

S271054

IN THE SUPREME COURT OF CALIFORNIA

Debra Turner,
Petitioner/Plaintiff and Appellant,
v.
Laurie Anne Victoria, et al.,
Defendants and Respondents.

After A Decision By The Court Of Appeal,
Fourth Appellate District, Division One,
Case No. D076318 Consolidated With D076337

San Diego County Superior Court
Honorable Julia C. Kelety
(San Diego County Super. Ct. Case No. 37-2017-00009873-Pr-Tr-Ctl)
Honorable Kenneth J. Medel
(San Diego County Super. Ct. Case No. 37-2018-00038613-Cu-Mc-Ctl)

**RESPONDENT GREGORY ROGERS' JOINDERS IN THE
ANSWERING BRIEF ON THE MERITS FILED BY RESPONDENT
JOSEPH GRONOTTE AND THE ANSWERING BRIEF ON THE
MERITS FILED BY RESPONDENT LAURIE ANNE VICTORIA**

*Service on The Office of The Attorney General Charitable Trusts Section
as Required by Probate Code Sections 17200, 17203, Corporations Code
Sections 5142, 5223, and 5233 and California Rules of Court 8.29(a)*

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ISSUE PRESENTED

Whether a director of a nonprofit public benefit corporation who brings an action on behalf of the nonpublic benefit corporation can lose standing to pursue its claims if the director is not reelected during the litigation and is not granted relator status by the Attorney General.

INTRODUCTION

Pursuant to California Rules of Court, Rule 8.200(a)(5), Respondent Gregory Rogers (“Rogers”) hereby respectfully joins in and adopts by reference the arguments presented in the Answering Brief on the Merits filed by Respondent Joseph Gronotte and the Answering Brief on the Merits filed by Respondent Laurie Anne Victoria.

Rogers is a former board member of the Respondent Conrad Prebys Foundation (“Foundation”). During the time Rogers served as a board member Respondent Joseph Gronotte and Respondent Laurie Anne Victoria also served as board members of the Foundation. The factual basis, legal authority and arguments set forth in the Answering Brief on the Merits filed by Respondent Joseph Gronotte and in the Answering Brief on the Merits

filed by Respondent Laurie Anne Victoria, relating to her position as a board member of the Foundation, apply equally to Rogers.

PROCEDURAL BACKGROUND

In the civil court, Rogers joined in the demurrers filed by Defendants and Respondents Laurie Anne Victoria and the Foundation to the amended complaint, which resulted in judgment being entered in favor of all defendants on the ground that Appellant Debra Turner (“Turner”) lacked standing to bring claims on behalf of the Foundation after her term as a director and officer of the Foundation expired. (*Turner v. Victoria* (2021) 67 Cal.App.5th 1099, 1116.)

The Fourth District Court of Appeal rejected Turner’s contention that she had standing simply because she was a director and officer at the time she filed suit. (*Id.* at 1108.) The Court of Appeal held that Turner lost standing to bring her claims on behalf of the Foundation when her terms as a director and officer expired and issued a unanimous opinion “affirm[ing] the judgments of dismissal as to Turner acting in her capacity as a former director and officer”. (*Ibid.*) The Court of Appeal remanded with instructions to allow the Attorney General to consider whether to appoint Turner as relator. (*Ibid.*) “To date, however, the Attorney General has not granted Turner relator status.” (*see id.* at 1134.)

On November 10, 2021, this Court granted review.

LEGAL DISCUSSION

Rogers joins in the Answering Brief on the Merits filed by Respondent Joseph Gronotte and in the Answering Brief on the Merits filed by Laurie Anne Victoria, as it relates to Victoria’s position as a board member of the Foundation. Respondents Gronotte and Victoria were, like Rogers, sued in

their capacity as members of the board of the Foundation.¹ Accordingly, the factual basis, legal authority and arguments set forth in the Answering Brief on the Merits filed by Respondent Joseph Gronotte apply equally to Rogers. Similarly, the factual basis, legal authority and arguments set forth in the Answering Brief on the Merits filed by Respondent Laurie Anne Victoria, relating to her position as a board member of the Foundation, also applies equally to Rogers.

CONCLUSION

Respondent Gregory Rogers respectfully incorporates by this reference as though set forth in full the Answering Brief on the Merits filed by Respondent Joseph Gronotte and the Answering Brief on the Merits filed by Laurie Anne Victoria relating to the claims against her arising out of her position as a board member of the Conrad Prebys Foundation.

For the reasons stated, Rogers requests that the Court affirm the judgment of the Court of Appeal.

DATED: April 8, 2022

Respectfully Submitted,

PROCOPIO, CORY, HARGREAVES &
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BY: 

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GREGORY ROGERS

¹ Victoria was also sued in her capacity as trustee of the Conrad Prebys Trust.

CERTIFICATION OF WORD COUNT

(Cal. Rules of Court, Rule 8.520(c).)

The text of this brief consists of 553 words as counted by the Microsoft Word version 2010 word processing program which was used to generate this brief.

Dated: April 8, 2022



J. Christopher Jaczko

PROOF OF SERVICE

I, Martha X. Zarate, declare as follows:

I am employed in the County of San Diego, State of California, I am over the age of eighteen years and am not a party to this action; my business address is 525 B Street, Ste. 2200, San Diego, CA 92101, in said County and State. On April 8, 2022, I caused the following document(s) to be served:

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Executed on April 8, 2022.



Martha X. Zarate

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

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Supreme Court of California

Case Name: **TURNER v.
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Case Number: **S271054**

Lower Court Case Number: **D076318**

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4/8/2022

Date

/s/Martha Zarate

Signature

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