S229446
(LASC No. SJ3872 / PA071174)

IN THE SUPREME COURT OF

THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff-Respondent,

v.

FINANCIAL CASUALTY & SURETY, INC.,
Defendant-Appellant.

After a Decision by the Court of Appeal,
Second Appellate District, Division Five
Case No. B251230 (L.A. Superior Ct. No. SJ3872 / PA071174)

ANSWER BRIEF ON THE MERITS

OFFICE OF THE COUNTY COUNSEL
MARY C. WICKHAM, County Counsel
BRIAN T. CHU, Principal Deputy County Counsel
State Bar No. 161900
LINDSAY YOSHIYAMA, Deputy County Counsel
State Bar No. 240013
648 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012-2713
Tel: (213) 974-1956
Fax: (213) 687-8822

Attorneys for Plaintiff-Respondent, THE PEOPLE OF THE STATE OF CALIFORNIA

S229446
(LASC No. SJ3872 / PA071174)

IN THE SUPREME COURT OF

THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff-Respondent,

v.

FINANCIAL CASUALTY & SURETY, INC.,
Defendant-Appellant.

After a Decision by the Court of Appeal,
Second Appellate District, Division Five
Case No. B251230 (L.A. Superior Ct. No. SJ3872 / PA071174)

ANSWER BRIEF ON THE MERITS

OFFICE OF THE COUNTY COUNSEL
MARY C. WICKHAM, County Counsel
BRIAN T. CHU, Principal Deputy County Counsel
State Bar No. 161900
LINDSAY YOSHIYAMA, Deputy County Counsel
State Bar No. 240013
648 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012-2713
Tel: (213) 974-1956
Fax: (213) 687-8822

Attorneys for Plaintiff-Respondent, THE PEOPLE OF THE STATE OF CALIFORNIA

S229446
(LASC No. SJ3872 / PA071174)

IN THE SUPREME COURT OF

THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff-Respondent,

v.

FINANCIAL CASUALTY & SURETY, INC.,
Defendant-Appellant.

After a Decision by the Court of Appeal,
Second Appellate District, Division Five
Case No. B251230 (L.A. Superior Ct. No. SJ3872 / PA071174)

ANSWER BRIEF ON THE MERITS

OFFICE OF THE COUNTY COUNSEL
MARY C. WICKHAM, County Counsel
BRIAN T. CHU, Principal Deputy County Counsel
State Bar No. 161900
LINDSAY YOSHIYAMA, Deputy County Counsel
State Bar No. 240013
648 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012-2713
Tel: (213) 974-1956
Fax: (213) 687-8822

Attorneys for Plaintiff-Respondent, THE PEOPLE OF THE STATE OF CALIFORNIA

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

CASES

STATUTES

FEDERAL STATUTES

OTHER AUTHORITIES

RULES

I. INTRODUCTION AND SUMMARY OF ARGUMENT

Under *Penal Code*, section 1305, a bail surety is statutorily provided 180 days[1] after an order of bail forfeiture is served to return a bail-jumping criminal defendant to custody or to obtain other statutorily-based relief, otherwise it consents to the entry of judgment and to payment in the amount of its bail bond. Although the length of the appearance period is characterized by this Supreme Court as "generous," a surety may nevertheless seek a 180 day extension of the appearance period under section 1305.4[2] upon a timely showing of good cause. (*People v. Indiana*

---

[1] This 180-day period is often referred to as the appearance period and, except where quoted differently, is referred hereinafter as such. (*People v. American Contractors Indemnity Co.* (2004) 33 Cal.4th 653, 658.) It is extended by five days if the service of the bail forfeiture order is effected by mail service, as it was in this case. (§ 1305, subd. (b).) All further statutory references are to the *Penal Code* unless otherwise specified.

[2] Section 1305.4 states:

> Notwithstanding Section 1305, the surety insurer, the bail agent, the surety, or the depositor may file a motion, based upon good cause, for an order extending the 180-day period provided in that section. The motion shall include a declaration or affidavit that states the reasons showing good cause to extend that period. The court, upon a hearing and a showing of good cause, may order the period extended to a time not exceeding 180 days from its order. A motion may be filed and calendared as provided in subdivision (j) of Section 1305. In addition to any other notice required by law, the moving party shall give the prosecuting agency a written notice at least 10 court days

Lumbermens Mutual Ins. Co. (2010) 49 Cal.4th 301, 313; § 1305.4.) An extension is not automatic; the surety must earn additional time by a showing of good cause. (*People v. Ranger Ins. Co.* (2007) 150 Cal.App.4th 638, 644; *People v. Ranger Ins. Co.* (2000) 81 Cal.App.4th 676, 681.)

Defendant-Appellant, FINANCIAL CASUALTY & SURETY, INC. ("FINANCIAL CASUALTY")[3] posted a bail bond for the release of a felony criminal defendant, who then failed to appear at a required court hearing. After the trial court ordered the bail bond forfeited, FINANCIAL CASUALTY sought and received an extension of the appearance period of 157 days. Unable to return the defendant to custody, FINANCIAL CASUALTY filed a motion for a second extension of the appearance period. The hearing, however, was held on the 367th day after the bail forfeiture order was served. The trial judge denied the motion based partially on the merits and, ultimately, because no more time could be extended as 365 days had already elapsed from the service of the bail forfeiture notice. FINANCIAL CASUALTY contends that the trial court erred by compelling a showing of a reasonable likelihood that the defendant would be re-apprehended if given more time based on the facts offered, and

---

> before a hearing held pursuant to this section as a condition precedent to granting the motion.

[3] Except where specifically identified, FINANCIAL CASUALTY includes its bail agent.

that the burden should have shifted to the government to show that there was no reasonable likelihood of success. Finally, it insists that an extension of the appearance period should commence when the order is granted, even if granted after the expiration of the appearance period.

First, FINANCIAL CASUALTY's motive on appeal is apparent. It seeks an interpretation of § 1305.4 that focuses merely on a retrospective quantitative view without a consideration of whether the quality of its investigation has led to the objective of the bail statutes – the re-apprehension of the defendant. FINANCIAL CASUALTY takes the position that its activities, regardless of the results from those activities, should satisfy the good cause requirement to receive an extension. This position is like a hamster in a hamster wheel, running and running but getting nowhere. As much, and for as long, as that hamster runs, it will never reach a destination outside of that wheel.

If FINANCIAL CASUALTY has its way, it will never be more than that hamster in the wheel. Yet, our bail statutes call for sureties to be something more than a hamster. They are a call for sureties to meet their obligation to re-apprehend the defendant under the bail bond or, if unable to do so, to pay the judgment on the forfeited bond.

It is revealing that FINANCIAL CASUALTY argues, "unless there is a compelling reason to halt the investigation, shouldn't the State, including the trial court, want to extend the commitment of tax free

resources towards the return of a potentially dangerous fugitive as long as possible?" (Opening Brief on the Merits ("OBM"), p. 12.) It exposes what FINANCIAL CASUALTY believes the state of the law *should* be as opposed to what it *is*. Forced to acknowledge that the applicable statutes do not reflect its desire for an infinite appearance period, it urges this Court to ignore the statutory scheme and interpret the good cause requirement in a new, unsupported manner. FINANCIAL CASUALTY's proposed interpretation does not comport with the rules of statutory construction or legislative intent. The Legislature included the "good cause" requirement in section 1305.4 because the extension was not meant to be automatic, but meant to be applied as an exception to the general rule that sureties have 185 days to apprehend the defendant or to otherwise seek relief from forfeiture. A statutory interpretation that gives language effect is preferred to one that makes void. (*State Office of Inspector General v. Superior Court* (2010) 189 Cal.App.4th 695, 708.)

The "reasonable likelihood of success" component of the "good cause" requirement in § 1305.4 properly reflects the purpose of the bail statutes. Neither is such a component inconsistent with the well-established policy that the law abhors forfeitures. Indeed, it encourages productive efforts to find the defendant instead of unproductive efforts that are merely performed to show that the surety has been "diligent." Moreover, in other contexts, a "reasonable likelihood" standard is adequately employed in

other legal contexts and there is no reason why this standard cannot be employed in the bail bond context.

FINANCIAL CASUALTY secondly would like to re-write section 1305.4 by having the burden shift to the government to show that the surety's activities will not lead to a reasonable likelihood of re-apprehension. The proposition has no basis in the statute and compels the government to be in possession of facts about its investigation that are solely in the surety's hands. Moreover, it is contrary to the concept that, by posting the bond for the defendant's release, the defendant's custodial status is taken away from the government and placed in the constructive custody of the surety.

FINANCIAL CASUALTY thirdly contends that if an extension is granted, the extended period should start when the order is granted even if the ordered is rendered after the appearance period expires. However, the evolution of section 1305.4 reveals a legislative history and intent than extension is not to exceed 180 days more than the appearance period. Because of amendments to sections 1305 before and after the enactment and subsequent amendment of section 1305.4, which affected the way in which motions to set aside bail forfeitures are calendared for hearing, an ambiguity has arisen among the appellate courts in how to interpret the phrase "its order" relative to the commencement day of a granted extension.

Rules of statutory construction ordinarily dictate that a later amendment take precedence over the intent of the initial enactment. However, this Supreme Court long ago articulated an exception to the general rule. If to give effect to the later amendment would supplant the original purpose of the statute, the general rule does not apply when the provision standing first in the enactment is the one which is more in harmony with the general purpose of the statute. Because the PEOPLE's interpretation of "its order" is more in line with the general purpose of the statute and provides consistency in rulings as between different cases, different sureties, and different defendants, FINANCIAL CASUALTY'S position should be disregarded.

II. STATEMENT OF THE CASE AND FACTS

On March 5, 2012, FINANCIAL CASUALTY posted a bail bond in the amount of $1,240,000 for the release of criminal defendant Oscar Grijalva ("Grijalva"), who was charged with multiple felonies.[4] (CT, pp. 23, 25.) Grijalva appeared at several pre-trial conferences between his release and July 26, 2012. (CT, pp. 25-31.) He was ordered to appear at a pre-trial conference on August 23, 2012, but failed to appear. (CT, pp. 20, 31.) On August 24, 2012, a bail forfeiture notice was mailed to

[4] FINANCIAL CASUALTY'S bail agent executed the bond on February 29, 2012, although it was not posted with the trial court until March 5, 2012. (CT, p. 25.)

FINANCIAL CASUALTY. (CT, p. 32.) The 185th day of the appearance period was February 25, 2013. (See § 1305, subds. (b), (c).)

On February 20, 2013, FINANCIAL CASUALTY filed a motion to extend the appearance period under section 1305.4, with supporting papers. (CT, pp. 1-32, 34-36; Motion to Augment Record on Appeal ("MARA"), A-2:1-24.) The motion was supported with a declaration by investigator Cesar McGuire ("McGuire"). (CT pp. 1-14.) McGuire described his various activities to locate and apprehend Grijalva from August 22, 2012, through February 7, 2013. On August 22, 2012, two days before Grijalva was to appear in court, McGuire was notified that Grijalva's ankle bracelet was cut. (CT, p. 1.) McGuire and his agents searched for Grijalva, contacting all family members, references, and indemnitors listed on the bond. (CT, pp. 1-2.) Throughout the appearance period, McGuire followed up with multiple family members who he believed was in contact with or had information about Grijalva's whereabouts. (CT, pp. 2-14.) However, they all proved to either be evasive or unaware of Grijalva's location. McGuire also conducted surveillance on a number of houses both in the United States and in Mexico based on familial relationships, logs from the ankle bracelet GPS log, and locations in Mexico that his family called often. (CT, pp. 2-12.) Grijalva was not sighted. McGuire also testified that he obtained the cooperation of the US Marshals and local law

enforcement in Mexico. (CT, pp. 6-11.) They did not located Grijalva either.

On December 9, 2012, a reward for $100,000 was approved by FINANCIAL CASUALTY, acting through its agent Bail Hotline Bail Bonds. (CT, p. 11.) McGuire ran wanted ads in a Mexican newspaper, launched a website dedicated to finding Grijalva in the United States and Mexico, and created a "Grijalva-Wanted Facebook account." (CT, pp. 13-14.)

On January 29, 2012, McGuire met an informant who said he spotted Grijalva in Mexico. (CT, p. 13.) They were unable to find him. In conclusion, McGuire testified that he "received a tremendous amount of new leads," including calls from people who personally knew Grijalva, and that Grijalva was sighted in Guadalajara, Orange County, and Los Angeles County. (CT, p. 14.) McGuire stated, "With all the legwork that I have done on the case, I am confident that Oscar Grijalva will be apprehended and brought to justice." (*Ibid.*)

On March 20, 2013, the Honorable Harvey Giss granted FINANCIAL CASUALTY an extension of the appearance period to August 1, 2013.[5] (CT, p. 33; MARA, A-4:12-14.)

---

[5] The 365th day after the bail forfeiture notice was mailed was Saturday, August 24, 2013. The 180th day after the appearance expired on February 25, 2012 was also August 24, 2013.

On August 1, 2013, FINANCIAL CASUALTY filed a second motion to extend the appearance period or, alternatively, to toll the appearance period under section 1305, subdivision (h), with supporting papers. (CT, pp. 39-68.) The motion was supported with a another declaration by McGuire. (CT, pp. 54-60.) McGuire described his attempts to locate and/or apprehend Grijalva from February 19, 2013 to July 31, 2013. (CT, pp. 54:21-60:6.) As of July 31, 2013, there had been no confirmed sightings of Grijalva in either the United States or Mexico, nor confirmation of anyone who had any contact or communication with him. The most information gleaned about Grijalva's whereabouts was provided by a confidential informant who claimed that he knew the Grijalva family and that "he knew the defendant was staying in Tijuana." (CT, p. 59:16-19.) The factual foundation for the confidential informant's claimed knowledge that Grijalva was staying in Tijuana, Mexico, was not provided. McGuire obtained third-hand information from an unnamed "U.S. law enforcement officer" who "received a call from Law Enforcement officials in Mexico that he works with who claim they have an informant that knows the defendant." (CT, pp. 59:23-60:4.) FINANCIAL CASUALTY'S motion was calendared for hearing and was heard on August 26, 2013.[6] (CT, pp. 51, 70-71.)

[6] The second motion to extend time was initially calendared for Friday, August 23, 2013, but then continued to Monday, August 26, 2013.

FINANCIAL CASUALTY argued first that it acted diligently and that there was a reasonable likelihood that Grijalva could be apprehended if an additional extension were granted. (CT, pp. 62:12-66:9.) It alternatively argued that tolling should be granted based on a vague information that Grijalva was located in Mexico and there would be a delay in an extradition request. (CT, 66:18-22.)

On August 26, 2013, Judge Giss denied the motion to further extend the appearance period and the motion to toll the appearance period. (MARA, B-3:27-28; CT, p. 70.) Judge Giss found that he had already extended the appearance period one time and that the additional 180 days since the original appearance period expired had "ran out. The year has run out." (MARA, B-1:16-21.) FINANCIAL CASUALTY'S attorney argued that the 180 day extension afforded under section 1305.4 should be measured from the date the trial court ordered the first extension. (MARA, B-2:23-27.) Since Judge Giss granted the first extension on March 20, 2013, the 180th day should have been September 16, 2013; thus the trial court had jurisdiction to order a further extension. (MARA, B-2:28-B-3:7.)

III. "GOOD CAUSE" UNDER § 1305.4 SHOULD INCLUDE A REASONABLE LIKELIHOOD THAT THE DEFENDANT WILL BE APPREHENDED

A. Statutory Construction and Legislative Intent Support the "Reasonable Likelihood" Component of "Good Cause"

(CT, 70.)

The special statutes that govern bail forfeiture give sureties 185 days from the date of the mailing of the forfeiture notice to apprehend and surrender the defendant or demonstrate it is entitled to relief from forfeiture on one of the bases enumerated in § 1305. The 185-day period prescribed by § 1305 is jurisdictional. (*People v. American Bankers Ins. Co.* (1991) 227 Cal.App.3d 1289, 1297, overruled on other grounds by *People v. National Automobile & Casualty Ins. Co.* (2000) 82 Cal.App.4th 120, 126, 97.) Once the appearance period elapses without the forfeiture having been set aside, the court must enter summary judgment against each bondsman plus costs within 90 days after the first date upon which it may do so or it loses jurisdiction to do so. (§ 1306.)

In 1996, the Legislature enacted § 1305.4 and which emphasized the moving party's burden to demonstrate that good cause exists for the extension and dictates that burden be met by sworn testimony in the form of a declaration or affidavit.

"A reviewing court's fundamental task in construing a statute is to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute. [Citation.] This task begins by scrutinizing the actual words of the statute, giving them their usual, ordinary meaning [Citation.] [¶] When statutory language is susceptible to more than one reasonable interpretation, it is regarded as ambiguous and courts must select the construction that comports most closely with the apparent intent of the Legislature, with a

view to promoting rather than defeating the general purpose of the statute, and avoid an interpretation that would lead to absurd consequences. [Citation.]" (*People v. Accredited Surety Casualty Co.* (2014) 230 Cal.App.4th 548, 557-558, internal citations omitted.)

In determining the Legislature's intent in enacting § 1305.4, it is important to consider both at what it did *and* did not do. FINANCIAL CASUALTY urges interpreting the statute in a way that gives sureties as close to an automatic extension of the appearance period as possible. However, it is significant that in 1996, the Legislature did *not* elect to extend the appearance period as it had in 1965. (See *People v. Souza* (1984) 156 Cal.App.3d 834, 842, fn 5 [In 1965, the Legislature amended § 1305 to extend the appearance period from 90 days to 180 days.].) Instead, it enacted a statute that gives the court *discretion* to extend the appearance period. The extension is limited to a maximum of 180 days and to obtain the extension, the moving party must bring a motion supported by a declaration or affidavit establishing good cause for the request. Thus, despite FINANCIAL CASUALTY's contention that it should have an unlimited time to search for and apprehend the defendant absent a compelling reason to stop, the Legislature's actions demonstrate a different intent. "[S]ection 1305.4 does not provide an automatic...'breather' for sureties who are unable to demonstrate good cause for failing to return the defendant to custody within the initial [appearance period]." (*People v.*

Seneca Insurance Co. (2004) 116 Cal.App.4th 75, 83; *People v. Ranger* (2007) 150 Cal.App.4th 638, 649.).) Instead, the Legislature squarely put the burden on the shoulders of the surety to demonstrate "good cause" for the extension.

Legislative materials reflect that the purpose of enacting § 1305.4 was to give courts discretion to extend the appearance period *only* in those situations where good cause is demonstrated. Legislative records reflect the "Expressed Purpose of the Bill" as follows:

> According to the sponsor, the court cannot currently extend the 180-day period before bail forfeiture is required, *even when* good cause for an extension can be shown. This bill would authorize an extension for up to an additional 180 days in *such a case* upon a hearing and a showing of good cause.

(Cal. Bill Analysis, Senate Committee, Sen. Bill 1571 (1995-1996 Reg. Sess.) April 9, 1996, emphasis added.) The restrictive italicized language reflects that the Legislature envisioned § 1305.4 to provide an exception to the general rule that sureties have 185 days to capture the defendant. It does *not* reflect a concern that the appearance period gives sureties an insufficient period of time to conduct an adequate investigation or that sureties should be awarded more time to seek relief simply because they made diligent efforts during the appearance period. To adopt FINANCIAL CASUALTY's definition of good cause is to interpret the legislative intent as follows:

> According to the sponsor, the court cannot currently extend the 180-day period..., even when [the surety tried hard to find the defendant]. This bill would authorize an extension for up to an additional 180 days in such a case upon a hearing and a showing [the surety tried hard to find the defendant].

The Legislature did not extend the appearance period, and there is restrictive language in both the legislative history behind § 1305.4 and the statue itself. Thus, it is not reasonable to interpret the Legislature's intent as expecting courts to merely consider the surety's past efforts without *any* evidence of whether the extension would be fruitful. To require courts to grant extensions where there is no likelihood the extension will result in the apprehension of the defendant would be to require courts to perform idle acts. The law does not require idle acts. (Civil Code § 3532

Instead, the following interpretation comports with the spirit of the statute and embodies the Legislature's intent when enacting § 1305.4:

> According to the sponsor, the court cannot currently extend the 180-day period..., even when [the surety tried hard to find the defendant and it appears that given more time, it will apprehend him]. This bill would authorize an extension for up to an additional 180 days in such a case upon a hearing and a showing [the surety tried hard to find the defendant, and it appears that if given more time, it will apprehend him].

Section 1305.4 was not enacted to reward sureties for doing their job and looking for the defendant. Instead, it was created out of a concern for a

hard and fast deadline that prevented a surety who was close to apprehending a defendant from doing so. This purpose dictates that "good cause" necessarily include a showing of a reasonable likelihood of recapturing the defendant if an extension is granted.

B. Requiring a Showing of a Reasonable Likelihood of Recapturing the Defendant is Consistent with the Policy to Interpret Statutes to Avoid Forfeitures

A holding that the "good cause" requirement of § 1305.4 includes consideration of whether there is a reasonable likelihood that the defendant will be apprehended during the extended appearance period not only honors the spirit of the statute but also the underlying policy to strictly construe the bail forfeiture statutes to avoid a forfeiture of bail. (See *People v. Accredited Surety & Casualty Co.* (2012) 209 Cal.App.4th 617, 621.) Appellate courts have determined:

> Given the underlying policy of avoiding forfeitures in favor of bringing defendants before the court, a trial court, faced with a section 1305.4 motion for extension should draw all inferences in favor of the surety. [Citation.] The good cause showing under section 1305.4 is a low threshold for the movement. If the surety demonstrates good cause by showing due diligence in the initial 180 days, reasonable likelihood of success of capturing the defendant in a subsequent 180 days, and any other relevant circumstances, the court should grant the motion.

(*People v. Accredited Surety & Casualty Co., Inc.* (2006) 137 Cal.App.4th 1349, 1358 ("*Accredited*").) FINANCIAL CASUALTY's claim that this

standard is "ambiguous" and "speculative" is exaggerated and unsupported. (OBM, pp. 28, 42.) This is not a rigid test. Sureties are not required to know where the defendant is, to have a witness who made a post-forfeiture positive identification of the defendant, or any other specific criteria.

Here, FINANCIAL CASUALTY received an extension of the appearance period from February 25, 2013, to August 1, 2013, at a point in its investigation where every lead the investigator McGuire followed resulted in a dead end. (CT, pp. 1-14.) McGuire interviewed every family member, reference, and indemnitor he knew of and conducted surveillance at multiple addresses. Yet, they all led to dead ends.

While McGuire testified that advertising the reward for information leading to Grijalva's arrest was generating leads, the only tips he described were that Grijalva was sighted in Guadalajara, Mexico, in Los Angeles County, *and* in Orange County. (CT, p. 14.) Thus, not only did FINANCIAL CASUALTY lack an address for Grijalva, but the potential locations were much too vague and vast to thoroughly search. Yet, FINANCIAL CASUALTY's motion was granted. The court believed FINANCIAL CASUALTY would continue to diligently search for Grijalva and tips were being generated. Further, no previous extension had been extended and the court generously extended the appearance period over five months. (CT, p. 38.) Thus, despite not knowing where Grijalva was, the

court drew all inferences in favor of FINANCIAL CASUALTY and extended the appearance period for 157 days.

FINANCIAL CASUALTY's first extension motion is a perfect example of the attainability of the "good cause" standard even *with* the requirement to demonstrate a reasonable likelihood of apprehension. It is not so low that it defeats the purpose of the statute; yet, it is nevertheless a low threshold for sureties to meet.

C. Case Law Supports that "Good Cause" for an Extension Under § 1305.4 Requires More than Diligence and Includes a Reasonable Likelihood the Defendant will be Apprehended

The body of case law expounding on what constitutes good cause for an extension under § 1305.4 has not "narrowed" the definition of good cause as FINANCIAL CASUALTY contends, but rather has clarified what it means. (OBM, p. 25.) Since § 1305.4's enactment in 1996, no published case supports FINANCIAL CASUALTY's definition of "good cause" (i.e., all that is required is diligent efforts during the appearance period). From the onset, the appellate courts have recognized that mere diligence is insufficient and that good cause necessarily includes a prospective consideration as well.

People v. Ranger Insurance Co. (2000) 81 Cal.App.4th 676 ("*Ranger*") was the first case to consider the "good cause" requirement of § 1305.4. In *Ranger*, the surety Ranger supported its motion to extend the

appearance period with a declaration from its investigator that stated he had obtained a "positive address" for the defendant in Rosarritos, Baja California, and that the defendant was a member of a particular band. (*Id.* at p. 678.) The trial court found Ranger did not demonstrate good cause and denied the motion.

On appeal, Ranger raised the same arguments FINANCIAL CASUALTY does here: (1) the policy behind bail forfeiture law is to avoid the harsh results of forfeiture; and (2) the Legislature enacted § 1305.4 to give the courts "wide latitude" to prevent forfeiture. (*Id.* at p. 680.)

The Second District found that the trial court did not abuse its discretion when it denied Ranger's motion. While the appellate court had "no quarrel with Ranger's...statements relative to public policy," it held:

> A further extension is not automatic. Ranger has to *earn* additional time by showing good cause. That means an explanation of what efforts Ranger made to locate [the defendant] during the initial 180 days, *and* why such efforts were unsuccessful.

(*Id.* at p. 681, emphasis added.) It also pointed out, "[T]he supposition that a defendant is in Mexico gives no assurance such defendant might be placed in custody and extradited to the United States. [Citation.]" (*Ibid.*) Thus, from the first case that interpreted the good cause requirement, the appellate court recognized that the analysis does not simply end at diligence or quantity of efforts. Rather, attention must be paid to the quality of the

investigation and the likelihood that the extension will result in the return of the defendant to court.

In *People v. Alistar Insurance Co.* (2003) 115 Cal.App.4th 122 ("*Alistar*"), the Fourth District found that the trial court abused its discretion when it denied the surety's motion to extend the appearance period. In *Alistar*, the appellate court applied the requirements set forth in *Ranger* (i.e, that the moving party explain what efforts it made to locate the defendant and why they were unsuccessful). It pointed out that the supporting declaration discussed not only what efforts were made but "why the investigator believed defendant was still in the area." (*Id.* at p. 128.) The investigator also testified that "if granted an additional extension, he would be able to return the defendant to custody." (*Ibid.*) Further, the surety's likelihood of recapture was aided by the family's cooperation who lived locally. (*Ibid.*) Thus, in determining the trial court abused its discretion when it denied the request to extend the appearance period, the appellate court considered the surety's efforts during the appearance period *in conjunction with* the likelihood that an extension would lead to the recapture of the defendant.

In *Accredited, supra,* 13 Cal.App.4th 1349, the Third District found that the trial court abused its discretion when it denied a request to extend the appearance period where, throughout the appearance period, the surety consistently gathered reliable information on the defendant through

cooperative family members. (*Id.* at p. 1353.) At the conclusion of the appearance period, the surety learned the color of the defendant's vehicle and was surveilling an apartment the defendant was known to frequent. (*Ibid.*) Further, the investigator had known the defendant and his family for the defendant's entire life, the defendant's family was cooperating with his investigation, and the defendant had few places to go. (*Id.* at p. 1353-1354.)

The Third District was the first court to articulate that good cause to extend the appearance period necessarily included a reasonable likelihood of success. It explained that in *Ranger*, the court stated that "all circumstances" must be considered in deciding whether a trial court abused its discretion in denying a motion to extend the appearance period and that "[t]hese circumstances should include the reasonable likelihood the surety will capture a defendant if an additional 180 days is provided." (*Id.* at p. 1357.) The *Accredited* Court explained:

> The inquiry must be prospective as well as retrospective; otherwise, an extension does not serve the statute's policy of returning fleeing defendants to custody. That policy is best served by the surety showing that another 180 days might be productive.

(*Id.* at p. 1357, emphasis added.) It points out that this standard is *not* a departure from the standards applied in *Ranger* or *Alistar*. Both courts were similarly concerned with whether there was reason to believe the

requested extension would result in the recapture of the defendant. (*Ibid.*) Thus, *Accredited* is consistent with the precedent preceding it and clarified what "other circumstances" constitute good cause under § 1305.4.

Also, FINANCIAL CASUALTY misses the *Accredited* Court's point in analogizing the good cause requirement of § 1305.4 and that of § 1050. (OBM, p. 31.) In making the comparison, the court stated that when a party seeks a continuance of a criminal hearing for a witness to appear, the movant must not only show that it sought to secure the attendance of the witness but that it *can secure the witness' attendance within a reasonable period of time.* (*Accredited, supra,* 137 Cal.App.4th at p. 1358.) In other words, there is no good cause to continue the hearing if there is no point, i.e., the witness will not appear at the continued hearing. Similarly, there can be no good cause to extend the appearance period if there is no evidence that the FINANCIAL CASUALTY will be able to apprehend the defendant within the extended appearance period.

In *County of Los Angeles v. Fairmont Specialty Group* (2008) 164 Cal.App.4th 1018, the Second District reaffirmed the reasonable likelihood element of good cause for an extension set forth in *Accredited*, and it found that the court did not abuse its discretion when it denied the surety's motion. There, the surety failed to follow up on potential leads and, despite learning the defendant was in Mexico, failed to take action to obtain an address or telephone number for over three months. (*Id.* at pp. 1023, 1029.) The court

also found that the surety failed to show a reasonable likelihood that an extension would lead to the recapture and return of the defendant when the only information the surety had was that the defendant was in Mexico, a fact known for months. (*Id.* at p. 1029.)

The body of case law reveals there is nothing new or exceptional about the arguments FINANCIAL CASUALTY makes here. Since § 1305.4 was enacted, sureties have been arguing – based on the policy disfavoring forfeitures – that a "good cause" finding should be based only on past efforts. The appellate courts have consistently recognized that (1) all inferences should be drawn in favor of the surety, and (2) a "good cause" finding has a low threshold; however, good cause must include a reasonable likelihood that an extension will result in the defendant's return. Otherwise, an extension under § 1305.4 fails to honor the spirit and purpose of bail statutes.

D. Courts Are Capable of Applying the Reasonable Likelihood Standard

FINANCIAL CASUALTY argues that "good cause" under § 1305.4 should not include an assessment whether there is a reasonable likelihood that an extension will result in the recapture of the defendant: FINANCIAL CASUALTY characterizes it as an "ambiguous" and "speculative" analysis that requires either scientific data or a fortune tellers. (OBM, pp. 34, 42.) Such hyperbole is simply untrue.

Courts have a long history of proficiently determining a reasonable likelihood in a number of contexts without the aid of experts or scientific data. (See *Frazier v. Superior Court* (1971) 5 Cal.3d 287, 294 [criminal defendant entitled to change of venue if demonstrates a reasonable likelihood that absent a change, defendant will not receive a fair trial]; *Herb v. City of Bakersfield* (2015) 233 Cal.App.4th 606, 619 [test for challenging jury instruction on ground it is ambiguous is whether there is a reasonable likelihood that jury misunderstood and misapplied the instruction]; Bus. & Prof. Code § 6007 [may order attorney's State Bar status inactive upon finding that attorney caused or is causing substantial harm to the attorney's clients or the public *and* a reasonable likelihood that the harm will reoccur or continue]; § 938.1 [grand jury transcripts public after indictment unless there is a reasonable likelihood that their release will prejudice the defendant's right to a fair and impartial trial]; Super. Ct. L.A. County, Local Rules, rule 7.3 [Juvenile Court Presiding Judge may deny public or media request for access to dependency or delinquency proceedings if the court finds a reasonable likelihood that the requested contract will be detrimental to the child's best interests].)

As addressed above, FINANCIAL CASUALTY itself benefited from an extension based on a declaration from its investigator that revealed the FINANCIAL CASUALTY did *not* know where Grijalva was and every lead it had followed lead to a dead end. FINANCIAL CASUALTY did not

hire experts, submit scientific evidence, or engage a fortune teller to demonstrate a reasonable likelihood of success. Instead, it produced evidence that although it did not know Grijalva's location, it had recently utilized social media and newspapers in both Mexico and the United States to advertise and offered a reward for information leading to Grijalva's recapture. FINANCIAL CASUALTY also had the cooperation of the US Marshals and law enforcement in Mexico. Although FINANCIAL CASUALTY was not "on the defendant's heels" by any means, the court granted an extension where FINANCIAL CASUALTY: (1) made diligent efforts during the appearance period; (2) had recently initiated promising new efforts to generate leads; and (3) there were no previous extensions granted. The court did not impose a rigid test "enshrined in formalism." (See *Waters v. Superior Court of Los Angeles County* (1962) 58 Cal.2d 885, 893; see OBM, p. 28.) Instead, it considered FINANCIAL CASUALTY's "factual exposition" that demonstrated diligence and a reasonable likelihood of success and granted the extension. (*Ibid.*)

E. Authorities Cited by FINANCIAL CASUALTY Discussing Sureties' Role in the Criminal Justice System are Not Relevant

FINANCIAL CASUALTY devotes almost six pages to lauding the bail industry and its beneficial role in the criminal justice system. (OBM, pp. 35-40.) This information is irrelevant. The use of surety bonds as a method of pre-trial release is not in jeopardy. There is no implication that

the "likelihood of return" component of good cause has any relationship to whether bail bondsmen are a desirable or a distasteful element of society.

Further, the sources cited by FINANCIAL CASUALTY do more than just proclaim the vital role of professional bondsmen; they also acknowledge the bondsmen's shortcomings. For instance, bondsmen are permitted to use heavy-handed tactics (*Bounty Hunters: Can the Criminal Justice System Survive without Them?* 1998 U. Ill. L. Rev. 1175, 1192-93 [hereafter "*Bounty Hunters*"]; *Private Police: Defending the Power of Professional Bail Bondsman*, 32 Ind. L. Rev. 1413, 1413 [hereafter "*Private Police*"]), which would subject law enforcement personnel to liability for civil rights violations, but not so for bail agents and their bounty hunters. Also, bail agents are arguably given the power to determine which defendants are able to obtain pretrial release (*Private Police*, *supra*, at p. 1417 [explaining that bondsmen have little incentive to provide their services to indigent defendants who cannot afford to pay the bond premium].)

Significantly, it is the surety (or its bail agent) which chooses which risks to take, and a "bondsman can refuse to bond anyone for any reason. Thus, if a bondsman decides a particular defendant poses too high a flight risk, the bondsman may simply refuse to provide his services to that defendant." (*Bounty Hunters, supra,* at p. 1189.) Moreover, sureties are in the business of taking risks, and sometimes those risks are realized.

(*People v. American Contractors Indemnity Co., supra,* 33 Cal.4th at pp. 657-658.)

In sum, FINANCIAL CASUALTY's argument – that sureties should be granted extensions based simply on prior efforts – is not supported by its reliance on outdated, nationwide statistics.

IV. THE PEOPLE SHOULD NOT BEAR THE BURDEN OF DEMONSTRATING THAT NO REASONABLE LIKELIHOOD OF APPREHENSION EXISTS

Section 1305.4 is unambiguous on the issue of burden-shifting. The Legislature unequivocally placed the burden of demonstrating good cause on the moving party, *not* on the PEOPLE. The Legislature is well-equipped to, and has, enacted statutes that explicitly provide for burden shifting (e.g., Code of Civ. Proc., § 437c(p)(1)). It chose not to do so in § 1305.4. To find that the PEOPLE bear the burden to demonstrate no reasonable likelihood that a surety will recapture the defendant creates an unsupported presumption of a reasonable likelihood based on a finding of due diligence. This suggestion completely rewrites the statute. Such a decision would ignore the plain language of § 1305.4 and conflict with the rules of statutory construction.

In support of its position, FINANCIAL CASUALTY cites several cases, without analysis, to support burden shifting based on public policy. The authorities cited by FINANCIAL CASUALTY are inapposite. They do not address § 1305.4 or justify shifting a burden of proof explicitly

established by an applicable special statute. (See *People v. Ramirez* (1976) Cal.App.3d 391, 396-397 [The obligations of bail are governed by the statutes specially applicable thereto].) Also, applying the policy considerations identified in the cases cited by FINANCIAL CASUALTY in support of burden shifting, it is clear that the burden to demonstrate "good cause" under § 1305.4 must fall on sureties.

In *Williams v. Russ* (2008) 167 Cal.App.4th 1215 ("*Williams*"), the defendant Russ moved for terminating sanctions against the plaintiff Williams in a legal malpractice lawsuit because Williams destroyed the only copy of the client file and Russ could not prepare a proper defense without it. (*Id.* at p. 1219.) The court found that Williams deliberately destroyed the file and that there was a substantial probability that the spoliation of evidence damaged Russ' ability to establish his defense. (*Id.* at p. 1227.) Although typically a party moving for discovery sanctions bears the burden to prove his claim for relief, the appellate court found that the burden of proof may be shifted when "there is a substantial probability the defendant [or responding party] has engaged in wrongdoing and the...wrongdoing makes it practically impossible for the plaintiff [or moving party] to prove the wrongdoing." (*Id.* at pp. 1226-1227, citing *Corns v. Miller* (1986) 181 Cal.App.3d 95; *National Council Against Health Fraud, Inc. v. King Bio Pharmaceuticals, Inc.* (2003) 107 Cal.App.4th 1336; *Galanek v. Wismar* (1999) 68 Cal.App.4th 1417.)

Williams is distinguishable and shows that FINANCIAL CASUALTY is the proper party to bear the burden to demonstrate "good cause" under § 1305.4. Unlike Williams, the PEOPLE are not a culpable party. Instead, it is FINANCIAL CASUALTY that violated of the contract it entered into with the PEOPLE, guaranteeing that Grijalva would appear in court as lawfully required. (CT 23.) Sureties bear the risk of forfeiture and the entry of summary judgment when they post a bail bond; sureties understand and undertake the risk that the defendant will skip bail. (*People v. Indiana Lumbermens Mutual Insurance Co.* (2010) 49 Cal.4th 301, 313.) That is simply the situation here, but FINANCIAL CASUALTY seeks to avoid facing the consequences of breaching the contract.

Also, the facts regarding the reasonable likelihood of apprehension if a surety is granted an extension are not within the knowledge of the PEOPLE. Instead, the relevant facts are exclusively within the possession of the surety. The surety conducts the investigation and is the *only* party in possession of facts that would enable the court to determine the reasonable likelihood of success if it extends the appearance period. The PEOPLE do not keep tabs on sureties' investigations during the appearance period. Rather, they typically learn what efforts sureties made and the progress of their investigations when sureties file extension motions under § 1305.4. Thus, it would be "practically impossible" for the PEOPLE to ever meet the

burden of showing a lack of reasonable likelihood of success. (See *Id.* at pp. 1226-1227.)

McGee v. Cessna Aircraft Co. (1983) 139 Cal.App.3d 179 ("*McGee*") and *Galanek v. Wismar* (1998) 68 Cal.App.4th 1417 ("*Galanek*")[7] are similarly inapplicable. *McGee* discusses shifting the burden to prove causation (or lack thereof) in the context of negligence *per se* and products liability. *Galanek* addresses burden shifting in the context of a legal malpractice action where a former client allegedly lost her products liability lawsuit against a car manufacturer because counsel negligently allowed her vehicle to be destroyed. In both cases, burden shifting was deemed appropriate on similar policy grounds as in *Williams*: (1) shifting the burden from an injured to a culpable party; and (2) shifting the burden to the party with access to the relevant information.

The policy considerations present in a strict products liability case are inapplicable to the situation here. As explained earlier, the PEOPLE are *not* the party in possession of, or with access to, the information necessary to demonstrate a reasonable likelihood of success if the appearance period were extended. Rather, sureties are the only party in possession of, and with access to, such information. Also, unlike the situation in *McGee*,

---

[7] Surety cited *Galanek v. Wismar* (1998) 66 Cal.App.4th1493. (Opening Brief, p. 43.) However, that opinion was vacated and a rehearing was granted. (*Galanek, supra,* 68 Cal.App.4th at p. 1420.) On rehearing, the appellate court published the opinion cited by the PEOPLE that is substantially similar to the original.

FINANCIAL CASUALTY is not an injured party, and there is no risk of an unfair result if the burden is not shifted. FINANCIAL CASUALTY is best situated to provide evidence regarding the likelihood of success if the appearance period is granted.

Thomas v. Lusk (1994) 27 Cal.App.4th 1709 ("*Thomas*") supports the PEOPLE's position rather than FINANCIAL CASUALTY's. There, the appellate court found that the trial court erred when it gave the jury an instruction shifting the burden of proof regarding causation to the defendant in a legal malpractice case. The First District acknowledged that in negligence and products liability cases, the general rule that a plaintiff must prove each element of his or her claim has evolved such that the burden of proof on the issue of causation may be shifted to the defendant. However, the court cautioned that it is a "narrow exception" based on the policy that the burden of proof be placed on the party with the greater access to the information. (*Id.* at p. 1717.) Other considerations include the relative culpability of the parties and whether the moving party established a prima facie case or substantial probability of causation.

Thomas supports the PEOPLE's position; it emphasizes the inappropriateness of placing the burden to disprove an element of "good cause" under § 1305.4 on the PEOPLE. FINANCIAL CASUALTY has exclusive access to the relevant information and the PEOPLE are an innocent party. Further, FINANCIAL CASUALTY is not suggesting that it

be required to make a prima facie showing prior to the burden shifting. Instead, it promotes the shift to occur upon a finding of due diligence. The correlation between a surety's diligence and a reasonable likelihood of capturing the defendant if given more time is *not* that which is contemplated by the Evidence Code. (See Evid. Code, § 600, subd. (a) ["A presumption is an assumption of fact that the law requires to be made from another fact or group of facts found or otherwise established in the action. A presumption is not evidence."].)

Sargent Fletcher, Inc. v. Able Corp. (2003) 110 Cal.App.4th 1658 ("*Sargent Fletcher*") also supports the PEOPLE's position. There, in a misappropriation of trade secrets case brought under the California Uniform Trade Secrets Act (UTSA), the appellate court upheld the trial court's refusal to give the jury an instruction shifting the burden of proof to the defendant. Similar to § 1305.4, the UTSA required the party seeking relief under the statute to prove its case. The Second District explained that, consistent with Evidence Code § 500, "[t]he burden of proof *does not shift* during trial – it remains with the party who originally bears it." (*Id.* at p. 1667, emphasis in original.) This supports the PEOPLE's position that § 1305.4 places the burden to demonstrate good cause on the surety and that burden does not shift upon a surety's showing of due diligence.

In re Anthony T. (2012) 208 Cal.App.4th 1019 ("*Anthony T.*")[8] also supports the PEOPLE's position. Preliminarily, the block quote cited by FINANCIAL CASUALTY is not a quote from the *Anthony T.* opinion, nor does it accurately reflects its holding.[9] (See OBM, p. 43.)

In *Anthony T.*, the Fourth District addressed which party has the burden of proof when one party objects to a proposed placement under the Indian Child Welfare Act ("ICWA"). Under ICWA, an Indian child in foster care must be placed in "the least restrictive setting that most approximates a family" and "shall also be placed within reasonable proximity to his or her home." (*Id.* at pp. 1027-1028; 25 U.S.C. § 1902, 1915(b); Welf. & Inst. Code § 361.31) ICWA goes on to state that in the *absence of good cause to the contrary*, the preferred placement for an Indian child is with a member of its extended family, a foster home approved by the child's tribe, an Indian foster home, or an institution approved by the tribe or operated by an Indian Organization.

---

[8] Surety cites the case as "*San Diego v. Brooke H.* (2012) 208 Cal.App.4th 1019."

[9] The Opening Brief "quotes" *Anthony T.* as follows:

> When public policy favors the finding of good cause the party opposing the finding has the burden to show that there is good cause not to follow the preference. (*San Diego v. Brooke H.* (2012) 208 Cal.App.4th 1019, fn.6.)

The *Anthony T.* Court held that the party opposing a placement under ICWA bears the burden to show there is not good cause to follow the preferences. This holding is narrow and does not apply to the situation here because unlike § 1305.4, which places the burden to demonstrate good cause on the surety, the language of ICWA creates a presumption of good cause absent a showing to the contrary.

FINANCIAL CASUALTY is asking this Court to find that the PEOPLE bear the burden to disprove a reasonable likelihood of apprehending the defendant if an extension is granted absent *any* showing by the surety that a reasonable likelihood exists. Such a finding would be contrary to the plain language of and the legislative intent behind § 1305.4. The language of § 1305.4 unambiguously puts the burden to demonstrate good cause on the moving party. FINANCIAL CASUALTY has not provided a basis to contravene the wording of the statute and shift the burden to the People. The PEOPLE did not wrong FINANCIAL CASUALTY. The PEOPLE are not in a position to provide relevant information regarding the likelihood FINANCIAL CASUALTY will apprehend Grijalva if given more time. This would be an impossible burden for the PEOPLE to carry absent searching for and locating defendants to prove the surety's investigation was completely off-course. This is an absurd result unintended by the Legislature when it enacted § 1305.4.

A surety assumes the risk of defendants' nonappearance when it posts the bond and should bear the responsibility of searching for the defendant and demonstrating good cause for an extension when it is unable to locate the defendant within the given appearance period. This is not an expense the PEOPLE should bear.

V. AN EXTENSION OF THE APPEARANCE PERIOD COMMENCES ON THE DAY AFTER THE APPEARANCE PERIOD EXPIRES

FINANCIAL CASUALTY argues that the maximum extension period of 180 days should be counted from the day that the first extension was granted on March 20, 2013 and, therefore, Judge Giss could have granted an extension of 46 more days. FINANCIAL CASUALTY is mistaken.

The PEOPLE contend that the "order" stated in section 1305.4, refers to the order granting the extension of the appearance period when made before the last day of that period. However, because sections 1305.4 and 1305, subdivision (i) allow such motions to be heard within 30 days after the last day of the appearance period, and because the Legislature did not intend to change its prior meaning of "its order" established in 1996, the total extension cannot be more than 180-days after the expiration of the appearance period.

A. The Evolution of Sections 1305 and 1305.4 And *Taylor Billingslea*

Before 1993, section 1305 was comprised of two subdivisions, neither of which provided for an extension of the 180-day appearance period. (Ass. Bill No. 3914 (1990 Reg. Sess.); Stats. 1990, ch. 1073, § 2.) In 1993, AB 734 was approved, which repealed section 1305 and added a new section 1305. (Ass. Bill No. 734 (1993 Reg. Sess.); Stats. 1993, ch. 524, §§ 1-2.) A substantive change was made with the addition of subdivision (c), which for the first time provided that if a surety timely filed a motion to vacate *a bail forfeiture order* within the appearance period on the statutorily-authorized grounds, the hearing could be held within 30 days after the last day of the appearance period. It stated, in pertinent part:

> (c) If the defendant appears in court within 180 days of the date of forfeiture or within 180 days of the date of mailing of the notice if the notice is required under subdivision (b), the court shall, on its own motion, direct the order of forfeiture to be vacated and the bond exonerated. An order vacating the forfeiture and exonerating the bond may be made on terms that are just and do not exceed the terms imposed in similar situations with respect to other forms of pretrial release.
>
> Additionally, if the defendant is surrendered to custody or to the court by the bail within the appearance period, the court shall, on its own motion, direct the order of forfeiture to be vacated and the bond exonerated. An order vacating the forfeiture and exonerating the bond may be made on terms that are just and do not exceed the terms imposed in similar situations with respect to other forms of pretrial release.

> In all other cases, an order vacating the forfeiture shall not be made without 10 days' prior notice by the bail to the applicable prosecuting agency, unless notice is waived by the agency. The notice may be given by the surety insurer, the bail agent, the surety, or the depositor of money or property, any of whom may appear in person or through an attorney. *A motion filed in a timely manner within the appearance period may be heard within 30 days of the expiration of the appearance period.* The court may extend the 30-day period upon a showing of good cause. (Emphasis added.)

In 1994, there was no change in the italicized wording, but the provision for the filing and hearing of a motion was renumbered into new subdivision (c)(4). In pertinent part, section 1305, subdivision (c)(4) stated:

> (4) Except as provided in paragraphs (1) and (2), the court, in its discretion, may require that the bail provide 10 days' prior notice to the applicable prosecuting agency, as a condition precedent to vacating the forfeiture.... A motion filed in a timely manner within the 180-day period may be heard within 30 days of the expiration of the 180-day period. The court may extend the 30-day period upon a showing of good cause.

(Ass. Bill No. 3059 (1994 Reg. Sess.); Stats. 1994, ch. 649.)

This change was to accommodate the changes made to subdivisions (c)(1) and (c)(2) wherein the court was required to vacate the order of forfeiture on its own motion in the event that the defendant appeared in court on the case in which the forfeiture was entered. (Legis. Couns. Dig., Ass. Bill No. 3059 (1994 Reg. Sess.); Stats. 1994, ch. 649.) No notice to

the prosecutor was necessary under such circumstances. Still, any motion to vacate forfeiture under any other provision of subdivision (c) had to be filed within the appearance period. Again, no provision for *extending* the appearance period had been passed at this time.

No change to section 1305, subdivision (c)(4) was made in 1995 (Sen. Bill No. 1245 (1995 reg. Sess.); Stats. 1995, ch. 434) or in 1996 (Ass. Bill No. 2491 (1996 Reg, 1996 Reg. Sess.); Stats. 1996, ch. 94). Thus, as of the passage of AB 2491 in 1996, a motion to vacate a bail forfeiture order, timely filed within the appearance period, could be heard within 30 days after the appearance period expired. Again, there was no provision for extending the appearance period.

In 1996, Senate Bill 1571 was passed, which added section 1305.4:

> Notwithstanding Section 1305, the surety or depositor may file a motion, based upon good cause, *for an order extending the 180-day period provided in that section.* The motion shall include a declaration or affidavit that states the reasons showing good cause to extend that period. The motion shall be duly served on the prosecuting agency at least 10 days prior to the hearing date. The court, upon a hearing and a showing of good cause, may order the period extended to a time not exceeding 180 days from its order. (Italics added.)

(Stats. 1996, ch. 354, § 1.)

According to the Legislative Counsel's Digest:

> Existing law provides that a court shall declare forfeited the undertaking or deposit of bail if,

> without sufficient excuse, a defendant fails to appear for arraignment, trial, judgment, or any other occasion prior to the pronouncement of judgment if the defendant's presence in court is lawfully required, or fails to surrender himself or herself in execution of the judgment after appeal. The court is required to vacate an order of forfeiture if the defendant either voluntarily or in custody appears in court within 180 days of the date of forfeiture or date of making of a notice, as specified.
>
> This bill would authorize the surety or depositor to file a motion, based upon good cause, for an order extending the 180-day period that includes a declaration or affidavit that states the reasons why there is good cause to extend that period. If, after a hearing, the court finds good cause to extend the 180-day period, the court would be authorized to extend *that period up to an additional 180 days*. (Italics added.)

(Legis. Couns. Dig., Sen. Bill No. 1571 (1995-1996 Reg. Sess.); Stats. 1996, ch. 354.)

According to the express wording of the statute, under new section 1305.4 the court could order an extension of the appearance period provided in section 1305 "to a time not exceeding 180 days from *its order*." The clarification as to what "its order" refers was stated in the Legislative Counsel's statement of intent in the Digest: "If, after a hearing, the court finds good cause to extend the 180-day period, the court would be authorized to extend that period up to an additional 180 days." Despite what could be construed as ambiguous wording in the statute, the

Legislature's expression was clear that the extension be no more than 180 additional days after the appearance period specified in section 1305.

What is most important by this language was that, at this time in the chronological history, section 1305.4 allowed a surety to file a motion to extend the appearance period for an additional 180 days if filed within that period, but there was no provision in section 1305.4 to allow such a hearing to be held after the last day of the appearance period. That this is a correct interpretation of the statute is supported by *People v. American Contractors Indemnity* (1999) 74 Cal.App.4th 1037. There, the surety sought to bond exoneration under section 1305, subdivision (g) based on the defendant's detention by local authorities in Mexico and the prosecutor's election to not extradite him. But the trial court denied the motion because the prosecutor was provided only 12 days notice of the motion. The surety argued that 12 days notice was sufficient because subdivision (c)(4) provided for a 10-day notice period at the discretion of the judge. The People argued that it was entitled to 15 days notice. The Court of Appeal affirmed the judgment. (*Id.* at pp. 1040-1041.) The Court of Appeal held that the 10 day notice requirement under subdivision (c)(4) was inapplicable, and that the length of notice requirements for a motion to vacate forfeiture under section 1305, subdivision (c)(4), were exclusive to those motions filed under subdivision (c) and did not apply to motions grounded on subdivision (g):

> [T]he present case involves the distinct factual circumstances set forth in section 1305, subdivision (g). There is no evidence the Legislature intended what may be described as the 'expedited notice' provisions of section 1305, subdivision (c)(4) where the accused has been in custody in the very county where the criminal case is pending to apply to an absconding defendant who has fled to another nation. None of the committee reports prepared in connection with the adoption of section 1305, subdivision (g) indicate any legislative intent that the expedited notice provisions of section 1305, subdivision (c)(4) were to apply to motions to set aside a bail forfeiture when the defendant has absconded to another nation.

(*Id.* at pp. 1047-1048.)

What makes *American Contractors* significant is that a motion that was filed under under subdivision (c) was to be treated differently from a motion grounded on a different subdivision. So while the appellate courts will distinguish the procedures articulated between two subdivisions in the same statute, it is equally applicable to different *statutes*, i.e., between section 1305 and section 1305.4. The importance of this point is discussed, *infra*.

Suffice to state, it is clear that, as of 1996, the reference to "its order" in section 1305.4 was to a date as late as the last day of the appearance period. It was not, and could not be, a reference to an order rendered after the appearance period because such was not authorized by the statute. Any "order" of the court to extend the appearance period was necessarily an

order made before the last day of the appearance period. And even if, at that time, a hearing to extend the appearance period was held before the last day of the appearance period, which could imply that a surety could potentially be provided less than 365 total days to surrender the defendant or obtain relief, the Legislative intent was clear that the court could order "up to an additional 180 days" beyond the appearance period specified in section 1305.

In 1997, there was again no change to subdivision (c)(4) – a motion to vacate forfeiture under that subdivision had to be filed within the appearance period, although the hearing could be held within 30 days thereafter. (Ass. Bill No. 2083 (1997-1998 Reg. Sess.); Stats. 1997, ch. 223, § 2.) The status quo as to § 1305.4 motions was maintained – such motions had to be filed within the appearance period and heard and granted within the appearance period.

It is within this context that *People v. Taylor Billingslea Bail Bonds* (1999) 74 Cal.App.4th 1193 was rendered. There, the trial court ordered bail forfeited after the criminal defendant failed to appear at a required court hearing. The trial court subsequently granted an 88-day extension of the appearance period. The surety sought and received a second order further extending the appearance period by 60 days. The trial court granted a third extension so that the surety could obtain records to support its bail exoneration motion. At the surety's request, a fourth extension was granted

and the trial court continued the hearing on the matter to the 364th day after the bail forfeiture notice was mailed. At the hearing, the surety sought an additional one week extension in order to obtain more evidence for the pending motion. However, the trial court denied the motion on the basis that there was no authority in case law nor statute that would have permitted an extension of the appearance period for more than 180 days. (*Id.* at pp. 1196-1197.)

The surety appealed and argued that section 1305.4 should be interpreted to mean that a trial court can grant an unlimited series of extensions as long as good cause is shown and no single extension is longer than 180 days. (*Id.* at p. 1198.) The Court of Appeal disagreed and affirmed the order.

It initially commented that "[t]he language of section 1305.4 is somewhat ambiguous.... Does 'its order' mean the original order extending the period so that the total of all extensions permitted under section 1305.4 cannot exceed 180 days, or does 'its order' mean the order issued in response to each request for extension..."[10] (*Ibid.*) The Court of Appeal analyzed the legislative history for the enactment of section 1305.4, and quoted the legislative counsel digest: "If, after a hearing, the court finds good cause to extend the 180-day period, *the court would be authorized to*

[10] FINANCIAL CASUALTY'S contention that there is no ambiguity in the language was at least arguable to that appellate court.

extend that period up to an additional 180 days. [Citation.]" (*Id.*, at p. 1199.) Thus, the Court of Appeal provided the bright-line rule:

> Guided by the language of the statute and the explanation of its provisions provided by the legislative counsel, we are of the opinion that *the Legislature intended section 1305.4 to allow an extension of no more than 180 days past the 180-day period set forth in section 1305. The* alternative interpretation proposed by appellant would permit the bail agent to obtain a new extension every 180 days, and drag the forfeiture period on indefinitely. This would violate the policy and spirit of the statutory framework within which section 1305.4 is found which strongly favors limiting the amount of time a surety has to challenge forfeiture.... [¶] The trial judge was correct in its conclusion that it had no authority to extend the forfeiture period under section 1305.4 for an additional week as appellant requested.

(*Ibid.*, emphasis added.)

While FINANCIAL CASUALTY insists that the ambiguity addressed in *Taylor Billingslea* is not at issue in this case, it is precisely the issue presented in this case. How much of an extension is provided under section 1305.4 was precisely the issue in that case. The Court of Appeal answered it succinctly – no more than 180 days after the appearance period expires. While worded slightly differently, the specification of issue here asks whether the extension period commences on the date on which the initial appearance period expires or, as FINANCIAL CASUALTY asserts, on the date the court granted the first extension of less than 180 days.

In 1999, Assembly Bill No. 476 was approved. (Stats. 1999, ch. 570.) It amended both section 1305 and section 1305.4. As to the former section, it deleted the whole of subdivision (c)(4) and added subdivision (i), which amended the filing provisions for a motion to vacate forfeiture to apply to all motions made under section 1305. Thus, all motions under section 1305 had to be filed before the appearance period ended, but could be heard 30 days after the last day of the appearance period:

> (i) A motion filed in a timely manner within the 180-day period may be heard within 30 days of the expiration of the 180-day period. The court may extend the 30-day period upon a showing of good cause. The motion may be made by the surety insurer, the bail agent, the surety, or the depositor of money or property, any of whom may appear in person or through an attorney. The court, in its discretion, may require that the moving party provide 10 days prior notice to the applicable prosecuting agency, as a condition precedent to granting the motion.

(§ 1305, subd. (i); Ass. Bill No. 476 (1999 Reg. Sess.); Stats. 1999, ch. 570, § 2.)

As to section 1305.4, it substantively amended the statute to allow motions for extensions to be "filed and calendared as provided in subdivision (i) of section 1305." (1999 Cal Stats., ch. 570, § 3.)

The Legislative Counsel's Digest stated, in pertinent part:

> (2) Under existing law, the court is authorized to grant a motion to vacate a forfeiture of bail only if the motion is made within a 180-day period *and is heard within 30 days of the*

> *expiration of that 180-day period.* Existing law also authorizes a surety or depositor of bail to file a motion, based upon good cause, to extend the 180-day period of time, not exceeding 180 days from its order.
>
> This bill would provide instead, that *a motion to vacate a forfeiture of bail* that is filed within the 180-day period, *may be heard within 30 days of the expiration of that 180-day period.* The court would be authorized to extend the 30-day period upon a showing of good cause and to require that the moving party provide 10 days prior notice to the applicable prosecuting agency as a condition to granting the motion. (Italics added.)

The Legislative expression reflects an intent to allow a motion "to vacate forfeiture" that is filed before the last day of the appearance period to be heard within 30 days after the last day. However, the Legislature completely failed to address the fact that section 1305.4 was changed substantively by allowing an extension motion to be heard after the last day of the appearance period as described in section 1305, subdivision (i), which conflicts with the prior expression of intent in 1997. Thus, while the reference to "its order" was previously intended for a motion to vacate forfeiture contemplated to be heard before the last day of the appearance period, it is evident that the Legislature did not express an intent to amend "its order" to compensate for the change in hearing date requirements for a 1305.4 motion.

Ordinarily, if the new provisions and reenacted or unchanged portions of an original statute cannot be harmonized, rules of construction dictate that the new provisions should prevail as the latest declaration of legislative will. However, a long-established exception to the rule was stated in *Smith v. Board of Trustees* (1926) 198 Cal. 301, 306:

> True, it has sometimes been stated as a rule of construction that where there is an irreconcilable conflict between different provisions of a statute that provision which is last in order of position will prevail as being the latest expression of the legislative will. But this purely arbitrary rule of construction, which, if it exists at all, springs from the necessity for some rule in peculiar cases, is not be applied when the provision standing first in the act is the one which is more in harmony with the general purpose of the statute.

Here, the Legislature's intent when § 1305.4 was first enacted was to allow a surety to move for an extension of no more than 180 days after the appearance period. When it was later amended so that such motions could be made as under § 1305, i.e., within 30 days after the appearance period, there was no legislative expression that such extensions should be other than the previous pronouncement. Statutory construction supports the PEOPLE'S view.[11]

B. The Common Law Post-*Taylor Billingslea*

Since *Taylor Billingslea*, the same method of calculating the maximum extension time under section 1305.4 was adopted in two other

[11] Subsequent amendments passed in 2012 and 2013 are not germane to the present issue.

cases. In *People v. Bankers Ins. Co.* (2010) 182 Cal.App.4th 1377, the criminal defendant failed to appear at a preliminary hearing and the trial court ordered the bail forfeited. Notice of the bail forfeiture was mailed on January 29, 2007. (*Id.* at p. 1380.) The surety filed a section 1305.4 motion, which appearance period had been scheduled to expire on August 2, 2007. The hearing on the section 1305.4 motion was held subsequently on August 20, 2007, and the trial court extended the appearance period to November 20, 2007. (*Id.* at p. 1381.) The surety filed a second section 1305.4 motion, which was again granted and the appearance period was extended to January 22, 2008. The surety then filed a third section 1305.4 motion which, according to the notice of motion, requested an additional six months. Again, the trial court granted the motion and the appearance period was ordered extended to July 15, 2008. The trial court entered summary judgment on the forfeited bail bond after denying the surety's motion to set aside the bail forfeiture. (*Ibid.*) The surety appealed, contending that the trial court lost jurisdiction to enter summary judgment within 90 days after the date on which it could first be entered. (*Id.* at p. 1382.)

The Court of Appeal cited *Taylor Billingslea,* stating, "the statute allows an extension of the appearance period 'of no more than 180 days' past the 185-day period provided by section 1305. [Citation.] This means, in this case, that the maximum time Bankers could properly have been

granted ... within which to justify vacating the forfeiture and exonerating the bond was 365 days – from January 29, 2007, to January 29, 2008." (*People v. Bankers Ins. Co.*, *supra*, 182 Cal.App.4th at p. 1382.) The appellate court's observation cannot be construed as *dicta*, for it was a key initial issue in deciding whether the entry of summary judgment was timely. Thus, "because summary judgment was not entered until several months later, on July 21, 2008, the trial court was without authority to enter summary judgment." (*Ibid.*) Although the Court of Appeal eventually affirmed the judgment, finding that estoppel principles applied and that the summary judgment was merely voidable and not void (*Id.* at pp. 1382-1386), what is significant is its pronouncement of when the 180 day extension period under section 1305.4 begins to run – from the date that the initial appearance period ends.

In *People v. Accredited Surety & Casualty Co., Inc.* (2013) 220 Cal.App.4th 1137 (hereinafter, *Accredited*), the criminal defendant failed to appear for sentencing and the trial court ordered the bail forfeited; the bail forfeiture notice was mailed to the agent and surety on January 18, 2011. (*Accredited*, *supra*, 220 Cal.App.4th at p. 1140.) On July 22, 2011, the 185th day after the notice of forfeiture was mailed, the surety filed a section 1305.4 motion. The People filed a non-opposition to the motion, which stated that good cause was shown and that a statutory extension of 180 days should be granted from the date of the hearing on the motion, until

January 31, 2012. In point of fact, January 31, 2012 fell was more than 180 days after the appearance period expired on July 22, 2011. (*Id.* at p. 1141.) Summary judgment was entered after the criminal failed to re-appear and the forfeiture order was not vacated. The surety filed a motion to set aside the summary judgment, contending that it was entered beyond the statutory time under section 1306. The trial court denied the motion and the surety appealed. (*Ibid.*)

The Court of Appeal analyzed whether the summary judgment was untimely entered by first determining when the extended appearance period ended. To reach that finding, the appellate court looked to *Taylor Billingslea*, and *People v. Bankers Ins. Co.*, *supra*. It concluded:

> The notice of forfeiture was mailed to Surety on January 18, 2011. The 185th day thereafter was July 22, 2011. *The maximum extension of the appearance period authorized by section 1305.4 was 180 days from July 22, 2011, to January 18, 2012.* The order purporting to extend the appearance period to January 31, 2012, therefore was unauthorized by the statute.

(*Accredited*, *supra*, 220 Cal.App.4th at p. 1149 (emphasis added).)

As *Accredited* also shows, the relevant date by which the 180 day extension is measured is the date that the bail forfeiture notice was served, not the date that the trial court ordered the extension.[12]

---

[12] *Accredited* was affirmed on the basis that the surety acquiesced to the court's indication that the appearance period would remain open past the 365th day after the bail forfeiture notice was mailed and was, therefore,

FINANCIAL CASUALTY relies upon a single, unexplained phrase in this Supreme Court's opinion in *People v. American Contractors Indemnity Co.* (2004) 33 Cal.4th 653, 658 ("The trial court may ... extend the period by no more than 180 days from the date the trial court orders the extension....") The PEOPLE'S position is that the phrase was *dicta* that is not only inconsistent with every other appellate court that has focused on the issue of when the 180 day extension period begins, but that the case did not even involve the filing of a motion to extend the 185-day period. Indeed, the concise issue addressed by this Supreme Court was not whether the 180-day extension period runs from the date a prior extension order is made. Rather the concise issue there was whether a summary judgment, entered prematurely on the 185th day after the bail forfeiture notice was mailed, could be set aside by collateral attack as a void judgment. (*Id.* at p. 657.) Indeed, the cited sentence appears in the section of the opinion titled, "Background Regarding Bail Bond Statutes" and provided a general backdrop of how bail bond proceedings occur in connection with criminal proceedings. (*Id.*) Section 1305.4 is not discussed nor cited in any other section of the Supreme Court's opinion. The PEOPLE contend that the phrase is not core to this Supreme Court's opinion in that case nor the issues presented by the parties in that case.

---

estopped from asserting otherwise. (*Accredited, supra*, 220 Cal.App.4th, at pp. 1149-1150.)

Here, the bail forfeiture order was mailed on August 24, 2012, thus making the 185th day fall on February 25, 2013. FINANCIAL CASUALTY timely sought and received, at a hearing on March 20, 2013, an extension of time to August 1, 2013. FINANCIAL CASUALTY'S second motion to extend time was heard on August 26, 2013, effectively the 365th day after the bail forfeiture notice was mailed. (*Code Civ. Proc.*, §§ 12b, 13.) Judge Giss ruled that the 185-day period could only be extended to a maximum of 365 days after the bail forfeiture order was mailed. (MARA, B-1:17-21; see B-3:2-4.) This was a correct interpretation of section 1305.4 and consistent with the holdings in *Taylor Billingslea*, *Granite State*, *Bankers Ins.*, and *Accredited.*

C. An Extension Measured From the Date of the Order Can Produce Inconsistent Extensions Between Cases and Sureties

As a policy matter, accepting FINANCIAL CASUALTY'S position would produce anomalous results between different cases. The holding that comes from this case should provide a consistent and bright line rule that, not only does justice to the Legislative intent, but also justice to the parties in future cases. Allowing the extension period to begin after the appearance period will result in varying extensions and will not be applied to sureties equitably between them.

An obvious example exists when a hearing is held before the expiration of the appearance period. Even if a surety is granted a full 180

days, it will be afforded an extended appearance period of less than 365 days.[13] Conversely, as it is in this case, a hearing held 30 or more days after the appearance period, will result in an extended appearance period of 395 days or more. This was not and cannot be the vision of the Legislature – to treat every case differently by affording more time to some sureties, yet afford less time to others.

D. *United States Fire* Should Be Overruled and *Williamsburg* Should be Disapproved

FINANCIAL CASUALTY relies on two recent cases addressing this same issue, *People v. United States Fire Ins. Co.* (2015) 242 Cal.App.4th 991 (hereinafter, *United States Fire*) and *County of Los Angeles v. Williamsburg National Ins. Co.* (2015) 235 Cal.App.4th 944. Both of these rely on the same rationale that § 1305.4 is clear on its face. Respectfully, the PEOPLE argue that both decisions failed to recognize the legislative intent as discussed *supra*. Their positions are not supported by the legislative history to the extent that they espouse that the extension period begins from the date the court renders its extension order when made after the appearance period has expired.

In *United States Fire*, the appellate court held that the explicit language of section 1305.4 states that the court may order the appearance

[13] The PEOPLE suggest that to argue that in such a circumstance the extension begins on the last day of the appearance period, in partial reliance on *Taylor Billingslea*, is incongruous with FINANCIAL CASUALTY'S position.

period 180 days "from its order," which appeared "clear and unambiguous." (*United States Fire*, 242 Cal.App.4th at p. 1005.) Yet, the opinion completely fails to mention that the Legislature's intent in 1996 was to allow a maximum of 180 days extension from the appearance period and that such motion had to be heard within the appearance period. It further failed to recognize that when section 1305, subdivision (i) was amended in 1999, along with section 1305.4, so as to allow motions to be heard after the appearance period, there was no recognition by the Legislature of its impact on the extension commencement date. Finally, it failed to recognize the exception to the rule of construction in *Smith v. Board of Trustees*, *supra*, 198 Cal. 301, 306. (See also, *Williamsburg*, *supra*, 235 Cal.App.4th at p. 951, fn. 7.)

Having failed to recognized to so recognize the legislative objective of providing no more than a 180 day extension beyond the appearance period, *United States Fire* should be overruled. And because *Williamsburg's dicta* is similarly rationalized, it should be disapproved.

VI. CONCLUSION

Based on the foregoing, the PEOPLE respectfully ask this Supreme Court to affirm the judgment in full. To receive an extension, a surety must not only show diligence, but also a reasonable likelihood that the defendant will be re-apprehended if the appearance period is extended. Further, there should be no

burden-shifting to the government to show that there is no reasonable likelihood of re-apprehension. Finally, the extension period should not extend the appearance period to any longer than 180 days after the appearance period has expired.

DATED: January 29, 2016

Respectfully submitted,

MARY C. WICKHAM
County Counsel

By _____
BRIAN T. CHU
Principal Deputy County Counsel

_____
LINDSAY YOSHIYAMA
Deputy County Counsel

Attorneys for Plaintiff-Respondent, THE PEOPLE OF THE STATE OF CALIFORNIA

CERTIFICATE OF WORD COUNT PURSUANT TO RULE 8.204(c)

The text of this document consists of 13,336 words as counted by the Microsoft Office Word 2003 program used to generate this document.

DATED: January 29, 2016

Respectfully submitted,

MARY C. WICKHAM
County Counsel

By _____
BRIAN T. CHU
Principal Deputy County Counsel

_____
LINDSAY YOSHIYAMA
Deputy County Counsel

Attorneys for Plaintiff-Respondent, THE PEOPLE OF THE STATE OF CALIFORNIA

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

DECLARATION OF SERVICE
Supreme Court Case No.: S229446

STATE OF CALIFORNIA, County of Los Angeles:

I, ~~Michelle Martinez~~ BRIAN T. CHU states: I am employed in the County of Los Angeles, State of California, over the age of eighteen years and not a party to the within action. My business address is 648 Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angeles, California 90012-2713.

That on January 29, 2016, I served the attached:

ANSWER BRIEF ON THE MERITS

upon Interested Party(ies) by placing ☐ the original ☒ a true copy thereof enclosed in a sealed envelope addressed ☐ as follows ☒ as state in the service list:

(BY MAIL) by sealing and placing the envelope for collection and mailing on the date and at the place shown above following our ordinary business practices. I am readily familiar with this office's practice of collection and processing correspondence for mailing. Under that practice the correspondence would be deposited with the United States Postal Service that same day with postage thereon fully prepaid.

**I further declare that on the same day, pursuant to California Rules of Court, rule 8.44(a)(1), I electronically filed a true copy with the Supreme Court of California and delivered one original and eight paper copies to the Supreme Court of California by placing one original and eight true copies thereof, enclosed in a sealed envelope addressed as follows:

Office of the Clerk
SUPREME COURT OF CALIFORNIA
350 McAllister Street
San Francisco, California 94102-7303

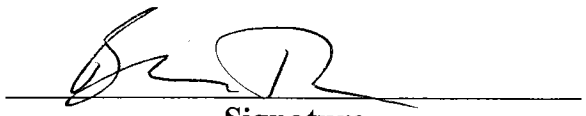
(BY EXPRESS MAIL) I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the address above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

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

Executed on January 29, 2016, at Los Angeles, California.

BRIAN T. CHU
~~Michelle Martinez~~

Type or Print Name of Declarant and, for personal service by a Messenger Service, include the name of the Messenger Service



Signature

SERVICE LIST

Supreme Court Case No.: S229446

John M. Rorabaugh, Esq.
Robert T. White, Esq.
Law Office of John Rorabaugh
801 Parkcenter Drive, Ste 205
Santa Ana, CA 92705
Counsel for Defendant and Appellant

Los Angeles County Superior Court
Attn: Honorable Harvey Giss
Airport Courthouse
11701 S. La Cienega Blvd.,
Los Angeles, CA 90045

Lindsay Yoshiyama,
Deputy County Counsel
Office of the County Counsel
500 West Temple Street, 6th Floor
Los Angeles, CA 90012

Clerk of the Court
CALIFORNIA COURT OF APPEAL
Second Appellate District, Division Five
Ronald Reagan State Building
300 South Spring Street, Second Floor
Los Angeles, CA 90013