Case No. S274147

IN THE SUPREME COURT OF CALIFORNIA

DAVID MEINHARDT,

Petitioner and Appellant,

vs.

CITY OF SUNNYVALE, SUNNYVALE PERSONNEL BOARD,

Respondent,

SUNNYVALE DEPARTMENT OF PUBLIC SAFETY,

Real Party in Interest.

After a Decision by the Court of Appeal for the Fourth District, Division One
Court of Appeal Case No. D079551
Dismissing an Appeal of a Judgment Entered in
the Superior Court of Santa Clara County
Superior Court Case No. 19CV346911
Hon. Peter Kirwan

REPLY IN SUPPORT OF PETITION FOR REVIEW

KIRKLAND & ELLIS LLP

*Michael Shipley (SBN 233674)
mshipley@kirkland.com
Nathaniel Haas (SBN 324305)
nathaniel.haas@kirkland.com
555 S. Flower Street
Los Angeles, CA 90071
Telephone: (213) 680-8400

MESSING ADAM & JASMINE LLP

Gregg McLean Adam (SBN 203436)
gregg@majlabor.com
235 Montgomery Street, Suite 828
San Francisco, CA 94104
Telephone: (415) 266-1800

Attorneys for Petitioner and Appellant
David Meinhardt

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

California Cases

Statutes

Rules of Court

Other Authorities

The Petition raised several bases for this Court to grant review. The Answer, however, does not address many of them. First, the Court of Appeal's decision (the Opinion) is contrary to this Court's decision in *Alan v. American Honda Motor Co.* Yet, the Answer does not even cite *Alan*. Second, the Answer also ignores several Court of Appeal decisions that conflict with the ruling in this case. Third, the Opinion and the Answer's proposed rule—that the entry of a separate final judgment is effectively a nullity—is contrary to ordinary civil practice. But the Answer does not explain why a different rule should apply to administrative mandate cases. Fourth, the Opinion is contrary to the express language of Code of Civil Procedure section 1094.5, subdivision (f) (§ 1094.5(f)),[1] which requires entry of judgment in such cases. Yet again, the Answer does not cite, much less discuss, § 1094.5(f).

Instead, the City weaves an anomalous application of law in two prior Court of Appeal cases—decided 20 years apart—into "decades of California precedent," with inconsistent cases cast as "non-existent" precedent. At the end of the day, however, the Answer effectively concedes that there is a split of authority on a key rule of appellate jurisdiction in the decisions of the Courts of Appeal. The Court should grant review.

ARGUMENT

"The one final judgment rule is a fundamental principle of appellate practice." (*In re Baycol Cases I & II* (2011) 51 Cal.4th 751, 756, cleaned up (*Baycol*).) "[B]right lines are essential in this

[1] Further undesignated citations to statutes are to the Code of Civil Procedure. Citations to Rules are to the Rules of Court.

area, to avoid both inadvertent forfeiture of the right to appeal and excessive protective appeals by parties afraid they might suffer such a forfeiture." (*Id.* at p. 761, quoting *Kinoshita v. Horio* (1986) 186 Cal.App.3d 959, 962-963 (*Kinoshita*).). In matters of appealability, "[a] definite rule is necessary to reduce both the temptation to file dilatory appeals and the compulsion to file protective ones." (*Kinoshita*, *supra*, 186 Cal.App.3d at p. 968.)

The Opinion merits review because it creates uncertainty. It is fundamentally inconsistent with other decisions that also bind superior courts. And the rule it applies requires more guesswork than a jurisdictional rule should bear.

I.
Review Is Necessary to Secure Uniformity of Decision on an Important Question of Law.

The City devotes all of a page-and-a-half to rebutting the Petition's argument that review is needed to ensure uniform jurisdictional rules. (Ans. 19-20.) It declines to grapple with the fact that the decision is irreconcilable with a prior decision of this Court, that there is substantial disagreement in the Courts of Appeal, and that its novel rule is inconsistent with ordinary civil practice in California for no good reason.

A.
The Court of Appeal's Decision Is in Tension with Prior Decisions of this Court.

The Petition explained that the Opinion is contrary to this Court's decision in *Alan v. American Honda Motor Co.* (2007) 40 Cal.4th 894, 901 (*Alan*). *Alan* recognized "[t]he general rule is that a statement or memorandum of decision is not appealable." (*Id.* at

p. 901.) Yet, "[r]eviewing courts have discretion to treat statements of decision as appealable when they must, as when a statement of decision is signed and filed and does, in fact, constitute the court's final decision on the merits." (*Ibid.*) "But a statement of decision is not treated as appealable *when a formal order or judgment does follow*[.]" (*Ibid.*, emphasis added) "Certainly the desire to cut off a litigant's right to appeal cannot justify creating an exception to the general rule." (*Ibid.*) Unless there is some principled basis to distinguish a signed statement of decision from an order denying a writ petition,[2] that rule should carry the day. Yet, the Answer does not even cite, much less make any effort to distinguish, *Alan*.[3]

The Answer instead cites a number of decisions of this Court generally expressing the standard for finality. (Ans. 11-12.) But none of them support the Opinion's conclusion that an entered formal judgment is not an effective judgment when it follows an order resolving an action. They instead address finality principles applied in other contexts.

Olson simply held that an order denying summary judgment was not a final appealable judgment. (*Olson v. Cory* (1983) 35 Cal.3d 390, 400).

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[2] Notably, certain orders resolving writ petitions *are* statements of decision. (See *Cooper v. Kizer* (1991) 230 Cal.App.3d 1291, 1301.)

[3] As the Petition pointed out, the Court of Appeal's decision is also difficult to reconcile with the result of *Voices of the Wetlands v. State Water Resources Control Bd.* (2011) 52 Cal.4th 499, 514, and a large volume of published appellate decisions that similarly should have been dismissed if the Opinion states the correct rule. Yet, the Answer makes no effort to explain such an anomalous state of affairs.

Griset held that an order denying a writ petition in a prior case was sufficiently final that it could be amended into a judgment even though it was "not formally entered as a judgment." (*Griset v. Fair Political Practices Com.* (2001) 25 Cal.4th 688, 694 (*Griset*).)

Sullivan amended a judgment to reflect that it resolved all causes of action, a point inadvertently omitted by the trial court. (*Sullivan v. Delta Airlines, Inc.*, (1997) 15 Cal.4th 288, 308 (*Sullivan*).).

Dana Point Safe Harbor Collective held that an order enforcing an administrative subpoena can be treated as a final judgment. (*Dana Point Safe Harbor Collective v. Superior Court* (2010) 51 Cal.4th 1, 5 (*Dana Point*).)

And *Dhillon* held that a final order and judgment remanding a writ petition to an agency was sufficiently final to be appealable (because otherwise the ability of one party to appeal would have been mooted by subsequent agency action—an oddity peculiar to that case). (*Dhillon v. John Muir Health* (2017) 2 Cal.5th 1109, 1117.)

No doubt, many of these cases contain language that, stripped of any context, could be read as stating that any order that is sufficiently final *is* a judgment. But courts cannot rest their decisions upon "quotations from previous opinions that are not pertinent by reason of dissimilarity of facts in the cited cases and in those in the case under consideration." (*Harris v. Capital Growth Investors XIV* (1991) 52 Cal.3d 1142, 1157.) Indeed, the Court has taught that "[i]t is axiomatic that language in a judicial opinion is

to be understood in accordance with the facts and issues before the court. An opinion is not authority for propositions not considered." (*Chevron U.S.A., Inc. v. Workers' Comp. Appeals Bd.* (1999) 19 Cal.4th 1182, 1195.) Taken in context, none of the cited cases actually adopts a rule contrary to the proposition in *Alan*—that an order that fully disposes of an action is "not treated as appealable when a formal order or judgment does follow[.]" (*Alan*, *supra,* 40 Cal.4th at p. 901.)

B.
The Court of Appeal's Decision Conflicts with Previous Court of Appeal Cases Establishing the Time to Appeal in Special Proceedings.

The Answer boldly declares that review is unnecessary because the law stated in the Opinion has been "settled" and "clear" for "decades." (Ans. 17, 20). The City, however, acknowledges that contrary Court of Appeal precedent exits. It just contends that the cases cited in the Petition are not "meaningful" (Ans. 7), whatever that means.

First off, were the law so completely clear, why did the City's trial counsel—the same lawyers on the Answer—jointly sign and submit a proposed judgment to the trial court 29 days after the order that the City now says was *the* final judgment? (AA134.) As another case where a city's lawyer saw belated tactical advantage in pretending that an order is a final judgment observes, "[t]he city's filing of its '[Proposed] Judgment' belies its assertion that nothing more needed to be done, for if nothing more were needed then why did the city file its proposed judgment? The city's briefs do not address that question." (*Davis v. Superior Court* (2011), 196

Cal.App.4th 669, 673.) The City's Answer doesn't address it here, either.

In any event, "there is … ambiguity about which orders are appealable in actions seeking writs of mandamus." (*California Administrative Mandamus* (C.E.B. 3d ed. 2019) § 16:10 (*Administrative Mandamus*).) The Petition pointed to four writ cases—*Protect Our Water v. County of Merced* (2003) 110 Cal.App.4th 362 (*Protect Our Water*); *Catalina Investments, Inc. v. Jones* (2002) 98 Cal.App.4th 1 (*Catalina*); *MCM Construction, Inc. v. City and County of San Francisco* (1998) 66 Cal.App.4th 359 (*MCM*); and *Hadley v. Superior Court* (1972) 29 Cal.App.3d 389 (*Hadley*)—that are irreconcilable with the Opinion, as they stand for the proposition that when a formal final judgment has been entered, an appeal can be timely taken from that judgment, even if outside the time to appeal a case-dispositive order subsumed within it. The Answer does not even cite two of them—*Catalina* and *MCM*—and only glances upon the third—*Hadley*—in a policy discussion that appears to disagree with its rule. (Ans. 16.)

At minimum, however, there is a stark division of authority between the Opinion and *Protect Our Water*. The City argues, as did the Court of Appeal, that *Protect Our Water*'s reasoning was in a "footnote only and with no supporting discussion." (Ans. 19.) (The City does not acknowledge, however, that the *Protect Our Water* footnote cited *Catalina* and *MCM*, which, as the Petition explains, are also inconsistent with the Opinion.) But precedent is precedent "[e]ven when stated in footnotes[.]" (*Dyer v. Superior Court* (1997), 56 Cal.App.4th 61, 66; Robert A. James, *Are Footnotes in Opinions*

Given Full Precedential Effect? (1982) 1 J. Atten. Subt. 33 ["Indeed," footnote omitted].) The City persists, however, with the somewhat-circular reasoning that *Protect our Water* does not evince a split of authority in the Court of Appeal because its "value as precedent is almost non-existent[.]" (Ans. 20.) Why is that so? According to the City, the Opinion "appropriately … decline[d] to follow" *Protect Our Water* because it its analysis was lacking. (Ans. 19.) That fundamentally misconstrues the way judicial precedent works in California.

In *Protect Our Water*, the defendant moved to dismiss an appeal taken more than 60 days after service of an order denying a writ of mandate. (110 Cal.App.4th at p. 362 fn.2.) Citing *Catalina* and *MCM*, the Court of Appeal denied the motion because "the appeal was filed within 60 days after entry of the judgment, and the judgment is appealable." (*Ibid.*) That is: (1) a statement of law; (2) that is necessary to the decision—without it, the appeal would have been dismissed—and "therefore binding precedent." (*Boswell*, *supra*, 225 Cal.App.4th at p. 1176.)[4] That the Court of Appeal and the City disagree with the rigor of that analysis does not make it any less so.

Importantly, *Protect Our Water* cannot be waived away as mere dicta, and the Answer does not argue it is. "The ratio decidendi is the principle or rule that constitutes the ground of the

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[4] Two cases specifically examined in the Opinion, (*Id.* at p. 17-18), also deny motions to dismiss in footnotes no more discursive than *Protect Our Water*. (See *Townsel v. San Diego Metropolitan Transit Development Bd.* (1998) 65 Cal.App.4th 940, 944, fn. 1; *Haight v. City of San Diego* (1991) 228 Cal.App.3d 413, 416, fn. 3 (*Haight*).)

decision, and it is this principle or rule that has the effect of a precedent." (9 Witkin, California Procedure (2022 online ed.) Appeal § 530.) If a "statement of law" is "necessary to the decision" it is "therefore binding precedent[.]" (*Ibid*.; see also *In re Marriage of Boswell* (2014) 225 Cal.App.4th 1172, 1176 *(Boswell*) ["[O]ur two holdings are necessary to our decision and are, therefore, binding precedents."].) That such a statement is in a footnote does not alter its precedential status. (*People v. Vang* (2011) 52 Cal.4th 1038, 1047 fn. 3.)

So far as the other side of the ledger, as the Petition explains, and the Answer largely concedes (Ans. 12-14), there are precisely three published Court of Appeal opinions that actually hold that a separate and formal final judgment that is entered by a superior court is effectively a nullity in a writ case, if a prior order denies a petition in full. They are this case, *Laraway v. Pasadena Unified School Dist.* (2002) 98 Cal.App.4th 579 (*Laraway*); and *City of Calexico v. Bergeson* (2021) 64 Cal.App.5th 180 (*Calexico*).

The Answer tries to manufacture a more consistent rule on its side, claiming it has been established in "[a] line of Court of Appeal decisions stretching back many decades[.]" (Ans. 12.) But the remainder of the Answer's cited cases address a *different* rule. As the Petition discussed, many cases hold that, in the absence of a formal judgement, an appellate court has the discretion to save an otherwise premature appeal when the appeal is taken from an order final enough in substance to be construed as or amended into a final judgment. (See, e.g., *Griset*, *supra*, 25 Cal.4th at p. 698-699.)

Often, but not always, these cases specifically explain that no formal judgment was ever entered. (*Id.* at p. 694 ["The trial court's rulings were not formally entered as a judgment."].) The adage that "[i]t is not the form of the decree but the substance and effect of the adjudication which is determinative" comes into play in these cases. (*Id.* at p. 698.)[5]

None of the City's cited cases stand for the controlling proposition set out in the Opinion here: if the trial court's order is sufficiently final, "the time to file a notice of appeal is not restarted by the trial court's subsequent entry of a document styled as a 'judgment' that merely reiterates the prior final judgment." (Opinion at 3, scare quotes original.). There is a fundamental difference between: (1) a rule that in the absence of a formal final judgment, an order that stands the finality test can stand in its stead; and (2) a rule that if such an order has been made, a trial court's entry of a later formal judgment is substantially void. The Answer persistently cites cases that stand for Rule #1 as if they are authority for Rule #2. But other than *Laraway* and *Calexico*, no case actually stands for that proposition.

In any event, the Court of Appeal could "decline to follow" *Protect Our Water* and instead follow *Laraway/Calexico* only because there is no "horizontal stare decisis in the California Court of Appeal." (*Sarti v. Salt Creek Ltd.* (2008) 167 Cal.App.4th 1187,

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[5] The form versus substance rule also comes into play in the reverse scenario—when the question is whether a formally decreed judgment is sufficiently final in substance so as not to be "interlocutory" and thus not appealable. (§ 904.1 (a)(1); see, e.g., *Lyon v. Goss* (1942) 19 Cal.2d 659, 670.)

1193.) Superior courts, however, lack that option. "Decisions of every division of the District Courts of Appeal are binding upon … all the superior courts of this state[.]" (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.) Left with an irreconcilable conflict in equally binding authority, a "court exercising inferior jurisdiction can and must make a choice between the conflicting decisions." (*Id*. at p. 456.)

That is a poor state of affairs, especially when it comes to jurisdictional rules. (Cf. *Farmers Ins. Exchange v. Superior Court* (2013) 218 Cal.App.4th 96, 101 [discussing conundrum *Auto Equity* presents to trial judges].) Indeed, avoiding it is a fundamental purpose of the appellate jurisdiction of this Court: ensuring statewide uniformity of the law. (Rule 8.500(b)(1); *People v. Davis* (1905) 147 Cal. 346, 347.) The Court should step in to resolve the division of authority that the Opinion itself recognized.

C.
The Court of Appeal's Decision Conflicts with General Civil Practice in California, Without Explaining Why.

The City also ignores that the Opinion departs from established practice in ordinary civil litigation. It is commonplace that a court (or a jury) will make factual or legal determinations that resolve the whole action. These rulings are "final" in as much as they fully resolve the substantive dispute. Nonetheless, courts routinely enter a separate document called a judgment that effectuates their ruling and—with all prior rulings subsumed into it—is the subject of an appeal under § 904.1(a)(1) and starts the clock to notice an appeal under Rule 8.104. That is the practice when a demurrer is granted without leave. (*Vibert v. Berger* (1966) 64 Cal.2d

65, 68; *Lavine v. Jessup* (1957) 48 Cal.2d 611, 615; *Berri v. Superior Court* (1955) 43 Cal.2d 856, 860. When an order grants judgment on the pleadings. (*Varjabedian v. City of Madera* (1977) 20 Cal.3d 285, 289 fn.1.) When summary judgment is granted in full. (*Sullivan*, *supra*, 15 Cal.4th at p. 307 fn. 20.) After a statement of decision issues in a bench trial. (*Alan, supra*, 40 Cal.4th at p. 901.) When a jury renders a verdict. (*Sullivan*, *supra*, 15 Cal.4th at p. 307 fn. 10.) When a motion for judgment notwithstanding the verdict is granted. (*Jordan v. Talbo*t (1965) 55 Cal.2d 597, 602.) And when a motion for new trial is denied. (*Walker v. L.A. Cnty. Metro. Transp. Auth.* (2005) 35 Cal.4th 15, 19.)

Nothing special about administrative mandate practice merits a departure from ordinary practice. (See *Administrative Mandamus* § 14:42 ["The judgment in an administrative mandamus case is similar to the judgment in a civil case."].) The Answer makes no effort to justify a distinction. The Opinion purports to distinguish civil resolutions by proclaiming that "orders such as those sustaining a demurrer, granting summary judgment, or granting judgment on the pleadings do not necessarily completely resolve all of the causes of action in a case." (Opinion at 27.) But how is an order granting a demurrer to a single count complaint without leave to amend any less final than an order denying a writ petition? Both orders, after all, leave nothing substantive to be decided and thus satisfy the finality test articulated by this Court.

The Opinion suggests—at least for summary judgment—that some statutes contemplate entry of a separate judgment. (*Ibid.*) But that's also true of § 1094.5(f): "The *court shall enter*

judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in light of the court's *opinion* and *judgment* ...." The dual references to both an "opinion" and a "judgment" strongly suggest that the Legislature contemplated the entry of a separate judgment in writ cases, just like in an ordinary civil action. (Cf. § 664.)

"Where the reason is the same, the rule should be the same." (Civ. Code, § 3511.) Entry of a separate judgments in civil practice serves an important purpose—for acts of jurisdictional significance it affords a bright-line rule that leaves little to interpretation. (Accord *San Joaquin County Dept. of Child Support Services v. Winn* (2008) 163 Cal.App.4th 296, 301 (*Winn*) ["The interests of clients, counsel, and the courts are best served by maintaining, to the extent possible, bright-line rules which distinguish between appealable and nonappealable orders."].) That rationale applies just as much in administrative mandate cases as it does in ordinary civil actions. The Answer, however, stubbornly refuses to even acknowledge ordinary civil practice, much less offer any cogent explanation for *why* a special rule should apply in administrative mandamus cases. Nor did the Opinion offer any reasoned legal or practical basis for the distinction. Without such an explanation, the Opinion's rule is essentially arbitrary. The Court should grant review to clarify the law.

II.
The Court of Appeal's Decision Is Not A Workable Rule of Procedure.

The Petition pointed out that this Court has reiterated a "well-established policy, based upon the remedial character of the right of appeal, of according that right in doubtful cases when such can be accomplished without doing violence to applicable rules." (*Hollister Convalescent Hosp., Inc. v. Rico* (1975) 15 Cal.3d 660, 674, cleaned up; see also *Alan*, 40 Cal.4th at p. 902.) The upshot is that statutory ambiguity or silence should be construed to preserve the right to appeal. (*Alan*, 40 Cal.4th at p. 902.) Here, that would counsel interpreting § 1094.5(f) to authorize a court to enter a final, separately appealable judgment, even if it had previously entered an order that disposed of the writ.

Yet again, the Answer simply ignores the issue. Instead, the City offers up several policy arguments it contends merit denial of review. None of them carry the day.

The City argues that "[a] rule treating those orders as merely preliminary to an appealable final judgment would be flawed because it would create unnecessary delay." (Ans. 16.) But separate entry of judgment is commonplace in civil litigation. The City points to no deluge of delay caused by the parties waiting for entry of final judgments when, for instance, a trial court grants a demurrer without leave. (Accord § 664 [requiring entry of judgment "immediately"].) Indeed, the record in this case establishes that the trial court—in the midst of a global pandemic for which a vaccine was not yet approved—signed the judgment within five weeks of the issuance of its order. (AA111, AA145.) In a world

where it can take four months to have a discovery motion heard, that is hardly interminable delay. Moreover, if a formal judgment is not entered after a significant lapse of time, parties will retain the option to do what those in the many cases cited by the City did: take an appeal from the order and argue that it is final enough to be "treated as a final judgment in a special proceeding for purposes of appeal." (*Haight*, *supra*, 228 Cal.App.3d at p. 416 fn. 3.)

The City further argues that the *Laraway*/*Calexico* rule has not garnered scholarly or practitioner criticism. (Ans. 17.) But the Petition cited an administrative law treatise that—citing *Calexico*—explains that "[t]he appealability of orders adjudicating writs of mandate is particularly difficult, even for experienced writ practitioners." (Asimow, et al, *California Practice Guide: Administrative Law* (2021 online ed.) § 21:22.1 (*Asimow*).) The City strains to deny that is criticism. (Ans. 17 & fn, 3.) But given the established preference for bright-line rules regarding appealability, (*Winn*, *supra*, 163 Cal.App.4th at p. 301), a claim that a rule is "particularly difficult," is hardly a compliment.

That treatise is not alone. In 2019, another panel of the same division dismissed an appeal in a letter ruling, based on the rationale applied here. (*See State Farm Gen. Ins. Co. v. Lara*, No. S259327 (Cal. filed Nov. 25, 2019) Petition for Review, Ex. A, *available at https://bit.ly/35dQMtj*.[6]) Following *Lara*, two practition-

[6] The Petitioner sought review, which the Court denied, with two justices in dissent. (*State Farm Gen. Ins. Co. v. Lara*, No. S259329 (Pet. for Review denied Jan 29, 2020), *available at https://tinyurl.com/2p8kkakc*.)

ers at the largest appellate boutique in California wrote a practitioner article warning that the application of the *Laraway* rule created "legal uncertainties" and suggested that appellate courts or the Legislature enact solutions in order to resolve them. (See Tilner & Goodman, *"One Shot" Appeals* (Dec. 2020) 43 *L.A. Lawyer* 22, *available at https://tinyurl.com/2p8pnyte*; see also *Administrative Mandamus* § 16.10 [noting "ambiguity"].)[7] And others are cited by amici.

The City next argues, without elaboration, that the right to appeal is not of constitutional dimension. (Ans. 18.) But that hardly proves anything. For more than a hundred years, and continuing to this day, this Court has construed statutory ambiguity in favor of the right to appeal in the absence of a legislative effort to curtail it. (*People v. Bank of San Luis Obispo* (1907) 152 Cal. 261, 264; *Silverbrand v. Cnty. of L.A.* (2009) 46 Cal.4th 106, 113.)

Finally, the City argues that treating a judgment as a judgment in a writ case "would compromise existing doctrine and sound practice." (Ans. 18.) But the purported rule that "there is no such thing as separate entry of judgment in a writ case" isn't settled at all. *In this very case* the City's same attorneys, now advancing this contention, signed and submitted a form of separate final judgment to the trial court in this case. (AA145.) And as noted in

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[7] The litigation in *Lara* after the Court of Appeal's dismissal illustrates the havoc in post-trial procedure the Petition warns about. Applying the *Laraway/Calexico* rule resulted in significant confusion over the timeliness of a motion for attorneys' fees, which was resolved only by finding that "different timing triggers may apply to notices of appeal and fee motions[.]" (*State Farm Gen. Ins. Co. v. Lara* (2021) 71 Cal.App.5th 197, 214.)

the Petition, the local rules of several superior courts *require* entry of a separate judgment. And leading treatises explain that "[w]hen the decision is to deny the writ, the court will typically direct respondent's counsel to prepare a proposed judgment," going so far as to suggest a proposed form. (*Asimow*, *supra*, § 20:375-376; *Administrative Mandamus* §§ 15:34, 15:44 [forms of proposed judgments].) Treating a judgment as a judgment would affirm, not disturb the law.

* * *

The Court should grant review.

CERTIFICATE OF WORD COUNT

I, Michael J. Shipley, hereby certify that in accordance with the Rules of Court, rule 8.520(c)(1), I have employed the word count feature of Microsoft Word to verify that the number of words contained in this brief, including footnotes, is 4,194 words.

Dated: May 19, 2022

By: */s/ Michael J. Shipley*
Michael J. Shipley

KIRKLAND & ELLIS LLP

Attorneys for Petitioner and Appellant

CERTIFICATE OF SERVICE

I hereby certify that on May 19, 2022, I electronically filed the fore-going document titled **REPLY IN SUPPORT OF PETITION FOR REVIEW** through the Court's electronic filing system.

Furthermore a copy of the REPLY IN SUPPORT OF PETITION FOR REVIEW was mailed to the interested parties below:

Suzanne Solomon
David A. Urban
LIEBERT CASSIDY WHITMORE
6033 West Century Boulevard, 5th Floor
Los Angeles, California 90045
Telephone: 310.981.2000
Facsimile: 310.337.0837
Email: ssolomon@lcwlegal.com
durban@lcwlegal.com

Attorneys for Respondents

By: */s/ Michael J. Shipley*
Michael J. Shipley

KIRKLAND & ELLIS LLP

Attorneys for Petitioner and Appellant