IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

No. S279397

GUSTAVO NARANJO, et al.,
Plaintiffs and Appellants,

v.

SPECTRUM SECURITY SERVICES, INC.,
Defendant and Appellant.

Court of Appeal of California
Second Appellate District, Div. Four
No. B256232

Superior Court of California
Los Angeles County
Hon. Barbara M. Scheper
No. BC372146

AMICUS CURIAE BRIEF

(in Support of Plaintiffs and Appellants, Gustavo Naranjo, et al.)

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APPLICATION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE CALIFORNIA EMPLOYMENT LAWYERS ASSOCIATION

The California Employment Lawyers Association (CELA) requests this Court's permission to file a brief as amicus curiae in support of Plaintiffs and Appellants, Gustavo Naranjo, et al. CELA is a statewide organization of over 1,200 California attorneys whose members primarily represent employees in a wide range of employment cases, including employment termination, discrimination, and harassment actions, and individual, class, and representative actions enforcing California's wage and hour laws. (https://cela.org/?pg=Mission <last accessed 7-15-2022>.) For decades, CELA has filed briefs and argued as amicus curiae before the California Supreme Court, California Courts of Appeal, and Ninth Circuit Court of Appeal in many landmark employment law cases. CELA's members have represented hundreds of thousands of workers in state and federal courts throughout California. "CELA exists to protect and expand the legal rights and opportunities of all California workers and to strengthen the community of lawyers who represent them. We accomplish this through education and advocacy for worker justice." (https://cela.org/?pg=Mission <last accessed 7-15-2022>.)

STATEMENT OF INTEREST

CELA, through its undersigned attorney, is familiar with the questions involved in this case and the scope of their presentation and believes that there is necessity for additional argument on the following issue:

Respondent offers a lengthy footnote citing three pages worth of cases that it characterizes as "nearly two dozen in total, reflecting opinions of

twenty different judges" that allegedly "have held that a good faith dispute defense is consistent with Section 226's 'knowing and intentionality' liability standard." (Answering Brief on the Merits, p. 40 fn. 10.) Here, CELA more fully addresses these cases and demonstrates how this characterization of the purported authority is misleading because:

o The majority of them merely parrot the same principles without offering any substantive analysis of the interplay (or lack thereof) between Labor Code section 203's use of the term "willfulness" and Labor Code section 226(e)'s use of the term "knowing and intentional;"

o Several of the cases applying the good faith dispute defense to Labor Code section 226 rely upon the same faulty underlying premise drawn from a miscomprehension of California Supreme Court authority, *In re Trombley* (1948) 31 Cal.2d 801. A deeper exploration of that case demonstrates why *Trombley* does not support such an interpretation;

o Other cases mistakenly conflate Labor Code section 203's "willfulness" standard to Labor Code section 226's "knowing and intentional" standard using the "good faith dispute" exception defined in Regulation 13520 (Cal. Code Regs., tit. 8, § 13520) to limit imposition of wage statement penalties under section 226. Yet, Regulation 13520 is limited to Labor Code section 203 and does not extend to Labor Code section 226.

CELA submits this brief on behalf of its members and its members' clients, because this Court's ruling will likely impact employers' obligations to provide wage statements, the scope of such statements, and when non-compliance warrants financial consequences.

DISCLOSURE OF AUTHORSHIP OR MONETARY CONTRIBUTION

No party and no counsel for any party in this case authored the proposed amicus brief in whole or in part, or made a monetary contribution intended to fund the preparation or submission of the brief. No person or entity made a monetary contribution intended to fund the preparation or submission of the brief. (See Cal. Rules of Court, rule 8.200(c)(3).)

If this request is granted, the following brief in support of Plaintiffs and Appellants is respectfully submitted.

Gusdorff Law, P.C.

Respectfully submitted,

Dated: November 13, 2023

By: /s/ Janet Gusdorff

For Amicus Curiae CELA In Support of Plaintiffs and Appellants, Gustavo Naranjo, et al.

PROPOSED BRIEF OF AMICUS CURIAE CALIFORNIA EMPLOYMENT LAWYERS ASSOCIATION

INTRODUCTION

The California Employment Lawyers Association (CELA) supports the interpretation of Labor Code section 226 offered by Plaintiffs and Appellants, Gustavo Naranjo, et al. and shares in their concern that, left unchanged, the Court of Appeal's contrary interpretation will eviscerate Legislative intent concerning the unique wording contained in the statute.

In its brief, Respondent Spectrum Security Services, Inc., drops a three-page single-space footnote listing federal cases that Respondent characterizes as "nearly two dozen in total, reflecting opinions of twenty different judges" that allegedly "have held that a good faith dispute defense is consistent with Section 226's 'knowing and intentionality' liability standard." (Answering Brief on the Merits (ABM), p. 40 fn. 10.)

Here, CELA more fully addresses these cases and demonstrates how the majority of them merely parrot the same principles without offering any substantive analysis of the interplay (or lack thereof) between Labor Code section 203's use of the term "willfulness" and Labor Code section 226(e)'s use of the term "knowing and intentional." It also demonstrates how several of the cases applying the good faith dispute defense to Labor Code section 226 rely upon the same faulty underlying premise drawn from a miscomprehension of California Supreme Court authority, *In re Trombley* (1948) 31 Cal.2d 801. A deeper exploration of that case demonstrates why *Trombley* does not support such an interpretation.

CELA also discusses other cases upon which Respondent relies that mistakenly conflate Labor Code section 203's "willfulness" standard to

Labor Code section 226's "knowing and intentional" standard using the "good faith dispute" exception defined in Regulation 13520 (Cal. Code Regs., tit. 8, § 13520) to limit imposition of wage statement penalties under Section 226. Yet, Regulation 13520 is limited to Labor Code section 203 and does not extend to Labor Code section 226.

ANALYSIS

I. RESPONDENT'S CHARACTERIZATION OF SUPPORTING AUTHORITY IN FOOTNOTE 10 OF ITS BRIEF IS MISLEADING

A. Respondent relies on cases which contain fundamentally flawed analyses, relying upon *In re Trombley* and/or California Code of Regulations, Title 8, Section 13520

For those cases upon which Respondent relies that have analyzed the language of "knowing and intentional" and "willfulness" to justify equating Labor Code sections 203 and 226 (and accordingly extending the good faith dispute defense to section 226), several rest upon faulty foundational assumptions and gaping analytical holes. Specifically, several of the cases rely on language in *In re Trombley* (1948) 31 Cal.2d 801 and California Code of Regulations, Title 8, Section 13520. Such reliance is suspect.

As detailed in Plaintiffs' opening and reply briefs, this Court decided *In re Trombley*, *supra*, 31 Cal.2d 801 nearly 30 years prior to the Legislature's use of the phrase "knowing and intentional" in Labor Code section 226. (See Opening Brief on the Merits (OBM) pp. 30–31; Reply Brief on the Merits (RBM) p. 32.) *In re Trombley*, *supra* did not involve section 226, but rather, interpreted a different statute, Labor Code section 216, which did not employ "knowingly and intentionally" terminology, but instead, like section 203, used the term "willfully." (*In re Trombley*, *supra*, at p. 805

["Section 216 of the Labor Code reads: 'In addition to any other penalty imposed by this article, any person, …is guilty of a misdemeanor, who: (a) Having the ability to pay, willfully refuses to pay wages due and payable when demanded"], emphasis added.)

Plaintiffs note *Trombley*'s use of the phrase "knowingly and intentionally" to describe the criminality of an individual who willfully refuses to pay wages after a demand for payment is made. (OBM p. 31, citing *In re Trombley*, *supra*, 31 Cal.2d at 807–808.) *Trombley*'s use of the phrase "knowingly and intentionally" to define "willfulness" rests on two analytically distinct conclusions that demonstrate why *Trombley*'s language should have no bearing in the context of interpreting Labor Code section 226, subdivision (e).

One, *Trombley* analyzed and correlated Labor Code section 216's use "willfully" with another Labor Code section (§ 203) that also employed the same statutory terminology. Thus, to the extent that *Trombley* analogized Labor Code sections 203 and 216's language to decipher a scienter requirement, the statutory terminology was the identical. This distinguishes *Trombley* from the instant scenario because unlike sections 203 and 216, Labor Code section 226 uses a different statutory term of art, namely "knowingly and intentionally." Put differently, *Trombley*'s construing the definition of "willfully" used in Labor Code section 203 to interpret Labor Code section 216's use of the same term is a wholly distinct analysis from that which Respondent (and some of the cases on which it relies) have attempted to do with Labor Code section 203 and 226, which use different statutory language.

Two, although *Trombley* described Labor Code section 203's use of the statutory term "willfully" using the phrase "knowingly and intentionally," *Trombley* used such language in its colloquial sense. The opinion was not interpreting a statutory term of art "knowingly and intentionally," such as

our Legislature employed in Labor Code section 226. (See, e.g., *Saldivar v. Sessions* (9th Cir. 2017) 877 F.3d 812, 817 n.6 ["The language of an opinion is not always to be parsed as though we were dealing with language of a statute"].) To the contrary, *Trombley* defines "willfulness" using commonly understood definitions contained in California's criminal jurisprudence. It cites Penal Code section 7, subdivision 1, which defines "willfully," specifically for purposes of "this code" (i.e., the Penal Code) as follows: "The word "willfully," when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act, or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage."[1] And as previously noted, *Trombley* also relies on Labor Code section 203, which uses the same terminology as Labor Code section 216. Simply, nothing in *Trombley* attempts to define or equate the Legislature's use of the term "knowingly and intentionally."

Some of the cases upon which Respondent relies at pages 40–42 of its brief also rely on California Code of Regulations, Title 8, Section 13520, to define "willful" and to extend the good faith dispute defense not only to Labor Code section 203 violations, but also to Labor Code section 226. In addition to the reasons discussed at length by Plaintiffs in their briefs as to why Section 13520 should not apply to Labor Code section 226, it is important to note that although Section 13520 uses the term "intentionally"

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[1] Significantly, Penal Code section 7, defines "knowingly" separately from "Willfully" as follows: "The word "knowingly" imports only a knowledge that the facts exist which bring the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of such act or omission." Such definition comports with that adopted by *Novoa v. Charter Communs., LLC.* (E.D. Cal. 2015) 100 F.Supp.3d 1013, 1027-1029 (and cases on which it relies) in rejecting a good faith belief defense to Labor Code section 226.

in its definition of "Willful," it does not: (a) define "intentionally" as "willful;" or (b) define the terms "intentionally" or "knowingly," nor define the collective term of art, "knowingly and intentionally" that section 226 uses. Moreover, the Section – by the terms of its own language – limits its applicability to section 203. The regulation, therefore, uses words of limitation and does not apply beyond Labor Code section 203.

The Legislature provided insight into what constitutes "knowingly and intentionally" by demonstrating its converse – an "isolated and unintentional payroll error due to a clerical or inadvertent mistake." (Lab. Code § 226(e)(3).) It also offered guidance that a factfinder may consider as relevant whether the employer, prior to an alleged violation, had adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section." (Ibid.) It is significant that the Legislature offered these two examples – both of which necessarily demonstrate its intent to exclude inadvertent or clerical errors. If for instance, the employer adopted policies, procedures, and practices that fully comply with the section, then necessarily a payroll error despite following compliant policies, procedures, or practices would be inadvertent.

Some of the cases Respondent references in footnote 10 at pages 40–42 of its brief rely on *Trombley* and/or C.C.R., tit. 8, section 13520, to expand such analysis to Labor Code section 226. Because for the reasons discussed above (as well as those set forth in the Opening and Reply briefs on the merits), such authority does not support such a stretched application, analyses that rely thereon are likewise suspect (regardless of whether a "majority" of district courts have followed them). For instance, *Magadia v. Wal-Mart Assocs., Inc.* (N.D. Cal. 2019) 384 F.Supp.3d 1058, 1081, 1084–1085, relies in large part on *Trombley* to conclude that the California

Supreme Court linked the knowing and intentional standard to a willfulness standard, that doing so is consistent with section 226 based on C.C.R., tit. 8, section 13520. (see ABM p. 41.)

Similarly, *Wood v. Vector Mktg. Corp.* 2015 U.S. Dist. LEXIS 67303, at *12; 2015 WL 2453202, also relied on *Trombley*'s alleged equating of "willfulness" to "knowingly and intentionally." (ABM p. 41.) Respondent's reliance at page 41 of its brief on *Bell v. Home Depot U.S.A., Inc.* (E.D. Cal. 2017) 2017 U.S. Dist. LEXIS 204493; 2017 WL 6344323 fares no better. The citation is a ruling on motion to reconsider a summary judgment ruling (*Bell v. Home Depot U.S.A.* (E.D. Cal. 2017) 2017 US. Dist. LEXIS 145120, *5–6), which merely relied only *Wood*, supra, that to apply the good faith dispute defense to section 226 despite the difference of wording in sections 203 and 226. Accordingly, *Wood'*s reliance on *Trombley* similarly infects *Bell'*s analysis.

Utne v. Home Depot U.S.A., Inc. (N.D. Cal. 2019) 2019 U.S. Dist. LEXIS 115648, at *15–16; 2019 WL 3037514, at *5–6 (ABM p. 41) also relies on *Wood*'s determination that the "knowing and intentional" standard is closely related to the "willfulness" standard to extend the good faith dispute defense to Section 226.

Ornelas v. Tapestry, Inc. (N.D. Cal. 2021) 2021 U.S. Dist. LEXIS 124474, discussed in the following section, also accepts without inquiry *Trombley*'s alleged linking the "knowing and intentional" standard to the "willfully" standard in the Labor Code, and *Magadia*, supra, that also relied on *Trombley*. (*Ornelas v. Tapestry, Inc.*, *supra*, at 21.)

Oman v. Delta Air Lines, Inc. (N.D. Cal. 2022) 610 F.Supp.3d 1257, 1274, which Respondent cites at p. 40 of its brief, adopts the "majority" approach applying a good faith dispute defense to section 226, based in part on its understanding that the California Supreme Court has linked the "knowing and intentional" and "willfulness" standards in *Trombley* (and

other cases applying it). Nevertheless, *Oman* acknowledges both parties "make strong arguments in support of their respective positions" and "plaintiffs' arguments have force." (*Ibid*.)

Pedroza v. PetSmart, Inc. (C.D. Cal. 2012) 2012 U.S. Dist. LEXIS 189530 2012 WL 9506073, relies on C.C.R., tit. 8, section 13520 to apply the good faith belief defense to Labor Code section 226. (See ABM at 42.) In so doing, however, *Pedroza* also accepts without independently analyzing cases that have applied the good faith belief to Section 226, including *Hurst v. Buczek Enters., LLC* (N.D. Cal. 2012) 870 F.Supp.2d 810, *Harris v. Vector Mktg. Corp.* (N.D. Cal. 2009) 656 F.Supp.2d 1128, *Dalton v. Lee Publ'ns, Inc. (S.D. Cal. 2011) 2011 U.S. Dist. LEXIS 29835* 2011 WL 1045107, and *Reber v. AIMCO* (C.D. Cal. 2008) 2008 U.S. Dist. LEXIS 81790, all of which are foundationally distinguishable (as discussed in the next section). (*Pedroza*, 2012 U.S. Dist. LEXIS at *14–16, fn. 6.) *Pedroza* also expands Amaral v. Cintas Corp. No. 2 (2008) 163 Cal.App.4th 1157, which analyzed "willfulness" under both the C.C.R. and Labor Code section 203, but did not mention the "knowingly and intentionally" standard of section 226(e), the interplay of the language, or the application of the good faith defense. *Amaral* did not analyze section 226's language.[2]

Wilson v. SkyWest Airlines, Inc. (N.D. Cal. 2021) 2021 U.S. Dist. LEXIS 129507, at *6–8; 2021 WL 2913656 relies on *Wood*, *supra*, which in turn relies on *Trombley*. (ABM p. 40.) It also relies on C.C.R., tit. 8, section 13520. (Ibid.)

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[2] *Utne v. Home Depot U.S.A., Inc.*, *supra*, 2019 U.S. Dist. LEXIS 115648, also relies on *Amaral v. Cintas Corp. No. 2*, *supra*, 163 Cal.App.4th 1157, 1201-1204 in support of applying the good faith defense to "willfulness," which *Utne* expands beyond *Amaral* to section 226. It also applies and expands Boyd, supra, beyond its limited holding. (*Utne v. Home Depot U.S.A., Inc.*, *supra*, at *15.)

B. Several of Respondent's citations fail to engage in any substantive analysis of whether a good faith dispute defense is consistent with Labor Code section 226's "knowing and intentionality" language

Respondent cites *Wellons v. PNS Stores, Inc.* (S.D. Cal. 2022) 2022 WL 16902199, at *22 [2022 U.S. Dist. LEXIS 205433], claiming no knowing and intentional failure to comply where employer in good faith believed the employees were exempt, and that belief was objectively reasonable. (ABM p. 40, fn. 10.) However, *Wellons* does not analyze the language in sections 226 and 203; instead, it merely adopted the majority position that equates the "knowing and intentional" requirement of Labor Code section 226 to the "willfulness" requirement of section 203, relying on "the majority" of district courts divided on the question. (See 2022 U.S. Dist. LEXIS 205433 *61–62 [cites *Oman v. Delta Air Lines, Inc.* (N.D. Cal. 2022) 2022 U.S. Dist. LEXIS 184423 [collecting cases] and *Wood v. Vector Mktg. Corp.* 2015 U.S. Dist. LEXIS 67303.)

Similarly, *Ornelas v. Tapestry, Inc., supra,* 2021 U.S. Dist. LEXIS 124474; 2021 WL 2778538, which Respondent cites at p. 40, adopted the majority view that a "good faith dispute" can preclude recovery by a plaintiff under both Labor Code sections 203 and 226, without scrutinizing the underlying reasoning of the authority on which the court relied.

Hurst v. Buczek Enters., LLC (N.D. Cal. 2012) 870 F.Supp.2d 810 (see ABM p. 42) likewise fails to independently address whether the good faith belief defense applies, instead merely relying on other findings in other cases - *Harris v. Vector Mktg. Corp.* (N.D. Cal. 2009) 656 F.Supp.2d 1128, 1146 and *Dalton v. Lee Publications, Inc.* (S.D. Cal. 2011) 2011 U.S. Dist. LEXIS 29835, 2011 WL 1045107 (also cited at page 42 of Respondent's answering brief.) *Harris* and *Dalton*, in turn, epitomize the concept of

"garbage in, garbage out" by failing to conduct any inquiry of the issue and instead, relying on *Reber v. AIMCO* (C.D. Cal. 2008) 2008 U.S. Dist. LEXIS 81790, at *24–25. *Reber* concluded – without authority or analysis – that the good faith belief defense applies. without citing any basis therefore (see pages 24–25). Moreover, *Reber*'s finding was not even essential to its decision on Labor Code section 226 because the parties agreed that plaintiffs were not injured by failure to provide the wage statements.

Respondent references *Childs v. Maxim Healthcare Servs., Inc. (C.D. Cal. 2016) 2016 U.S. Dist. LEXIS 204784;* 2016 WL 11746003. (ABM p. 41.) *Childs* does not analyze whether the good faith belief defense applies to section 226, but simply assumes that it does, relying on *Apodaca v. Costco Wholesale Corp.* (C.D. Cal. 2012) 2012 U.S. Dist. LEXIS 191068 (which Respondent also cites at p. 42). *Apodaca,* however, does not analyze the issue either, instead relying on application of the good faith belief defense in *Wright v. Adventures Rolling Cross Country, Inc. (N.D. Cal. 2013) 2013 U.S. Dist. LEXIS 58868* 2013 WL 175881. *Wright* (upon which Respondent also relies at p. 42) notably did not analyze the issue either. To the contrary, in *Wright*, *the parties did not dispute that the good faith belief defense applied to both Labor Code sections 203 and 226.* (*Wright* also cites *Dalton, supra,* which is unhelpful for the reasons previously discussed.) *Apodaca, supra*, also cites *Ricaldai v. U.S. Investigations Servs., LLC.* (C.D. Cal. 2012) 878 F.Supp.2d 1038, 1047, which, in turn, relies upon *Hurst, supra. Ricaldai* notes the "good faith dispute" is a jury question, but does not analyze the interplay between Labor Code sections 203 and 226 or whether the good faith belief exception applies to section 226.

Boyd v. Bank of Am. Corp. (2015) 109 F.Supp.3d 1273, 1309, does not assist Respondent either. (ABM p. 41.) *Boyd* relied on *Willner v. Manpower*

Inc. (N.D. Cal. 2014) 35 F.Supp.3d 1116's conclusion that there must be must be something more than mere non-compliance with Section 226(a) to support a violation of section 226(e). (*Boyd, supra,* 109 F.Supp.3d at 1308.) *Boyd,* however, assumes that because a violation of section 226(e) must be "knowing" and "intentional," a good faith belief necessarily makes the violation unintentional and/or unknowing. (*Id.* at p. 1308.) *Boyd* did not analyze the issue of whether a good faith defense applies; rather, it simply adopted *Willner*'s conclusion that it does and that section 226(e) does not apply strict liability. (*Id.* at pp. 1308–1309.)

For additional purported support, Respondent also references *Saini v. Motion Recruitment Partners, LLC (C.D. Cal. 2017) 2017 U.S. Dist. LEXIS 31627* 2017 WL 1536276. (ABM p. 41.) *Saini* is distinguishable. It concludes plaintiff cannot maintain his claim for failure to provide accurate wage statements because he was not entitled to wages. Furthermore, even if he were entitled to wages, the existence of conflicting case law and numerous facts supporting defendant's decision shows that any such failure to not "knowing and intentional" (*Saini, supra,* at pp. *32–33.) Notably, however, *Saini* does *not* analyze whether a good faith belief defense applies to section 226 (though it notes it does apply to section 203.) *Saini* also fails to cite any authority supporting applying a good faith belief defense to section 226.

*Evans v. Wal-Mart Stores, Inc. (C.D. Cal. 2020) 2020 U.S. Dist. LEXIS 199290 *22–23* 2020 WL 6253695, at *7–8, which Respondent cites at p. 41, merely quotes without any analysis *Apodaca, supra*: "Where an employer has a good faith belief that it is not in violation of [s]ection 226, any violation is not knowing and intentional." However, as previously discussed, *Apodaca* merely draws such conclusion from cases that themselves, lack adequate analysis of the issue.

Another example of a holding resting upon feeble foundation is *Nicolas v. Uber Technologies, Inc*. (N.D. Cal. 2021) 2021 U.S. Dist. LEXIS 96225 *29–30; 2021 WL 2016161. (See ABM p. 40.) *Nicolas* relies on *Arroyo v. Int'l Paper Co.* (N.D. Cal. 2020) 2020 U.S. Dist. LEXIS 32069 (see ABM p. 31) that an employer's good faith belief that it is in compliance with section 226 precludes liability under the statute. *Nicolas* does not delve into the merits of that conclusion because plaintiff did not object to *Arroyo's* validity or its application to the case. (*Nicolas, supra,* at p. *30.)

Respondent also cites *Williams v. J.B. Hunt Transp., Inc. (C.D. Cal. 2022) 2022 U.S. Dist. LEXIS 4671* 2022 WL 714391. (ABM p. 40.) *Williams,* however, does not analyze whether a good faith belief is an available defense to Section 226. Rather, the court focused on whether the defendant's failure to issue wage statements reflecting accurate totals of hours worked was knowing and intentional. To the contrary, *Williams* quotes *Novoa v. Charter Commc'ns, LLC* (E.D. Cal. 2015) 100 F.Supp.3d 1013, 1028, that to establish that a violation of section 226(a) was "knowing and intentional," a plaintiff must demonstrate that the defendant was "aware of the factual predicate underlying the violation[s]." (*Williams, supra,* at p. *34.) Ironically, *Novoa* considered and *rejected* the good faith belief defense to Labor Code section 226's "knowing and intentional" standard. (100 F.Supp.3d at p. 1028–1029.)

Stafford v. Brink's, Inc. (C.D. Cal. 2014) 2014 U.S. Dist. LEXIS 194677, which Respondent references at page 42 of its brief, notes the divergent approaches to the "knowing and intentional" standard and applicability of a good faith belief defense. However, despite listing cases for and against its position, *Stafford* adopts the majority view, without actually analyzing the cases that also do so. Rather, *Stafford* simply adopts the majority and recites the rules without focusing on the basis therefrom.

Apart from the cases that simply follow the majority rather than analyze the issue, and those whose analysis rely in some or substantial part upon distinguishable authority (*Trombley* and 8 C.C.R. § 13520), Respondent relies on *only two* remaining opinions (both from the Northern District of California). (ABM p. 40–42.) *Arroyo v. International Paper Co.* (N.D.Cal. 2020) 611 F.Supp.3d 824, 841 and *Horowitz v. SkyWest Airlines, Inc*. (N.D. Cal. 2023) 2023 U.S. Dist. LEXIS 89440 *11–12, fn. 8; 2023 WL 3605980, at *6 both survey the split of authority, and both share the same reason for adopting the majority position – that failing to consider the good faith belief defense would read out of section 226(e) the mental state implicated by the phrase "knowing and intentional." Plaintiffs' briefs address the flaws in this finding.

CONCLUSION

For the foregoing reasons, CELA respectfully requests this Court adopt the arguments presented in Plaintiffs' briefing and grant all of the relief that Plaintiffs request.

Gusdorff Law, P.C.

Respectfully submitted,

Dated: November 13, 2023

By: /s/ Janet Gusdorff

For Amicus Curiae CELA In Support of Plaintiffs and Appellants, Gustavo Naranjo, et al.

CERTIFICATE OF COMPLIANCE

This brief is set using **13-pt Times New Roman**. According to TypeLaw.com, the computer program used to prepare this brief, this brief contains **3910** words, excluding the cover, tables, signature block, and this certificate.

The undersigned certifies that this brief complies with the form requirements set by California Rules of Court, rule 8.204(b) and contains fewer words than permitted by rule 8.520(c) or by Order of this Court.

Dated: November 13, 2023 By: /s/ Janet Gusdorff

PROOF OF SERVICE

I, Janet Gusdorff, declare:

At the time of service I was at least 18 years of age and not a party to this legal action. My business address is 4607 Lakeview Canyon Rd., #375, Westlake Village, CA 91361. I served document(s) described as Amicus Curiae Brief as follows:

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I am a resident of or employed in the county where the mailing occurred (Westlake Village, CA).

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

Dated: November 13, 2023 By: /s/ Janet Gusdorff

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **NARANJO v. SPECTRUM SECURITY SERVICES**
Case Number: **S279397**
Lower Court Case Number: **B256232**

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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.

11/13/2023

Date

/s/Janet Gusdorff

Signature

Gusdorff, Janet (245176)

Last Name, First Name (PNum)

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Law Firm