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Supreme Court of California
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In the Supreme Court of California

Jayde Downey,

Plaintiff and Appellant

v.

City of Riverside, et. al.,

Defendants and Respondents.

After a Decision by the Court of Appeal Fourth Appellate District, Division One, Case No. D080377 Appealing from a Judgment Entered in Favor of Defendants Riverside, Ara Sevacherian and Vahram Sevacherian, County Superior Court Case No. RIC 1905830 Honorable Harold W. Hopp, Judge.

JAYDE DOWNEY'S REPLY BRIEF TO ANSWERING BRIEFS OF DEFENDANTS AND RESPONDENTS ON THE MERITS

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I. Introduction

Respondents believe justice would be served only by a rule of law that would deny Downey's recovery from the City and the Sevacherians unless she pleads and proves her contemporaneous perception of (1) the line-of-sight restrictions created by the City, (2) those that were created by the Sevacherians, and (3) how those deficiencies were two of the three causes of an injurious traffic collision. In addition to these contemporaneous perceptions, of course, plaintiff must plead and prove contemporaneous perceptions of (4) the injurious traffic accident as it was (5) causing grievous injuries to her loved one. This is a significant departure from the time-tested standards established in *Thing v. La Chusa* (1989) 48 Cal. 3d 644*,* a generation ago.

To get there, Respondents had to ignore the state and federal authorities cited and discussed by Downey in her Opening Brief (primarily on pages 13-30) which authorities are diametrically opposed to the rule of law defendants propose. Downey will briefly revisit some of these authorities, hopefully without undue repetition.

But why is this rule necessary? Invoking *Thing*'s proverbial pebble-in-the-pond, threatening ever-widening waves of unacceptable exposure to liability insurers, Respondents bemoan, somewhat breathlessly, the risk of thundering herds of bystander NIED claimants who contemporaneously

perceive, via remote technologies, injurious events as those events are causing grievous injuries to their loved ones.

To be sure, Downey recognizes the importance of maintaining a boundary around the circumstances under which a small, clearly defined class of people can bring bystander NIED claims. However, Downey submits the law also recognizes significant merit in providing a remedy for bystander NIED claimants who demonstrate their contemporary sensory awareness of an "injury producing event" – considered, as it was in *Thing*, as an incident ***or*** conduct that causes an injury to plaintiff's loved one. To deny a remedy to such claimants who cannot, in the moment, contemporaneously perceive all the actors, and all their misconduct contributing to the calamitous event is to bestow a gift upon undeserving wrongdoers.

As to harmonizing *Thing* as it is applied in bystander NIED cases arising from medical malpractice cases, even the court in *Fortman v. Förvaltningsbolaget Insulan AB* (2013) 212 Cal. App. 4th 830 (as modified Feb. 7, 2013) recognized the difference between catastrophic fire/crash/explosion events and (most) medical malpractice cases. That difference is the ability of a bystander to perceive an injurious event as it is causing injuries to their loved one. "*Thing* does not require that the plaintiff have an awareness of what caused the injury-producing event, but the plaintiff must have an understanding perception of the "event as causing

harm to the victim." (*Bird v. Saenz*, supra, 28 Cal.4th at p. 920, 123 Cal.Rptr.2d 465, 51 P.3d 324.)" *Fortman,* Id., 212 Cal. App. 4th at 841.

There appears to be no dispute that Downey is closely related to her loved one; that she was (virtually) present at the crash and was then aware the crash was causing grievous injuries; and that Downey suffered serious emotional distress as a result. *Thing* and its progeny are thus satisfied. It is of no moment, then, whether Downey contemporaneously perceived each tortious act committed by each tortfeasor whose misconduct contributed to the occurrence of the injurious event that caused grievous injuries to her loved one; and there is no reason to immunize wrongdoers from liability for the harm that they cause to "*Thing*-qualified" NIED bystanders.

II. Negligence and NIED Liability

Burgess v. Superior Ct. (1992) 2 Cal. 4th 1064, 1079 was decided by this Court three years after *Thing.* In *Burgess,* it was announced that the "…starting point in determining liability for negligence is the rule set forth in *Civil Code* section 1714, subdivision (a): 'Everyone is responsible, not only for the result of his willful acts, but also for an injury occasioned to another by his want of ordinary care or skill in the management of his property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself.' *We have previously stated in the context of analyzing a claim for damages for emotional distress that '[i]n the absence of a statutory provision limiting this rule, exceptions to the*

general principle imposing liability for negligence are recognized only when clearly supported by public policy[.]' (Christensen [v. Sup. Ct.], supra, 54 Cal.3d (868, 885) 181, citing Rowland v. Christian (1968) 69 Cal.2d 108, 112,)" (Emphasis added and parallel citations omitted).

III. No Statutory Exception to Liability under *Civ. C.* 1714

Neither the City nor the Sevacherians cited a statutory exception to the general rule that imposes liability for negligent acts and omissions under *Civil Code* section 1714.

IV. Public Policy Exception Identified by the Sevacherians

The only public policy the Sevacherians clearly identify is *Thing's* risk of "ever-widening circles of liability.]" *Thing,* Id., 48 Cal. 3d at 653. The City also raises this exception in the context of "engineering designs", addressed hereinbelow.

This risk is claimed to arise from the fact that Downey's presence at the scene was virtual, as opposed to in person, and "technology opens floodgates of presence at the tortious injury producing events".

Downey's operative complaint pleaded facts establishing her virtual presence at the scene and her contemporary awareness of the collision as it was causing grievous injuries to her daughter. It also pleaded that the collision that injured her daughter was caused by three actors: the negligent driving of defendant Evan Martin, and dangerous line-of-sight obstructions created by the City, and by the Sevacherians.

In practice, Respondents want this Court to rule that a bystander NIED claimant can recover only if she is 'contemporaneously aware' each Respondent mismanaged their property so as to impinge on the line-of-sight between defendant Martin and Downey's loved one so as play a causal factor in causing the collision. Incongruously, Respondents claim this is something less than a contemporaneous awareness of each tortious cause of the injurious event.

At the risk of stating the obvious, there is frequently more than one cause of an accident. Bad driving, a bad road, negligent hiring or entrustment, a defective product – a panoply of other acts, events, and conditions – that can, as they did here -- coalesce to cause harm to a plaintiff and her loved one.

Fashioning a rule that would allow the bystander NIED claimant to recover damages only from such actors whose specific acts of misconduct (the Sevacherians call these "roles") perceived as the event was occurring would allow some wrongdoers to escape liability, it would deny a full measure of justice to the bystander NIED claimant, *and* it would violate fundamental principles of distributive justice. How could it be just to allow equitable or implied indemnity and contribution claims between tortfeasors who caused the catastrophically injurious event that the bystander NIED claimant undeniably and contemporaneously perceived, but deny to that claimant her full measure of recovery against the wrongdoers whose tortious

acts – even if imperceptible to the claimant in the moment – were undeniably a cause of the contemporaneously perceived crash, fire, explosion, or similar catastrophe?

Respondents propose a significant and unwarranted departure from the plain language of *Thing.* The elements that justify and simultaneously limit an award of damages for emotional distress caused by awareness of the negligent infliction of injury to a close relative are the traumatic emotional effect on the plaintiff who contemporaneously observes both the event ***or*** conduct that causes serious injury to a close relative and the injury itself, *Thing v. La Chusa,* (1989) 48 Cal. 3d 644, 667, 771.

Respondents would have this Court rewrite this rationale such that an otherwise qualified bystander NIED claimant must be aware of the event ***and*** conduct that causes severe injury to the claimant's loved one. In Respondents' view, public policy demands this in order to limit the number of bystander NIED claimants who satisfy the *Thing* criteria, as established by this Court.

As to the feared increase in the number of qualified bystander NIED claimants who are "virtually present" at the scene, contemporaneously perceiving a catastrophic event causing injury to a loved one, *Thing* already restricted that already small class of people to those who are close relatives of their loved one. Absent "extraordinary circumstances" that subclass is

limited to relatives residing in the same household, or parents, siblings, children, and grandparents of the victim, *Thing,* Id., 48 Cal. 3d at 668, n10.

Of that group, how many are actually going to be virtually via technological means at the moment an injurious event occurs? In the case at bench, the answer is “one”. Downey submits, in the usual case, the answer going forward will be “not very many”. The risk of a rising wave of liability exposure cannot reasonably be feared, much less demonstrated, to be anything other than “close to nil.”

Downey suffered a legally cognizable loss that should be redressed in damages by all those whose tortious acts, in the aggregate, caused the occurrence of a catastrophic, injurious event. In the case at bench, hypothetical “pebbles in ponds” creating a wave of increasing liability exposure from otherwise *Thing*-qualified bystanders who are virtually present at the scene through technological means is nothing but a bogeyman.

V. Public Policy Exception Identified by the City

The City argues that public policy supports limiting NIED expansion to “engineering designs” at pages 17-19 of their Answering Brief. Respectfully, Downey submits the argument is hyperbolic, bereft of authorities that support their position. Moreover, Downey does not urge a return to the foreseeability standard of *Dillon v. Legg* (1968) 68 Cal. 2d 728, 741*,* in determining who is qualified to bring a bystander NIED claim; she did not plead (or testify) that that her daughter was confused and ran a stop

sign without looking for oncoming traffic; she did not bring a claim for recovery emotional distress arising from loss or damage to property; and she should not be required to plead, testify, rely upon or even mention any "audio perception of an engineering design defect (in) a public road" to recover damages from the City.

Moreover, Downey's operative complaint does not plead a cause of action based on engineering designs. It pleads a first cause of action against the City for dangerous conditions of public property under *Government Code* section 835. This Court recognized the right of a properly qualified NIED claimant to bring a bystander NIED claim in *Delta Farms Reclamation Dist. v. Sup. Ct.* (1983) 33 Cal. 3d 699, 711 (parents saw their kids drowning on account of a steep, underwater drop-off in the District's canal).

Under the test apparently proposed by Respondents, the continuing viability of *Delta Farms* would have to fall, as well, unless the NIED plaintiffs had some contemporaneous knowledge of the drop-off, and/or the "engineering design" of the drop-off as they were causing the deaths of their kids.

VI. Respondents Misstate Appellant's Position (and the Law) to Support their Argument that Contemporaneous Awareness of the Exact Nature of the Tortious Conduct of Each Party is a Requirement for a Bystander/NIED Claim.

The City contends "Plaintiff seeks the Supreme Court's reversal of *Bird v. Saenz* (2002), 28 Cal. 4th 910, City's Answer Brief, page 7. That, too, is not true. Appellant's Opening Brief and the dissenting opinion of in the Court below in the discussion there that, in *Bird*, the Court understood that its discussion in *Bird* was necessarily contextual: "Justice Werdegar made a point of characterizing the action as a medical negligence case in the first sentence of, and repeatedly throughout, her opinion." (28 Cal.4th at pp. 912, 917–922.) *Bird* also acknowledges the continuing viability of *Wilks v. Hom* (1992) 2 Cal.App.4th 1264 for the proposition that *Thing*'s requirement that a plaintiff be contemporaneously aware of the injury-producing event does not necessarily require her visual perception of an impact on the victim, so long as the event is contemporaneously understood as causing injury to a close relative: this is exactly the position being taken by Appellant. *Bird*, Id., 28 Cal. 4th at 917.

The mischaracterization of the Appellant's position in the City's brief also extends to the facts themselves: the City alleges a purported admission by the plaintiff driver, Malyah Vance, that she had failed to stop for a stop sign. What she actually said is that she had only been told such and did not have any recollection of the day of the accident itself. (Answer Brief, City, page 15 and City's Request for Judicial Notice, Exhibit A at deposition of Vance, transcript page and lines 28:6-10 and 1559-16).

Turning to the seminal case of *Thing v. La Chusa* (1989) 48 Cal. 3d 644 the City's brief directly misstates this Court's holding by stating that "*Thing* stressed the requirement of observation of the injury-causing event, the injury, and <u>the causal connection between them</u>, *Thing,* Id., at 675-677" (Answer Brief, City, page 11., emphasis added). However, examination of the pages cited, which are contained within Justice Kaufman's concurring opinion, reveals no language regarding the need for observation of a causal connection and such language would be at odds with the primary holding of the main opinion:

> "We conclude, therefore, that a plaintiff may recover damages for emotional distress caused by observing the negligently inflicted injury of a third person if, but only if, said plaintiff: (1) is closely related to the injury victim; (2) is present at the scene of the <u>injury-producing event</u> at the time it occurs and is then aware that <u>it</u> is causing injury to the victim; and (3) as a result suffers serious emotional distress." *Thing,* Id., pp. 667-668. (emphasis added)

The Sevacherians' brief correctly states the finding of this Court as cited in the preceding paragraph, but then goes on to allege additional requirements for bringing a bystander/NIED case in these circumstances:

"At a minimum, the plaintiff must be aware of the alleged tortfeasors' participation in or contribution to the injury producing event. Downey cannot

be distressed by causal factors she had no awareness of, even if the Court deems her "present" because she had auditory perception of the collision." (Sevacherian Brief, page 11). But nowhere in this Court's opinion in *Thing* are there words to support this assertion. In fact, the language in the paragraph immediately preceding that cited above from *Thing* directly contradicts such contention:

> "The elements which justify *and simultaneously limit* an award of damages for emotional distress caused by awareness of the negligent infliction of injury to a close relative are those noted in *Ochoa* -- the traumatic emotional effect on the plaintiff who contemporaneously observes both the event **<u>or</u>** conduct that causes serious injury to a close relative and the injury itself." *Thing, id*, pp. 667 (emphasis added.)

In Ochoa *v. Superior Court* (1985) 39 Cal.3rd 160, this Court held that the claimant parents could state a bystander/NIED claim based on witnessing their son's prolonged suffering and ultimate death in a juvenile hall as a result of medical neglect. They were present when the child's medical needs were disregarded and were immediately aware of the child's consequent suffering. "It was immaterial that they were 'voluntarily' present at the scene and <u>were not aware of the 'tortious nature' of the staff's conduct toward the child</u>," citing *Ochoa*, supra, 39 Cal. 3d 159, 170-172. (emphasis added)

Respondents conflate awareness of the "injury-producing event" with the role of the defendant and want the law to require an awareness of the connection between the two, but there is no support in *Thing, Ochoa* or even *Bird* for such an assertion in the case of a traumatic event such as we have here.

VII Respondents Do Not Address the Authorities (or the Reasoning of the Authorities) Supporting the Proposition that Contemporaneous Awareness of the Exact Nature of the Tortious Conduct is Not a Requirement for a Bystander/NIED Claim, at Least in a Collision/Fire/Explosion Case; and their Reliance is Misplaced on *Ra.*

Respondents do not address or distinguish:

-- *Ochoa v. Superior Court* (1985) 39 Cal.3d 160 (discussed hereinabove at page 15) and cited with approval by this Court in *Thing*;

-- *In re Air Crash Disaster Near Cerritos, Calif.*, *(*1986) 967 F. 2d 1421 (9th Cir. 1992.) (a mother knew her children were inside her burning house, but unaware it was a jetliner crash – caused, in part, by the negligence of an air traffic controller – that caused the fire). It is interesting this case is mentioned only in the Table of Authorities of the Sevacherians' answering brief;

-- *Zuniga v. Housing Authority of City of Los Angeles* (1995) 41 Cal. App. 4th 82, 102-103 (disapproved on other grounds by *Zelig v. County of*

Los Angeles (2002) 27 Cal. 4th 1112, 1146), (bystander/NIED claimant widower/father of arson victims claim against the County was based on its negligent failure to control crime in its housing projects although contemporaneous awareness of the nature of defendant's misconduct was not established);

-- *Walsh v. Tehachapi Unified Sch. Dist*., No. 1:11-CV-01489 LJO, 2013 WL 4517887, at *8 (E.D. Cal. Aug. 26, 2013) (mother/bystander was contemporaneously aware of her son hanging by the neck from a tree was sufficient to state a claim against the school for its tortious failure to prevent sexual harassment of her son that precipitated the suicide); and,

-- *Wilks v. Hom* (1992) 2 Cal. App. 4th 1264, 1271 which was not addressed or distinguished by the City (plaintiff called to her daughter to unplug the vacuum cleaner plaintiff was using in another room of the house, which created a spark child's room that caused an explosion of cooking gas that had accumulated because of the landlord's negligent maintenance of a stove, injuring plaintiff's daughter, with no discussion of plaintiff's contemporary awareness of the negligent installation of a stove that caused gas to accumulate near the plug),*Wilks, Id*., 2 Cal App.4th at 1271.

To their credit, the Sevacherians addressed *Wilks* but, respectfully, they misread and misapply it in support the novel theory that, if virtual presence satisfies *Thing*'s "presence at the scene" requirement, then the virtually present claimant must also plead and prove a greater understanding

of how the defendant's tortious *conduct* which is contemporaneously perceived causing harm to plaintiff's loved one: in their view, this is the only reasonable limitation to "endless liability" because perception and presence are relational", Sevacherians Answering Brief at 12-13. This echoes a vague, *Dillon*-like foreseeability standard, complete with a sliding scale that promises unpredictable applications of the correct balance point this proposed rule of law requires: how much greater must the understanding be of defendant's tortious conduct have to before the scale tips? How is that 'greater understanding' to be measured or considered?

Again, *Thing* already (and adequately) limits the universe of qualified bystander NIED claimants to those who are present at the scene and contemporaneously aware of the catastrophic event as it is causing injury to a close relative. And *Bird* – which arose in the context of medical malpractice cases – makes clear that contemporaneous awareness of conduct that, itself, may (or may not) be an "injurious event" does not satisfy *Thing*.

Downey submits, context -- if not king -- is a critical consideration. Medical negligence is often subtle and frequently imperceptible. It is frequently indistinguishable from life-saving care. It does not ordinarily occur in a place or manner that communicates – in the moment – that an injurious event is occurring.

The same cannot be said for the fire/crash/explosion catastrophes. In those contexts, anyone looking, and anyone perceiving via the event via

remote technologies, will knowingly and contemporaneously perceive a catastrophic event is occurring with injurious consequences. *Thing*, by its terms, identifies the distinct subset of "close relatives" who are "present" at the scene and contemporaneously perceive the event causing injury to a loved one as the only people who can bring bystander NIED claims.

Finally, Respondents' reliance is misplaced on *Ra v. Superior Court* (2007) 154 Cal. App 4th 142. In that case the plaintiff was shopping in the women's section of a department store while her husband was shopping in the men's section only 10-15 feet away. She was not facing her husband when she heard a loud bang. The sound caused her to fear for her own safety and that of her husband, even though she had no indication her husband had been harmed. Once she turned to look at her husband, the plaintiff discovered that a sign had fallen and struck her husband's head, *Id* at 145.

The *Ra* Court held that the plaintiff did not clearly and distinctly perceive the injurious impact of the overhead sign falling until she looked in her husband's direction after the sign was already on the ground. Therefore, she could not bring a bystander negligent infliction action. Significantly, the court in *Ra* specifically noted a party may establish presence at the scene through non-visual sensory perception, but "…someone who hears an accident but does not then know it is causing injury to a relative does not have a viable [bystander] claim for [negligent infliction of emotional

distress], even if the missing knowledge is acquired moments later. Ra, *Id* 154 Cal. App. 4th at 142.

The *Ra* case is factually distinguishable from the case at bench. Here, Appellant perceived the explosive traffic collision and the injuries that either killed her daughter or caused her to suffer injuries so severe that she could not respond with so much as a plea for help. Downey was clearly virtually present at the scene of the accident with an understanding, auditory perception of the event as causing severe, if not fatal harm to her daughter.

In the interest of brevity, we will only refer to Downey's Third Amended Complaint at paragraphs 10, and its constituent subparagraphs A through C, at CT 297. That is where Downey pleaded her contemporaneous awareness of the traffic collision causing injury to her daughter. It is simply not required (and it should not be required) that she also expresses a contemporaneous awareness of each tortious act, actor, condition and event giving rise to the catastrophe as it is occurring. She need only be "aware of the injury-producing event at the time it occurred." *Thing v. La Chusa,* (1989) 48 Cal.3d 644, 667-668; *Bird v. Saenz,* (2002) 28 Cal.4th 910, 915.

VIII Contemporaneous Awareness of the Exact Nature of the Tortious Conduct Is Not (and Should Not) Be an Additional Requirement for a Bystander/NIED Claim Arising from a Catastrophic (Collision/Fire/Explosion) Event.

Fortman v. Förvaltningsbolaget Insulan AB (2013) 212 Cal. App. 4th 830 recognized the propriety of the *Thing v. La Chusa* (1989) 48 Cal. 3d 644 limitation of bystander/NIED claims to those claimants who are present at the scene of the injury-producing event, at the time it occurs and are then aware that the injurious event is causing injury to the victim. But, for better or worse, *Fortman* attempts to address a subset of cases where there is ostensibly no contemporaneous, meaningful comprehension of an injury-producing event. In those types of cases, *Fortman* seeks to require the bystander to be contemporaneously aware of some role involving the relevant product (or the relevant actor's conduct) as having some harmful consequence on the claimant's close relative.

Fortman did not attempt to modify the rule of *Thing* and its progeny in the so-called "fire and explosion" cases where, as here, the injurious event is obvious when compared to certain medical malpractice cases:

> "Unlike the plaintiffs in the fire and explosion cases, that is [*Wilks v. Hom* (1992) 2 Cal. App. 4th 1264, *Zuniga v. Housing Authority* (1995) 41 Cal. App. 4th 82 and *In Re: Air Crash Disaster Near Cerritos, Cal.,* (9th Cir., 1986) 967 F. 2d 1421] and the plaintiff who observed her husband being crushed by a faulty machine, that is, *Ortiz v. HPM Corp*. [(1991) 234 Cal. App. 3d 6 178] this case falls into the *Golstein* category of cases in which the

> plaintiff has no meaningful comprehension of the injury-producing event. Fortman had no contemporaneous awareness of the causal connection between the company's defective product and her brother's injuries. Fortman cites no facts that she observed (the defendant's regulator) was the source of his distress", *Fortman, Id*., 212 Cal.App.4th at 845.

To the same effect, the court noted, "Fortman also contends that these cases illustrate that the plaintiff need not know what caused the injury-producing event because the mother in *Wilks v. Hom* did not know the cause of the explosion, and the widow in *In re Air Crash Disaster Near Cerritos, California*, and the plaintiff in *Zuniga v. Housing Authority* did not know the cause of the fires that injured their close relatives. *Thing* does not require that the plaintiff have an awareness of what caused the injury-producing event, but the plaintiff must have an understanding perception of the "event as causing harm to the victim. (*Bird v. Saenz*, supra [(2002) 28 Cal.4th 910, 920], Fortman, Id., 212 Cal. App. 4th at 841, fn 4 (emphasis added).

Because of the differences between *Fortman* and the case at bench, if this Court is not inclined to disapprove or limit *Fortman* to its facts, the two may be factually distinguished. For the reasons set forth in our Opening Brief, Downey urges disapproval.

IX Conclusion

For the foregoing reasons, and for the reasons set forth in Downey's Opening Brief, *Thing* and its progeny set forth the standards appropriate for pleading and proving a bystander NIED claim. Her operative complaint does just that. The law already recognizes the difference between NIED claims arising from catastrophic events and those arising in medical malpractice cases. To the extent *Fortman* requires a further showing of her contemporaneous awareness of injurious events ***and*** conduct causing the catastrophe, *Fortman* should be distinguished or disapproved, the ruling of the court of appeals should be overruled and this cause should be remanded with an order compelling Respondents to answer Downey's operative complaint.

DATED: RIZIO LIPINSKY LAW FIRM PC

By:________________________________

ERIC RYANEN
Attorneys for Appellant

CERTIFICATION OF WORD COUNT

Pursuant to CRC 8.204(c) and 8.486(a)(6), the text of this Reply, including footnotes and excluding the cover information, table of contents, table of authorities, signature blocks and this certificate, consists of 4290 words in 13-point Times New Roman type as counted by the word processing program used to generate the text.

DATED: RIZIO LIPINSKY LAW FIRM PC

By:______________________________

ERIC RYANEN
Attorneys for Appellant

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 2677 N. Main Street, Suite 225, Santa Ana, California, 92705.

On January 8, 2024, I served the foregoing document described as: on the parties in this action by serving: JAYDE DOWNEY'S REPLY BRIEF TO ANSWERING BRIEFS OF DEFENDANTS AND RESPONDENTS ON THE MERITS

SEE ATTACHED SERVICE LIST

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(X) I electronically filed the document(s) with the Clerk of the Court by using the TrueFiling system. Participants in the case who are registered TrueFiling users will be served by the TrueFiling system. Participants in the case who are not registered TrueFiling users will be served by mail or by other means permitted by the court rules.

Executed on January 8, 2024, at Santa Ana, California.

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

/s/ Michele A. Markus
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Riverside, CA 92501

Supreme Court of California
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STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **DOWNEY v. CITY OF RIVERSIDE**
Case Number: **S280322**
Lower Court Case Number: **D080377**

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

1/8/2024

Date

/s/Michele Markus

Signature

Ryanen, Eric (146559)

Last Name, First Name (PNum)

Rizio Law Firm

Law Firm