CASE NO. S274340

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

JORGE LUIS ESTRADA, *et al.*, individually and as class representatives of employees similarly situated,
Respondents,
Plaintiffs, Appellants, and Cross-Respondents,

vs.

ROYALTY CARPET MILLS, INC.,
now known as **ROYALTY CARPET MILLS, LLC,**
Petitioner,
Defendant, Respondent, and Cross-Appellant.

ANSWER TO PETITION FOR REVIEW

Court of Appeal, Fourth Appellate District, Division Three
(Appeal Nos. G058397 [lead] & G058969; G059350 & G059681 [related])

Orange County Superior Court (Case No. 30-2013-00692890)
The Hon. Randall J. Sherman, Department CX105, Trial Judge

Joseph L. Chairez, SBN 98698
Daniel F. Lula, SBN 227295
BAKER & HOSTETLER LLP
600 Anton Boulevard, Suite 900
Costa Mesa, CA 92626
Tel: (714) 754-6600
Fax: (714) 754-6611
Email: jchairez@bakerlaw.com
dlula@bakerlaw.com

David B. Rivkin, Jr, *of counsel*
Andrew M. Grossman, *of counsel*
BAKER & HOSTETLER LLP
1050 Connecticut Ave., NW, Ste. 1100
Washington, DC 20036
Tel: (202) 861-1500
Fax: (202) 861-1783
Email: drivkin@bakerlaw.com
agrossman@bakerlaw.com

Attorneys for Petitioner, Defendant, Respondent, and Cross-Appellant
ROYALTY CARPET MILLS, INC.,
now known as **ROYALTY CARPET MILLS, LLC**

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INTRODUCTION

All three of Plaintiffs' issues for review are, in reality, a single issue: Whether the Court of Appeal erred in affirming the trial court's finding that a good faith dispute existed between Royalty Carpet Mills, Inc. and its Porterville employees regarding whether Royalty owed the one-hour premium penalty for on-premises duty-free meal periods, where it is undisputed that the employees were paid their full wages for that time. Because Plaintiffs disagree with the Court of Appeal's affirmance, they argue that the releases between Royalty and its Porterville employees must be voided under Labor Code §206.5(a), and Royalty must pay waiting time penalties under Labor Code §203.

Royalty, of course, believes that the trial court's ruling and Court of Appeal's affirmance are correct, because Royalty fully relieved the employees from duty *and* paid them full wages for their meal periods. However, correctness or incorrectness is not the standard here. For Plaintiffs to obtain review of the Opinion on this point, they must show that this Court's attention is needed either "to secure uniformity of decision" or "to settle an important question of law." Cal. R. Ct. 8.500(b)(1).[1] They have not done so, and cannot do so. Therefore, Plaintiffs' petition for review should be denied.

LEGAL DISCUSSION

I. Standard for a Grant of Review.

This Court is, obviously, the court of last resort within the State of California. Its review of the Court of Appeal's opinion in a civil action is entirely discretionary. The California Rules of Court set out the limited bases for obtaining this Court's limited time and resources. Generally speaking, only two bases are operative: (1) a lower court's decision must be in conflict with that of another Court of Appeal opinion, requiring this Court to "secure uniformity of

[1] The other grounds for review listed in Rule 8.500(b) are plainly not applicable or present here.

decision"; or (2) the Court of Appeal opinion must present an unsettled "important question of law." Cal. R. Ct. 8.500(b)(1).

II. Plaintiffs' Asserted Issues for Review.

In their petition, Plaintiffs present three issues for review. However, all three boil down to the same point. Plaintiffs contend that the trial court erred in finding that Royalty's position that it did *not* owe one-hour premium penalties to Porterville employees – who were admittedly required to stay on-premises for their meal periods but were (1) fully relieved of all duty, and (2) paid full wages for those 30-minute breaks – was in "good faith." This "good faith" finding, in turn, supported the trial court's rulings that (1) the *Pick Up Stix*[2] settlements that Royalty entered into with certain employees, and the ensuing releases, were valid, and (2) Royalty did not owe waiting time penalties for not having paid employees the one-hour premiums. 7 RT 1400, 1411-1413.[3]

III. Plaintiffs Have Failed to Satisfy Rule 8.500(b).

Unfortunately, Plaintiffs' petition for review is really nothing more than a re-presentation of their arguments to the Court of Appeal. Plaintiffs claim that the trial and appellate courts both "erred." *See*, *e.g.*, Plaintiffs' Petition at 35. However, nowhere in the Petition do Plaintiffs set forth how review is needed to "secure uniformity of decision." Plaintiffs do not even assert, let alone demonstrate, that the Court of Appeal's Opinion is in conflict with another appellate opinion with respect to Labor Code §§203 and 206.5. Similarly, Plaintiffs never assert, much less explain, how the affirmance of the trial court's upholding of the *Pick Up Stix* releases presents an "important issue of law," much less one that needs to be "settle[d]" by this Court. Cal. R. Ct. 8.500(b)(1).

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[2] *Chindarah v. Pick Up Stix, Inc.* (2009) 171 Cal.App.4th 796, 90 Cal.Rptr.3d 175 held that Labor Code §206.5 does not prohibit employers from obtaining releases of wage claims directly from employees.

[3] Citations to the Repoter's Transcript are in the format, "[Vol.] RT [Page(s)]."

Indeed, a word-search of the petition shows that Plaintiffs never even cite Rule 8.500, never use the word "uniformity," and (with one exception) never use the phrase "important question of law."[4] Plaintiffs' statement of "Why Review Should Be Granted" spans a single page, and only three paragraphs. *See* Plaintiffs' Petition at 40. It consists of Plaintiffs' disagreement with the "state of affairs," a claim that "any argument employers and their attorneys make concerning a good faith dispute, no matter how ridiculous it is, will be approved to uphold releases," and a plea for this Court "to weigh in and state definitively the objective standard of good faith by which agreements that purport to release wage claims will be evaluated." *Id.*

None of this is a cogent or coherent argument that meets Rule 8.500(b)(1)'s standards. Because Plaintiffs have failed to articulate why review of the Opinion is needed to either secure uniformity of decision or settle an important question of law, the petition should be denied.

IV. The Legal Standard for Wage Claim Releases Is Not Unsettled and Was Met Here.

Implicit in Plaintiffs' glancing, short-shrift invocation of the words "important question of law" and request that this Court "weigh in" is the notion that the law here is unsettled. It is not.

Labor Code §206.5 prohibits conditioning payment of wages "concededly due" on the execution of a release. If the employer does not concede that wages are due, then Labor Code §206.5 is not triggered. It's as simple as that. The only "good faith" test that is required is this: if the employer asserts a legal theory which, if adopted by the court, would make the wages not due, then the employer has a "good faith dispute" with the employee over the wage claim. *Chindarah*, 171 Cal.App.4th at 802; *Reynov v. ADP Claims Services Group, Inc.* (N.D. Cal.

[4] In their Conclusion, Plaintiffs perfunctorily state that this Court should grant the petition and "resolve the important questions of law it presents." Plaintiffs' Petition at 41. This is woefully insufficient to meet Rule 8.500's standard.

Apr. 30, 2007) 2007 WL 5307977 at *3; *Sullivan v. Del Conte Masonry Co.* (1965) 238 Cal.App.2d 630, 634, 48 Cal.Rptr. 160 ("This is not to say, however, that an employer and employee may not compromise a *bona fide* dispute over wages. But such a compromise is binding only if made after wages concededly due have been unconditionally paid."), *citing Reid v. Overland Machined Products* (1961) 55 Cal.2d 203, 208, 10 Cal.Rptr. 819, 359 P.2d 251; 8 Cal. Code Reg. §13520(a) ("A 'good faith dispute' that any wages are due occurs when an employer presents a defense, based in law or fact which, if successful, would preclude any recovery on the part of the employee. *The fact that a defense is ultimately unsuccessful will not preclude a finding that a good faith dispute did exist.*") (emphasis added).

Lower courts are not having problems implementing the interplay between Labor Code §206.5's prohibition centered on "concededly due" and *Chindarah*/8 C.C.R. §13520(a) blessing of "good faith" disputes. Indeed, the fact that California appellate courts like *Chindarah* and federal courts like *Reynov* are both able to navigate these issues illustrates that there is nothing "unsettled" in the law. *Cf.* Cal. R. Ct. 8.500(b)(1).

Lastly, for what it's worth, this standard was met here. Royalty believed that because it both (i) relieved its Porterville employees of all work duties during their 30-minute meal periods, *and* (ii) paid them for those meal periods, it was complying with the law, and did not *also* have to pay the employees a one-hour premium simply because they were required to stay on-site. Prior to *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 273 P.3d 513, 139 Cal.Rptr.3d 315, this was unquestionably the case. *See, e.g.*, DLSE, Meal periods FAQs No. 5[5]; *Bono Enterprises, Inc. v. Bradshaw* (1995) 32 Cal.App.4th 968, 975, 38 Cal.Rptr.2d 549.[6] Even after *Brinker*, it remains arguably the case.

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[5] Available at https://www.dir.ca.gov/dlse/FAQ_MealPeriods.html.

[6] *Bono* was disapproved on other grounds by *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 574, 927 P.2d 296, 59 Cal.Rptr.2d 186.

Nothing in *Brinker* states that if a meal period is fully duty-free *and* fully paid, the employer must *also* pay the one-hour premium penalty. Royalty's assertion of a position blessed by *Bono* and the DLSE FAQs, and not foreclosed or precluded even by *Brinker*, clearly meets the *bona fide* standard.

CONCLUSION

For the foregoing reasons, Plaintiffs' petition for review should be denied.

Dated: May 23, 2022

Respectfully submitted,

BAKER & HOSTETLER LLP

By:*/s/Daniel F. Lula*
JOSEPH L. CHAIREZ
DANIEL F. LULA

Attorneys for Petitioner, Defendant, Respondent, and Cross-Appellant
ROYALTY CARPET MILLS, LLC

CERTIFICATE OF WORD COUNT

(Cal. R. Ct. 8.504(d)(1))

The undersigned counsel of record for Petitioner, Defendant, Respondent, and Cross-Appellant **ROYALTY CARPET MILLS, INC.**, now known as **ROYALTY CARPET MILLS, LLC**, hereby certifies pursuant to Rules 8.204(c)(1) and 8.504(d)(1) of the California Rules of Court that the foregoing answer to petition for review was produced using 13-point Roman type, including footnotes, and according to the Microsoft Word program used to prepare the brief, consists of 1,382 words, excluding the tables, this certificate, any signature block, and any attachments permitted under Rule 8.504(e)(1).

Dated: May 23, 2022

/s/Daniel F. Lula
Daniel F. Lula

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Clerk of Court California Court of Appeal Fourth Appellate District Division three 601 W. Santa Ana Blvd. Santa Ana, CA 92701	Cal. R. Ct. 8.500(f)(1)
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Daniel F. Lula

STATE OF CALIFORNIA
Supreme Court of California

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Case Number: **S274340**
Lower Court Case Number: **G058397**

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