not construe statutes in isolation, but rather read every statute "'with reference to the entire scheme of law of which it is part so that the whole may be harmonized and retain effectiveness.'"].)

Finally, and as noted, Respondents' counsel represented, on the record, that, "I'm not arguing status of the Plaintiff as a trespasser. That's not an issue in the case." (1 Tr. 77; emphasis added.) (Cited and quoted at AOB, pp. 26 – 27.) That clearly implies that Gunner was authorized to invite, and did invite, Mikayla to the Young's property on the day she was injured because, as the Court will know, " '**The essence of the cause of action for trespass is an "unauthorized entry" onto the land of another.'** [Citation.]' (*Miller v. National Broadcasting Co.* (1986) 187 Cal.App.3d 1463, 1480.)." (*McBride v. Smith* (2018) 18 Cal. App. 5th 1160, 1174.) (Emphasis added.) If Mikayla was not a trespasser, then she was

an *authorized*[7] entrant, a status she achieved by virtue of Gunner's "*express invitation*."

As the Court of Appeal correctly reasoned:

> Our holding does not undermine the purpose of section 846, which was enacted in 1963. "The statutory goal was to constrain the growing tendency of private landowners to bar public access to their land for recreational uses out of fear of incurring tort liability. [Citations.]" (*Hubbard v. Brown* (1990) 50 Cal.3d 189, 193, 266 Cal.Rptr. 491, 785 P.2d 1183.) Section 846 immunity from tort liability remains as to persons from the general public. Appellant was not a member of the general public. She was an expressly invited guest.

(*Hoffmann*, supra, 56 Cal. App. 5th 1021, 271 Cal. Rptr. 3d 33, 38; emphasis added.)

CONCLUSION

WHEREFORE, for all the reasons set forth above, the Respondents' Petition for Review should be DENIED.

Dated: December 28, 2020.

Respectfully submitted,

/s/ Steven R. Andrade
Steven R. Andrade
Attorney for Appellant

[7] "Authorized" is defined as "having official permission to do something or for something to happen," according to the Cambridge Dictionary. https://dictionary.cambridge.org/dictionary/english/authorized

CERTIFICATE OF COMPLIANCE WITH RULE 8.74 (b), CALIFORNIA RULES OF COURT.

This is to certify that the within Answer to Petition for Review complies with the type-volume limitation contained in Rule 8.74 (b), California Rules of Court.

This brief contains 4,739 words as determined by the word processing system used to prepare the brief, and the font type and size is Century Schoolbook, 13 point.

The brief was prepared with normal single and double spacing in accordance with California Rules of Court.

Dated: December 28, 2020.

Respectfully submitted,

/s/ Steven R. Andrade
Steven R. Andrade
Attorney for Appellant

PROOF OF SERVICE

Hoffmann v. Young et al.
Case No. S266003
Court of Appeal Case No. B292539

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

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 Santa Barbara, State of California. My business address is 211 Equestrian Avenue, Santa Barbara, CA 93101.

On December 28, 2020, I served true copies of the following document(s) described as ANSWER TO PETITION FOR REVIEW on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Andrade Law Offices, APC's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission via Court's Electronic Filing System (EFS) operated by ImageSoft TrueFiling (TrueFiling) as indicated on the attached service list:

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

Executed on December 28, 2020, at Santa Barbara, California

Susana Cruz

SERVICE LIST
Hoffmann v. Young et al.
Case No. S266003
Court of Appeal Case No. B292539

COUNSEL OF RECORD	PARTY REPRESENTED
Jay M. Borgeson Royce J. Borgeson Henderson & Borgeson 801 Garden Street, Suite 100 Santa Barbara, CA 93101 (805) 963-0484 • Fax: (805) 962-7223 jay@hendersonborgeson.com royce@hendersonborgeson.com	Defendants and Respondents Christina M. Young, Donald G. Young Jr., Gunner Young, and Dillon Young (Via TrueFiling)
Dean A. Bochner Joshua C. McDaniel Horvitz & Levy, LLP 3601 West Olive Avenue, 8th Floor Burbank, CA 91505-4681 (818) 995-0800 • Fax: (844) 497-6592 chu@horvitzlevy.com dbochner@horvitzlevy.com jmcdaniel@horvitzlevy.com	Defendants and Respondents Christina M. Young, Donald G. Young Jr., Gunner Young, and Dillon Young (Via TrueFiling)
Hon. Linda D. Hurst San Luis Obispo County Superior Court Paso Robles Branch 901 Park Street Paso Robles, CA 93446 (805) 706-3600	Trial Court Judge Case No. 16CVP0060 (Via U.S. Mail)
Office of the Clerk California Court of Appeal Second Appellate District, Division 6 Court Place 200 East Santa Clara Street Ventura, CA 93001 (805) 641-4700	Case No. B292539 (Via TrueFiling)

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **HOFFMANN v. YOUNG**
Case Number: **S266003**
Lower Court Case Number: **B292539**

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

2. My email address used to e-serve: **contact@andrade4law.com**

3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
ANSWER TO PETITION FOR REVIEW (FEE PREVIOUSLY PAID)	Hoffmann_Answer to Petition for Review with POS 12-28-20

Service Recipients:

Person Served	Email Address	Type	Date / Time
Jeffrey Alpert Alpert Law Group APC 165997	jeff@alpertlawgroup.com	e-Serve	12/28/2020 10:21:59 AM
Taylor Dann Andrade Law Offices, APC 312083	taylor@andrade4law.com	e-Serve	12/28/2020 10:21:59 AM
Christopher Hu Horvitz & Levy LLP 176008	chu@horvitzlevy.com	e-Serve	12/28/2020 10:21:59 AM
Dean Bochner Horvitz & Levy LLP 172133	dbochner@horvitzlevy.com	e-Serve	12/28/2020 10:21:59 AM
Joshua Mcdaniel Horvitz & Levy LLP 286348	jmcdaniel@horvitzlevy.com	e-Serve	12/28/2020 10:21:59 AM
Jay Borgeson Henderson & Borgeson	jay@hendersonborgeson.com	e-Serve	12/28/2020 10:21:59 AM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

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

12/28/2020
Date

/s/Steven Andrade

Signature

Andrade, Steven (079718)

Last Name, First Name (PNum)

Andrade Law Offices

Law Firm