

S235357

IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA

DOMINIQUE LOPEZ, by and through her guardian
ad litem, Cheryl Lopez,

Plaintiff, Appellant and Petitioner,

vs.

SONY ELECTRONICS, INC.,

Defendant and Respondent.

After A Decision By The Court Of Appeal,
Second Appellate District, Case No. B256792;
Los Angeles County Superior Court, Case No. BC476544

PETITION FOR REVIEW

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SUPREME COURT
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TO THE HONORABLE TANI GORRE CANTIL-SAKAUYE,
CHIEF JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES
OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

Plaintiff, Appellant and Petitioner Dominique Lopez (Dominique),
by and through her guardian ad litem, Cheryl Lopez, respectfully petitions
this Court for review of the decision of the Court of Appeal for the Second
Appellate District in the above-entitled matter. A true and correct copy of
the Court of Appeal's opinion, filed on May 13, 2016, certified for
publication, is included in the attached appendix. No party filed a petition
for rehearing in the Court of Appeal.

ISSUE FOR REVIEW

Is an action for injuries based on pre-birth (*in utero*) exposure to
toxic chemicals governed by the statute of limitations in Code of Civil
Procedure section 340.8,¹ which applies to “any civil action for injury or
illness based upon exposure to a hazardous material or toxic substance,”
(Code Civ. Proc., § 340.8, subd. (a)), or the statute of limitations in section
340.4, which applies to “[a]n action by or on behalf of a minor for personal
injuries sustained before or in the course of his or her birth”? (*Id.*, § 340.4.)

¹ Unless otherwise specified, all undesignated statutory references are
to the Code of Civil Procedure.

INTRODUCTION

This action arises out severe birth defects and injuries suffered by Dominique as a result of pre-birth (*in utero*) exposure to toxic chemicals at a manufacturing facility operated by Defendant and Respondent Sony Electronics, Inc. (Defendant Sony or Sony), where Dominique's mother worked while pregnant with her.

Defendant Sony moved for summary judgment on the ground that this action was subject to and barred by the statute of limitations in section 340.4, which provides a six-year limitations period for "[a]n action by or on behalf of a minor for personal injuries sustained before or in the course of his or her birth," and which does not permit tolling for minority under section 352. (Code Civ. Proc., § 340.4.) In opposition, Dominique argued that the applicable statute of limitations was not section 340.4, but was instead section 340.8, which provides a two-year limitations period for "any civil action for injury or illness based upon exposure to a hazardous material or toxic substance." (Code Civ. Proc., § 340.8, subd. (a).) Dominique argued that her action was timely under section 340.8 because, unlike section 340.4, the limitations period in section 340.8 is subject to tolling for minority under section 352 and she was a minor when her cause of action accrued and when this action was filed. Agreeing with Sony, the trial court ruled that this action was subject to and barred by section 340.4, and it granted Sony's motion for summary judgment.

In a published decision, a divided panel of Division Eight of the Second District Court of Appeal affirmed the judgment in favor of Defendant Sony. The two-justice majority held that the applicable statute of limitations was section 340.4, not section 340.8, and that Dominique’s action was time-barred under it. (Typed maj. opn. at pp. 1-2, 4-13.) In so holding, the majority expressly disagreed with the decision in *Nguyen v. Western Digital Corp.* (2014) 229 Cal.App.4th 1522, where the Sixth District Court of Appeal, considering the very same issue, unanimously held that “claims based on birth or pre-birth injuries that are due to exposure to hazardous materials or toxic substances are subject to the limitations period in section 340.8,” not section 340.4.² (*Id.* at pp. 1528, 1539-1540, 1543-1551; see typed maj. opn. at p. 2 [“We conclude section 340.4 governs plaintiff’s claims and that her action is time-barred. In so holding, we depart from our colleagues in the Sixth District who concluded [in *Nguyen*] that section 340.8 supplants the limitations period of section 340.4 for claims based on prenatal injuries caused by exposure to hazardous materials or toxic substances.”].)

The dissenting justice disagreed. Finding the analysis and holding in *Nguyen* to be correct, the dissent concluded that Dominique’s action was

² *Nguyen* was decided on September 25, 2014, approximately six months after the trial court’s summary judgment ruling in this case. On December 17 2014, this Court denied the petition for review filed by the defendant in *Nguyen* (S222377).

subject to and timely filed in accordance with the limitations period in section 340.8. (Typed dis. opn. at pp. 1-2, 7-13.)

California Rules of Court, rule 8.500(b)(1)³ provides that “[t]he Supreme Court may order review of a Court of Appeal decision . . . [w]hen necessary to secure uniformity of decision or to settle an important question of law.” Both grounds are implicated by the Court of Appeal’s decision in this case, as the majority’s holding that section 340.4 is the statute of limitations applicable to an action for pre-birth injuries based on exposure to a hazardous material or toxic substance is directly contrary to the holding in *Nguyen* that section 340.8 is the applicable statute of limitations, and because the limitations issue in this case presents an important question of law that should be resolved by this Court.

Accordingly, for these reasons, as discussed further below, review in this case is warranted and should be granted.

STATEMENT OF THE CASE

I. FACTUAL BACKGROUND.

Dominique was born on April 13, 1999. (1 Appellant’s Appendix (AA) 154 [fact no. 7], 176 [¶ 1], 178 [¶ 21]; 3 AA 636 [fact no. 7]; see also 1 AA 136:10-12; typed maj. opn. at p. 2.) Her mother, Cheryl Lopez, worked for Defendant Sony at a Sony manufacturing facility in San Diego,

³ Unless stated otherwise, all further rules references are to the California Rules of Court.

California from 1978 to 2000, including while she was pregnant with Dominique. (1 AA 153-154 [fact nos. 4, 6], 177-178 [¶¶ 15, 17-19, 21]; 3 AA 635 [fact nos. 4, 6]; see also 1 AA 136:5-10; typed maj. opn. at p. 2.) During the pregnancy, Cheryl was allegedly exposed to teratogenic⁴ and reproductively toxic chemicals at the Sony facility, resulting in Dominique's exposure to the same toxic chemicals while *in utero*. (1 AA 154 [fact no. 6], 177-180 [¶¶ 17-19, 21, 28-30]; 3 AA 635 [fact no. 6]; see also 1 AA 136:7-10; typed maj. opn. at pp. 2-3.) As a result of these exposures, Dominique alleges that she suffered severe birth defects and injuries, including chromosomal deletion, fusion of cervical vertebrae, facial asymmetry, dysplastic nails, diverticulum of the bladder, misshapen kidney, and developmental delays. (1 AA 154-155 [fact no. 8], 180-181 [¶¶ 32-33]; 3 AA 636 [fact no. 8]; see also 1 AA 136:10-12; typed maj. opn. at pp. 2-3.)

The original complaint in this action was filed on January 6, 2012, when Dominique was 12 years of age. (1 AA 1, 153-154 [fact nos. 1, 7], 176 [¶ 1], 178 [¶ 21]; 3 AA 634 [fact no. 1], 636 [fact no. 7]; see also 1 AA 135:27 - 136:1, 136:10-12; typed maj. opn. at p. 2.)

⁴ “‘Teratogenic’ means ‘tending to cause developmental malformations’” (*Nguyen v. Western Digital Corp.*, *supra*, 229 Cal. App.4th at p. 1529, fn. 3.)

II. PROCEDURAL SUMMARY.

A. Proceedings In The Trial Court.

The original complaint in this action was filed on January 6, 2012. (1 AA 1; typed maj. opn. at p. 2.) On June 6, 2012, an amendment to the complaint naming Defendant Sony in place and stead of fictitious defendant Doe 1 was filed. (1 AA 28.) The operative third amended complaint was filed on March 15, 2013, (*id.* at p. 89), alleging claims against Sony for negligence, strict liability, willful misconduct, intentional misrepresentation, negligent misrepresentation, deceit by concealment, and premises liability. (*Id.* at pp. 102-122.)

On or about July 12, 2013, Defendant Sony filed a motion for summary judgment on the ground that Dominique's "claim is barred by the statute of limitations set forth in California Code of Civil Procedure section 340.4." (1 AA 128-129.) Sony argued that Dominique's cause of action accrued no later than the year 2000, when her mother suspected that Dominique's birth defects had been caused by toxic exposures at the Sony facility where she worked, and that this action was barred by the six-year limitations period in section 340.4 because it was filed on January 6, 2012, more than six years after the accrual. (*Id.* at pp. 133-144; see also typed maj. opn. at p. 3.)

Anticipating Dominique's argument that the applicable statute of limitations is section 340.8, not section 340.4, Defendant Sony argued that

section 340.8 was inapplicable because section 340.4 is more specific and applies specifically to claims for pre-birth injuries. (1 AA 144-148.) Additionally, Sony argued that it would contravene the intent of the Legislature to apply section 340.8 over section 340.4 because the limitations period in section 340.8 is subject to tolling for minority under section 352, whereas the limitations period in section 340.4 is not. (*Id.* at pp. 146-148.)

In her opposition to the motion, Dominique argued that the applicable statute of limitations was section 340.8, not section 340.4, because section 340.8 was a later-enacted, more specific statute that was intended by the Legislature to apply to all actions for injury based on exposure to a hazardous material or toxic substance, except actions arising out of exposure to asbestos or involving medical malpractice. (2 AA 400-410.) Dominique argued that even if her cause of action accrued on her date of birth in 1999, the earliest possible time of accrual, it was not time-barred under the six-year limitations period in section 340.4 when section 340.8 became operative on January 1, 2004. (*Id.* at pp. 402-403, 409.) She thus argued that her cause of action became subject to section 340.8 at that time (January 1, 2004), and that because the limitations period in section 340.8 is subject to tolling for minority and/or mental incapacity under section 352, her action was timely under section 340.8 because she was both a minor and mentally incapacitated when it was filed on January 6,

2012. (*Id.* at pp. 409-411.)

In its reply, Defendant Sony again argued that the applicable statute of limitations was section 340.4, not section 340.8, and that this action was time-barred under section 340.4 because it was filed more than six years after the accrual of Dominique's cause of action. (2 AA 487-497.)

Defendant Sony's motion for summary judgment was noticed for hearing on September 27, 2013, but the hearing was continued by the trial court to October 23, 2013. (1 AA 128-129; 2 AA 393.) The parties appeared for the hearing on that date, but it was again continued by the trial court, this time to March 14, 2014. (2 AA 558.)

Based on this lengthy continuance, Dominique filed an updated opposition on February 28, 2014, in which she argued that her cause of action was subject to the limitations period in section 340.8, not section 340.4, based on the plain meaning of section 340.8's clear language and because it was a later-enacted, more specific statute. (3 AA 569, 571-585.) In addition, she argued that although it was unnecessary to consult the legislative history of section 340.8, because the language of the statute is clear and unambiguous, that history, if considered, supported her contention that section 340.8 is the applicable statute of limitations because it showed that it was enacted by Legislature to establish a separate limitations period for all civil actions for injury based on exposure to hazardous material or toxic substance, except actions arising out of exposure to asbestos or

involving medical malpractice. (*Id.* at pp. 582-585; see also *id.* at pp. 569, 571-575.) Accordingly, because her cause of action was not time-barred under section 340.4 when section 340.8 became operative on January 1, 2004, Dominique argued that it became subject to section 340.8 at that time and that this action was timely filed under section 340.8 based on tolling for minority and mental incapacity under section 352. (*Id.* at pp. 575-576, 586-587.)

Defendant Sony filed an updated reply, in which it argued, as before, that section 340.4, not section 340.8, was the applicable statute of limitations and that this action was time-barred under section 340.4 because it was filed more than six years after the accrual of Dominique's cause of action. (3 AA 701-711.)

Defendant Sony's motion for summary judgment was heard, argued and taken under submission by the trial court on March 14, 2014. (3 AA 781; Reporter's Transcript of Proceedings, Mar. 14, 2014, pp. 4-22.) Later that day, the trial court issued an order granting the motion. (3 AA 782-800.) The trial court ruled that the applicable statute of limitations was section 340.4, not section 340.8, because section 340.4 "is the more specific statute," (*id.* at pp. 782, 794-798), and that this action was barred by section 340.4 because Dominique's cause of action accrued no later than the year 2000 and this action was filed more than six years later. (*Id.* at pp. 782, 788-794; typed maj. opn. at p. 4.) Judgment in favor of Sony was

subsequently entered on April 8, 2014. (3 AA 801-802; typed maj. opn. at p. 4.)

B. The Court Of Appeal's Decision.

In a published opinion filed on May 13, 2016, a divided panel of Division Eight of the Second District Court of Appeal affirmed the judgment in favor of Defendant Sony. The majority (Justice Grimes joined by Presiding Justice Bigelow) held that Dominique's cause of action was governed by the statute of limitations in section 340.4, rather than section 340.8, and that this action was time-barred under section 340.4. (Typed maj. opn. at pp. 1-2, 4-13.) In so holding, the majority expressly disagreed with the decision in *Nguyen v. Western Digital Corp.*, *supra*, 229 Cal.App. 4th 1522, where the Sixth District Court of Appeal, considering the same limitations issue, unanimously held that "claims based on birth or pre-birth injuries that are due to exposure to hazardous materials or toxic substances are subject to the limitations period in section 340.8," not section 340.4. (*Id.* at pp. 1528, 1539-1540, 1543-1551; see typed maj. opn. at p. 2 ["We conclude section 340.4 governs plaintiff's claims and that her action is time-barred. In so holding, we depart from our colleagues in the Sixth District who concluded [in *Nguyen*] that section 340.8 supplants the limitations period of section 340.4 for claims based on prenatal injuries caused by exposure to hazardous materials or toxic substances."].)

The dissent (Justice Rubin) disagreed. Finding *Nguyen* to be

correctly decided and on point, the dissent would have reversed the judgment because Dominique's cause of action was subject to and timely filed under the limitations period in section 340.8. (Typed dis. opn. at pp. 1-2, 7-13.)

No party filed a petition for rehearing in the Court of Appeal.

WHY REVIEW IS WARRANTED

I. REVIEW IS "NECESSARY TO SECURE UNIFORMITY OF DECISION."

Rule 8.500(b)(1) provides that "[t]he Supreme Court may order review of a Court of Appeal decision . . . [w]hen necessary to secure uniformity of decision." The majority's holding that section 340.4 is the statute of limitations applicable to an action for pre-birth injuries based on exposure to a hazardous material or toxic substance is directly contrary to the holding in *Nguyen* that section 340.8 is the applicable statute of limitations. Indeed, the majority expressly acknowledged its disagreement with the decision in *Nguyen*, when stating that "we depart from our colleagues in the Sixth District who concluded [in *Nguyen*] that section 340.8 supplants the limitations period of section 340.4 for claims based on prenatal injuries caused by exposure to hazardous materials or toxic substances." (Typed maj. opn. at p. 2.) Accordingly, because of these conflicting holdings on the same issue, review in this case is warranted and should be granted "to secure uniformity of decision." (Cal. Rules of Court,

rule 8.500(b)(1); see Eisenberg et al., California Practice Guide: Civil Appeals and Writs (The Rutter Group 2015) ¶ 13:1, p. 13-1 [“the supreme court’s purpose is to decide important legal questions and maintain statewide harmony and uniformity of decision”].)

II. REVIEW IS “NECESSARY . . . TO SETTLE AN IMPORTANT QUESTION OF LAW.”

Rule 8.500(b)(1) also provides that “[t]he Supreme Court may order review of a Court of Appeal decision when necessary . . . to settle an important question of law.” This ground provides an additional basis upon which to grant review in this case, as the statute of limitations applicable to an action for pre-birth (or birth) injuries based on exposure to a hazardous material or toxic substance is an important legal question, the final determination of which will aid both litigants and the courts in analyzing and deciding the timeliness of such actions.

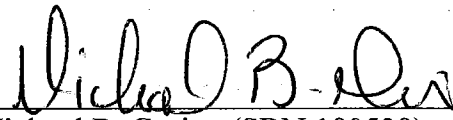
CONCLUSION

For the reasons set forth above, this Court should grant review in this case to (1) “secure uniformity of decision” and/or (2) “to settle an important question of law” as to whether section 340.8 or section 340.4 is the statute of limitations applicable to an action for pre-birth injuries based on exposure to a hazardous material or toxic substance. (Cal. Rules of Court, rule 8.500(b)(1).)

Dated: June 20, 2016

Respectfully submitted,

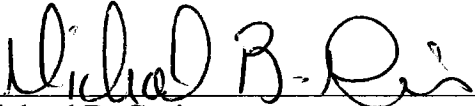
WATERS, KRAUS & PAUL

By: 
Michael B. Gurien (SBN 180538)

Attorneys for Plaintiff, Appellant and
Petitioner Dominique Lopez, by and
through her guardian ad litem, Cheryl
Lopez

CERTIFICATE OF WORD COUNT

Pursuant to California Rules of Court, rule 8.504(d)(1), the undersigned hereby certifies that this Petition for Review contains 2,821 words, exclusive of the caption, tables, the signature block, this certification, and the attached opinion of the Court of Appeal, as counted by the Microsoft Word word-processing program used to generate it.



Michael B. Gurien
State Bar No. 180538

APPENDIX
OPINION OF THE COURT OF APPEAL

Filed 5/13/16

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

COURT OF APPEAL – SECOND DIST.

FILED

May 13, 2016

JOSEPH A. LANE, Clerk

S. Lui Deputy Clerk

<p>DOMINIQUE LOPEZ, a Minor, etc.,</p> <p style="text-align: center;">Plaintiff and Appellant,</p> <p style="text-align: center;">v.</p> <p>SONY ELECTRONICS, INC.,</p> <p style="text-align: center;">Defendant and Respondent.</p>
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B256792

(Los Angeles County
Super. Ct. No. BC476544)

APPEAL from the judgment of the Superior Court of Los Angeles County.

Frederick C. Shaller, Judge. Affirmed.

Waters, Kraus & Paul and Michael B. Gurien for Plaintiff and Appellant.

Musick, Peeler & Garrett and William A. Bossen for Defendant and Respondent.

We are asked to resolve whether an action alleging personal injuries caused by prenatal exposure to toxic substances is governed by the statute of limitations set forth in Code of Civil Procedure section 340.4¹ (applicable to tort actions for birth and prebirth injuries), or the statute of limitations set forth in section 340.8 (applicable to tort actions for exposure to hazardous materials and toxic substances).

Plaintiff and appellant Dominique Lopez, at age 12, by and through her mother and guardian ad litem Cheryl Lopez, brought an action against defendant and respondent Sony Electronics, Inc. (Sony) alleging that her prenatal exposure to toxic substances caused her to suffer birth defects and permanent injuries. Sony successfully argued in the trial court that plaintiff's action was time-barred under section 340.4, which expressly provides that actions for prenatal injuries are not tolled during the plaintiff's minority. Plaintiff appeals from the entry of summary judgment in favor of Sony, contending the correct statute of limitations applicable to her claims is section 340.8, under which her action would be timely.

We conclude section 340.4 governs plaintiff's claims and that her action is time-barred. In so holding, we depart from our colleagues in the Sixth District who concluded that section 340.8 supplants the limitations period of section 340.4 for claims based on prenatal injuries caused by exposure to hazardous materials or toxic substances. (See *Nguyen v. Western Digital Corporation* (2014) 229 Cal.App.4th 1522 (*Nguyen*).)

FACTUAL AND PROCEDURAL BACKGROUND

The material facts related to the time-bar are not in dispute. Plaintiff was born in April 1999, with numerous birth defects, including fusion of her cervical vertebrae, facial asymmetry, dysplastic nails, diverticulum of the bladder, and a misshapen kidney. She also suffers from developmental delays. Plaintiff's mother worked at a Sony facility in San Diego from 1978 through 2000, including during her pregnancy with plaintiff.

On January 6, 2012, plaintiff filed this action against Sony for negligence, strict liability, willful misconduct, and intentional misrepresentation. Plaintiff alleged that,

¹ All undesignated section references are to the Code of Civil Procedure.

during her mother's employment with Sony, she was exposed for prolonged periods of time to chemicals which caused plaintiff's birth defects.

Sony moved for summary judgment on the ground plaintiff's action was barred by section 340.4 which imposes a six-year statute of limitations for birth and prebirth injuries, and which also expressly provides there is no tolling of the limitations period under section 352² during the plaintiff's minority. Sony acknowledged in its motion that the common law delayed discovery rule applies to actions governed by section 340.4, but produced evidence showing plaintiff's mother reasonably suspected a connection between her workplace exposures at Sony and her daughter's injuries on or before August 2000 (including records related to a worker's compensation claim plaintiff's mother filed concerning the same workplace exposures).

Plaintiff opposed Sony's motion, arguing her action was subject to section 340.8, not section 340.4. While section 340.8 incorporates the shorter two-year limitations period of the general personal injury statute (§ 335.1), the limitations period may be tolled under section 352 during a plaintiff's minority. Thus, plaintiff argued her action was timely because it was filed when she was still a minor. Plaintiff did not offer any evidence to dispute that her mother knew, since at least 2000, of the connection between her workplace exposures at Sony and plaintiff's birth defects. Instead, plaintiff objected to the admissibility of the evidence presented by Sony on that issue (e.g., records from the worker's compensation proceeding), and otherwise argued it was irrelevant because tolling under section 352 applied to an action under section 340.8, so she need not rely on the separate tolling afforded by the delayed discovery rule.

² Section 352, subdivision (a) provides: "If a person entitled to bring an action, mentioned in Chapter 3 (commencing with Section 335) is, at the time the cause of action accrued either under the age of majority or lacking the legal capacity to make decisions, the time of the disability is not part of the time limited for the commencement of the action."

The trial court granted Sony's motion, reasoning that section 340.4 applied and barred plaintiff's action as a matter of law. Judgment in favor of Sony was entered thereafter on April 8, 2014. (*Nguyen* was not decided until Sept. 2014.)

This appeal followed.

DISCUSSION

The sole issue before us is one of statutory interpretation based on undisputed facts. We therefore exercise independent review. (*Imperial Merchant Services, Inc. v. Hunt* (2009) 47 Cal.4th 381, 387 (*Imperial Merchant Services*).

"The cardinal rule of statutory construction is to ascertain and give effect to the intent of the Legislature." (*Young v. Haines* (1986) 41 Cal.3d 883, 894 (*Young*); accord, *Title Ins. & Trust Co. v. County of Riverside* (1989) 48 Cal.3d 84, 95 ["the intent of the Legislature is the end and aim of all statutory construction"].) Courts look first to the statutory language in attempting to glean legislative intent, giving the words their "usual and ordinary meaning." [Citation.] (*Imperial Merchant Services, supra*, 47 Cal.4th at p. 387.) If the statutory language is clear and unambiguous, the plain meaning of the statute governs. (*Vafi v. McCloskey* (2011) 193 Cal.App.4th 874, 880.)

Section 340.4 provides: "An action by or on behalf of a minor for personal injuries sustained before or in the course of his or her birth must be commenced within six years after the date of birth, and the time the minor is under any disability mentioned in Section 352 shall not be excluded in computing the time limited for the commencement of the action."

Section 340.8, in relevant part, provides: "In any civil action for injury or illness based upon exposure to a hazardous material or toxic substance, the time for commencement of the action shall be no later than either two years from the date of injury, or two years after the plaintiff becomes aware of, or reasonably should have become aware of, (1) an injury, (2) the physical cause of the injury, and (3) sufficient facts to put a reasonable person on inquiry notice that the injury was caused or contributed to by the wrongful act of another, whichever occurs later."

If read separately and in isolation, both section 340.4 and section 340.8 are unambiguous on their face under the plain meaning rule. Both may be read to govern plaintiff's action for injuries sustained before her birth and for exposure to toxic substances. However, we do *not* construe statutory provisions in isolation. "Where, as here, we are called upon to interpret two seemingly inconsistent statutes to determine which applies under a particular set of facts, our goal is to harmonize the law [citation] and avoid an interpretation that requires one statute to be ignored." (*Chatsky & Associates v. Superior Court* (2004) 117 Cal.App.4th 873, 876.) " "[Every] statute should be construed with reference to the whole system of law of which it is a part so that all may be harmonized and have effect. [Citations.] ' [Citation.]' (*In re Michael G.* (1988) 44 Cal.3d 283, 296 (*Michael G.*); accord, *Fuentes v. Workers' Comp. Appeals Bd.* (1976) 16 Cal.3d 1, 7.)

Here, the statutory language alone does not answer the question which statute of limitations was intended by the Legislature to apply to claims for prenatal injuries caused by exposure to toxic substances. " 'If the statutory language permits more than one reasonable interpretation, courts may consider other aids, such as the statute's purpose, legislative history, and public policy.' [Citation.]" (*Imperial Merchant Services, supra*, 47 Cal.4th at p. 388; see also *Kramer v. Intuit Inc.* (2004) 121 Cal.App.4th 574, 579 [the " 'literal meaning of the words of a statute may be disregarded to avoid absurd results or to give effect to manifest purposes that, in the light of the statute's legislative history, appear from its provisions considered as a whole' "], and *Leslie Salt Co. v. San Francisco Bay Conservation etc. Com.* (1984) 153 Cal.App.3d 605, 614 ["courts resist blind obedience to the putative 'plain meaning' of a statutory phrase where literal interpretation would defeat the Legislature's central objective"].) We therefore turn to a review of the legislative history of both statutes.

First, we discuss the statute of limitations applicable to prenatal injuries. Code of Civil Procedure section 340.4 was enacted in 1992 (Stats. 1992, ch. 163, § 16), but has its provenance in statutes enacted in 1872 and amended in 1941. The California Legislature first created a statutory cause of action for prenatal injuries in 1872. Former Civil Code

section 29 abrogated “the common law rule that an unborn child has no independent existence and, therefore, no right of action for injuries suffered before its birth.” (*Young, supra*, 41 Cal.3d at p. 892.) “As originally enacted, [former Civil Code section 29] applied to all actions which might be brought after birth and thus did not provide any single statute of limitations for these actions. The applicable statutes of limitations were set forth in other statutes, depending on the nature of the cause of action. Furthermore, [Code of Civil Procedure] section 352, also enacted in 1872, established a general rule that the statute of limitations for most actions was tolled during the plaintiff’s minority.” (*Ibid.*, fn. omitted.)

In *Scott v. McPheeters* (1939) 33 Cal.App.2d 629, 631, the court suggested in dictum that an action for prenatal injuries would be tolled during the child’s minority. To clarify that was not the legislative intent, at the next regular session, the Legislature amended former Civil Code section 29 to include a six-year limitations period, running from the date of birth, for actions alleging prenatal injuries. (Stats. 1941, ch. 337, § 1; see also *Olivas v. Weiner* (1954) 127 Cal.App.2d 597, 599.) The Legislature also amended former Civil Code section 29 “to state expressly that [Code of Civil Procedure] section 352 tolling *did not apply* to actions brought under that statute.” (*Young, supra*, 41 Cal.3d at p. 892, italics added.)

Then, in 1992, the Legislature moved the limitations period of former Civil Code section 29 to the Code of Civil Procedure and reenacted it, without substantive change, as Code of Civil Procedure section 340.4. (Stats. 1992, ch. 163, § 16.) The part of former Civil Code section 29 that granted a right to sue for prenatal injuries was reenacted, without substantive change, as Civil Code section 43.1. (Stats. 1992, ch. 163, § 4.) Thus, since 1941, the statute of limitations for prenatal injuries has been six years, running from the date of birth, with no tolling during minority.

Now, we turn to the statute of limitations applicable to exposure to toxic substances. Section 340.8 was first enacted in 2004, introduced in the regular legislative session for 2003 and 2004 as Senate Bill No. 331 (SB 331). We granted Sony’s request to take judicial notice of the published legislative records for SB 331, including records

and reports from both the Senate and Assembly Committees on the Judiciary. The legislative records reveal a narrow and specific purpose for the enactment of section 340.8, having nothing to do with prenatal injuries.

SB 331 was described as an act to “codify the doctrine of ‘delayed discovery’ as it applies to the statute of limitations for filing a lawsuit for illness, injury or death caused by exposure to hazardous waste.” (Sen. Com. on Judiciary, Analysis of Sen. Bill No. 331 (2003-2004 Reg. Sess.) as amended Apr. 29, 2003, p. 1.) The Senate Committee on the Judiciary report explains that the only “existing law” to be affected by the enactment of the proposed new statute is the general personal injury limitations period codified at section 335.1. (Sen. Com. on Judiciary, Analysis of Sen. Bill No. 331 (2003-2004 Reg. Sess.) as amended Apr. 29, 2003, p. 2.)

The Senate Committee on the Judiciary explained the genesis of SB 331 and the “[s]tated need” for the new statute as follows: “Last year, the Legislature extended the statute of limitations from one year to two years [(section 335.1)] for suits alleging personal injury or death due to the wrongful act of another. (SB 688 (Burton), Ch. 488, Stats. of 2002.) Supporters of that bill argued that the one-year statute was one of the shortest limitation periods in the nation for such cases, and that its brevity encouraged needless litigation by forcing plaintiffs to rush to court to protect their rights, whereas a longer time period would favor settlement of claims prior to litigation. [¶] With this bill, [the sponsor] seeks to build on SB 688’s extended limitations period by codifying the ‘delayed discovery’ doctrine as it applies to suits for personal injury caused by hazardous substances.” (Sen. Com. on Judiciary, Analysis of Sen. Bill No. 331 (2003-2004 Reg. Sess.) as amended Apr. 29, 2003, p. 3.)

The reports and records from the Assembly Committee on the Judiciary reflect the same narrow focus. (See, e.g., Assem. Com. on Judiciary, Rep. on Sen. Bill 331 (2003-2004 Reg. Sess.) as amended June 26, 2003, pp. 1-9.)

The uncodified portion of the final chaptered bill that added section 340.8 contains an express statement of legislative intent: “It is the intent of the Legislature to codify the rulings in *Jolly v. Eli Lilly & Co.* (1988) 44 Cal.3d 1103, *Norgart v. Upjohn Co.* (1999)