

JAN 25 2019

Jorge Navarrete Clerk

S250149

Deputy

In the Supreme Court for the State of California

Tamara Skidgel,
Plaintiff and Appellant,

vs.

California Unemployment Insurance Appeals Board,
Defendant and Respondent.

OPPOSITION TO RESPONDENT'S MOTION
FOR JUDICIAL NOTICE

After a Published Opinion
from the First District Court of Appeal, No. A151224
On Appeal from a Judgment after the Sustaining of a Demurrer
Alameda County Superior Court No. RG16810609
The Honorable Robert Freedman

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Attorneys for Appellant

Tamara Skidgel

Appellant Tamara Skidgel opposes, in part, Respondent's Motion for Judicial Notice. Specifically, Ms. Skidgel opposes judicial notice of Exhibits 12, 13 and 14 to the motion.

Exhibit 12 is a two-page memo from the files of the Senate Committee on Industrial Relations. The memo is from the Employment Development Department to "Joyce Wimple MIC 32." (Respondent's Motion for Judicial Notice at p. 5, Exhibit 12.) There is no indication who "Joyce Wimple" is, whether she had any connection with the Legislature, or who in the Legislature, if anyone, might have received the memo. The memo is about amendments to AB 3028, which became Unemployment Insurance Code Section 683. But the memo does not mention which amendments it was addressing. It is impossible to know if the memo has any bearing at all on the intent of the version of AB 3028 that passed.

Furthermore, material in the legislative record that is not evidence of the *collective* intent of the legislature is not generally considered in determining legislative intent. (*Graham v. DaimlerChrysler Corp.* (2000) 34 Cal.4th 553, 572 n.5.) There is no evidence that the memo came to the attention of any legislator, much less the Legislature collectively. It is not persuasive legislative history merely because it happens to be in a legislative committee file. (*Kaufman & Broad Communities Inc. v. Performance Plastering Inc.* (2005) 133 Cal.App.4th 26, 33.)

Exhibits 13 and 14 are committee reports regarding AB 1930 (2016). AB 1930 was vetoed by Governor Brown. (Governor's Veto, AB 1930, Exhibit 14 to Respondent's Request for Judicial Notice at pp. 1, 4.) No inferences regarding legislative intent of an existing statute can be drawn from vetoed legislation. (*Snyder v. Michael's Stores, Inc.* (1997) 16 Cal.4th 991, 1003 n.4.) Courts do not "read legislative history tea leaves" (*California Labor Federation AFL-CIO v. Industrial Welfare Commission*

(1998) 63 Cal.App.4th 982, 994-95 [quoting *Baldwin v. County of Tehama*
(1994) 31 Cal.App.4th 166, 181 n. 10].)

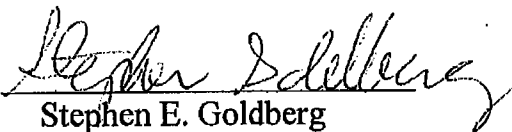
Respondent's Motion for Judicial Notice of Exhibits 12, 13, and 14
should be denied.

Dated: January 25, 2019

Respectfully Submitted,

LEGAL SERVICES OF NORTHERN
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DOWNEY BRAND, LLP

By: 
Stephen E. Goldberg
Attorneys for Plaintiff and
Appellant Tamara Skidgel

(b)

PROOF OF SERVICE

(CCP Sections 1013a, 2015.5)

Joshua Blank

I, ~~Alexa Garza~~, declare:

(b)

SAN FRANCISCO

I am employed in the County of ~~Sacramento~~, State of California. I am over the age of eighteen years and not a party to the within cause. My business address is ~~517 12th Street, Sacramento, CA 95814~~ ^{52 2nd} ~~105~~ ^(b) ~~105~~ ^(b) Street, ~~Sacramento~~, CA 95814.

On January 25, 2019, I served the within Opposition to Respondent's Motion for Judicial Notice as follows:

Via FedEx Overnight Delivery (Orig. + 8 copies) and via Truefiling	Supreme Court of California 350 McAllister Street, Room 1295 San Francisco, CA 94102-4797
Via FedEx Overnight Delivery (b) HAND DELIVERY	Hadara Stanton, Deputy Attorney General 455 Golden Gate Ave., Suite 11000 San Francisco, CA 94102-004 Attorneys for Respondent, California Unemployment Insurance Appeals Board
Via Truefiling (b) HAND DELIVERY	1st District Court of Appeal 350 McAllister Street San Francisco, CA 94102

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on January 25, 2019 at ~~Sacramento~~, ^{SAN FRANCISCO (b)} California.

By: _____
Alexa Garza

Joshua Blank