

S241812

No. _____

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

BRETT VORIS,
Plaintiff and Petitioner,

v.

GREG LAMPERT,
Defendant and Respondent.



SUPREME COURT
FILED

MAY 9 2017

Jorge Navarrete Clerk

Deputy

After a Decision by the Court of Appeal,
Second Appellate District, Division Three, Case No. B265747

The Superior Court of California, Case No. BC408562
The Honorable Michael L. Stern, Presiding

PETITION FOR REVIEW

ANDERSON YEH PC
EDWARD M. ANDERSON (SBN 198183)
REGINA YEH (SBN 266019)
401 Wilshire Boulevard, 12th Floor
Santa Monica, CA 90401
(310) 496-4270
edward@andersonyehlaw.com
regina@andersonyehlaw.com

Attorneys for Plaintiff and Petitioner

TABLE OF CONTENTS

I.	ISSUES PRESENTED FOR REVIEW.....	1
II.	WHY REVIEW SHOULD BE GRANTED	1
III.	STATEMENT OF THE CASE	4
IV.	ARGUMENT.....	7
V.	CONCLUSION	12

TABLE OF AUTHORITIES

Cases

<i>Alvarenga v. Carlson Wagonlit Travel, Inc.</i> , No. 1-15-CV-01560 AWI BAM, 2016 WL 466132 (E.D. Cal. Feb. 8, 2016)	11
<i>Cortez v. Purolator Air Filtration Products Co.</i> , 23 Cal.4th 163 (2000).....	8
<i>Dittmar v. Costco Wholesale Corp.</i> , No. 14-CV-1156 LAB (JLB), 2016 WL 3387464 (S.D. Cal. June 20, 2016)	11
<i>Fremont Indemnity Co. v. Fremont General Corp.</i> , 148 Cal.App.4th 97, 124 (2007).....	9
<i>Gould v. Maryland Sound Industries, Inc.</i> , 31 Cal.App.4th 1137 (1995).....	9
<i>Green v. Party City Corp.</i> , No. CV-01-09681 CAS (EX), 2002 WL 553219 (C.D. Cal. 2002).....	11
<i>Haigler v. Donnelly</i> , 18 Cal.2d 674 (1941)	8
<i>In re Trombley</i> , 31 Cal.2d 801 (1948)	9
<i>In re Wal-Mart Stores, Inc. Wage and Hour Lit.</i> , 505 F.Supp.2d 609, 618-619 (N.D. Cal. 2007)	2, 4, 11
<i>Jacobs v. Genesco, Inc.</i> , No. CIV. S-08-1666 FCD DAD, 2008 WL 7836412 (E.D. Cal. 2008).....	11
<i>Lu v. Hawaiian Gardens Casino, Inc.</i> , 50 Cal.4th 592 (2010).....	8
<i>Moore v. Regents of University of California</i> , 51 Cal.3d 120 (1990) 10	
<i>Oakdale Village Group v. Fong</i> , 43 Cal.App.4th 539 (1996)	7
<i>PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP</i> , 150 Cal.App.4th 384 (2007).....	8
<i>Rodriguez v. Cleansource, Inc.</i> , 2015 WL 5007815 (S.D. Cal. Aug. 20, 2015)	11
<i>Sims v. AT&T Mobility Services LLC</i> , 955 F.Supp.2d 1110 (E.D. Cal. 2013)	2, 4, 10
<i>Voris v. Lampert</i> (May 22, 2014, B234116).....	5, 6

Statutes

Labor Code §§ 201, 203.....	10
-----------------------------	----

Rules

Cal. Rule Ct. 8.500(b)(1)	1
---------------------------------	---

PETITION FOR REVIEW

I. ISSUES PRESENTED FOR REVIEW

1. Is conversion of earned but unpaid wages a valid cause of action?
2. Even if not a valid cause of action in every context, is conversion of earned but unpaid wages a valid cause of action by a former employee plaintiff against an individual defendant who was a managing officer and controlling principal of the closely held corporate former employers?

II. WHY REVIEW SHOULD BE GRANTED

Review of this case is likely to facilitate the security of uniformity of decision by courts applying California law to claims for tortious conversion of earned but unpaid wages by employees, and to settle the important question of law as to whether California recognizes such a cause of action as valid, either at all, or at least in the context of individual defendants acting intentionally toward the plaintiff employee in the context of a closely held corporation. Cal. Rule Ct. 8.500(b)(1).

No California statute directly addresses the question of whether an employee may sue a former employer or its managing principals in tort for conversion of earned but unpaid wages. (*See* Slip Op. [Exhibit A] at 13, concurring and dissenting opinion of Lavin, J. at 5.) There is likewise no binding decision of this Court or of the California Court of Appeal directly addressing the question. (*Id.*)

Claims for conversion of wages are being regularly and actively litigated to decision and the lack of a settled and binding

determination of the legal validity of the cause of action is leading to conflicting judicial decisions, including in cases litigated in federal court but applying California law. For example, in what appears to be the line of cases containing a substantial number of recent decisions, federal courts applying California law have examined the California Labor Code, California conversion law, and language in decisions of this Court to hold that California does recognize conversion of wages as a legally valid cause of action (or that this Court would do so if presented the question). *See, e.g., Sims v. AT&T Mobility Services LLC*, 955 F.Supp.2d 1110 (E.D. Cal. 2013). However, at the same time, other trial courts have determined the opposite: that California does *not* recognize conversion of wages as a valid cause of action, and that this Court would *not* likely do so if presented the question, with those decisions largely resting on the policy implications of recognizing such a cause of action in the fertile area of unpaid wage litigation. (Slip Op. [Exhibit A] at 13; *In re Wal-Mart Stores, Inc. Wage and Hour Lit.*, 505 F.Supp.2d 609, 618-619 (N.D. Cal. 2007).

The present case affords the Court an opportunity to consider the conversion of wages question with an articulate appellate majority opinion and concurring and dissenting opinion that together present the competing arguments and positions. (Slip Op. [Exhibit A].) Moreover, the case presents the conversion of wages question in a factual context where the Court could choose to address employee wage conversion claims broadly, or in the alternative as they might apply or not in specific context of closely held corporations with a very small set of controlling principals and where those principals were specifically alleged to have personally benefited financially by

causing the corporate employer entity to fail to pay the plaintiff employee's earned wages, and where the earned but unpaid wages of which the plaintiff employee was deprived totaled a substantial amount (\$157,000). (See Slip Op. [Exhibit A] at 3 and concurring and dissenting opinion at 1-2.)

In the portion of the opinion at issue in this petition, the majority essentially held that, although plaintiff had otherwise pled the elements of a conversion claim against respondent as to his unpaid wages, for policy reasons largely driven by the proliferation of employee wage litigation in California courts, California does not recognize conversion of wages as a valid cause of action, and existing case law does not otherwise support the existence of such a cause of action. (Slip Op. [Exhibit A] at 8-16.) An articulate concurrence and dissent by Justice Lavin disagreed and would have held in favor of appellant, finding no policy concern outweighing existing principles of law regarding conversion and treatment of wages as the property of the employee when earned, even if unpaid, and that existing California law teaches or strongly suggests that conversion of wages *is* a valid cause of action. (Slip Op. [Exhibit A], concurring and dissenting opinion.)

The case thus starkly presents the conversion of wages dilemma with which trial courts have been wrestling in the absence of a settled determination of California law on this issue, as reflected in the divided appellate opinion here, and as playing out in contradictory fashion in such cases as *Sims*, 955 F.Supp.2d 1110 (finding that this Court would recognize a claim for conversion of unpaid wages if it

considered the question) and *In re Wal-Mart Stores, Inc. Wage and Hour Lit.*, 505 F.Supp.2d 609.

Review would thus facilitate security of consistency of judicial decisions on the conversion of wages question and settle an important question of law.

III. STATEMENT OF THE CASE

This case arises out of the business relationship between plaintiff and appellant Brett Voris (“Voris” or “appellant”) and defendant and respondent Greg Lampert (“Lampert” or “respondent”) and certain other defendants, including Ryan Bristol (“Bristol”), which defendants other than Lampert are no longer parties to the case. (Slip Op. at 2, [attached hereto as Exhibit A].) In November 2005, Voris joined with Bristol and Lampert to form defendant Premier Ten Thirty-One Capital Corp. aka PropPoint (“PropPoint”), a real estate investment company. (*Id.*) Voris was an employee of PropPoint and was also supposed to be an equity holder, based on both promises of sweat equity and investment of substantial amounts of his cash savings in the entity. (*Id.* at 2-3, 16, concurring and dissenting opinion at 1-2.) Voris, Lampert and Bristol also formed two other entities, defendant Liquiddium Capital Partners, LLC (“Liquiddium”) and Sportfolio, Inc. (“Sportfolio”). (Slip Op. [Exhibit A] at 2-3.) Voris was an employee of Sportfolio and promised equity in it as well. (Slip Op. [Exhibit A] at 2-4, n. 2, concurring and dissenting opinion at 1-2.) Voris was to be an equity holder of Liquiddium, (Slip Op. [Exhibit A] at 2-3, n. 2), but does not allege that he was a Liquiddium employee.

In the fall of 2006, Voris discovered alleged financial improprieties by Bristol and Lampert, including commingling of the funds of PropPoint, Liquiddium, Sportfolio and other companies for the individual defendants' personal benefit, and use of company funds to pay individual defendants' personal expenses. (*Id.* at 3.) Voris confronted Bristol and Lampert, the parties had a falling out, and Bristol was terminated from all three companies in 2007, without recognition of or compensation for his promised equity interests in all three entities, and with substantial earned but unpaid wages owing from PropPoint and Sportfolio. (*Id.* at 3.)

Voris filed suit in 2009 and the case was litigated for several years, yielding a complex procedural history described in the Slip Opinion. (*See id.* at 3-6.) That history included a prior nonpublished appellate opinion, *Voris v. Lampert* (May 22, 2014, B234116) ("*Voris I*").

The relevant pleading specifically alleges that Lampert intentionally prevented Voris from receiving unpaid wages in the specific amounts of \$91,000 from PropPoint and \$66,000 from Sportfolio. (Slip. Op. [Exhibit A], concurring and dissenting opinion, at 1-2.)

On October 19, 2011, Voris obtained a judgment following jury trial, which determined that Liquiddium and Sportfolio were liable for the conversion of his ownership interests in the amounts of \$55,599.32 and \$52,631.58, respectively. (Slip. Op. [Exhibit A] at 3-4, n. 2.) Voris's claims against Lampert, including his wage and stock conversion claims, were not tried in the October 2011 proceedings,

because they were the subject of the then-still-pending appeal in *Voris I*. (Slip Op. [Exhibit A] at 3-4; *Voris I*, *passim*.)

On remand following *Voris I*, Lampert moved for judgment on the pleadings on Voris's stock conversion and wage conversion claims. (Slip. Op. [Exhibit A] at 5.) On January 15, 2015, the trial court granted both motions as to the conversion claims against Lampert, finding neither was validly pled. (*Id.*)

Later in 2015, Voris obtained a judgment following bench trial against PropPoint and was awarded damages of \$171,951.02 plus \$126,795.84 in prejudgment interest. (Slip. Op. [Exhibit A] at 5.)

The Court of Appeal held unanimously that Voris had validly pled conversion of stock claims against Lampert and remanded those claims for further proceedings. (Slip. Op. [Exhibit A] at 16-19 and concurring and dissenting opinion of Lavin, J. at 1.) Voris does not seek review of this portion of the opinion.

As to Voris's wage conversion claims against Lampert, the panel's majority opinion affirms the trial court's ruling, holding that no cause of action for conversion of earned but unpaid wages exists under California law. (Slip. Op. [Exhibit A] at 8-16.) In a well-reasoned six-page concurring and dissenting opinion, Justice Lavin conducts a detailed examination of the relevant law and arguments, and writes that he would find that conversion of unpaid wages *is* a valid cause of action under California law, and that Voris has validly pled such a cause of action against Lampert. (Slip. Op. [Exhibit A], concurring and dissenting opinion of Lavin, J.) As Justice Lavin observes, the true thrust of difference between the majority and the concurrence and dissent appears to be rooted largely in policy

concerns: the majority is concerned that to allow a cause of action for conversion of wages would potentially lead to an increase in the intensity and complexity of wage and hour litigation in other cases, unrelated to Voris and Lampert, whereas the concurrence and dissent finds these policy fears to be unpersuasive. (*Id.* at 3.)

As discussed below, the difference in judicial interpretation and viewpoint on the wage conversion question, as manifested in the Slip Opinion and the concurrence and dissent, is not limited to the panel, but is playing out in multiple trial courts tasked with applying California law in the employment context, with many of them (but not all of them) finding Justice Lavin’s interpretation and conclusions to be correct. Courts applying California law are thus coming to inconsistent decisions on the issue and it is an important area of unsettled law, warranting review, as discussed below.

IV. ARGUMENT

Under well-settled California law, conversion is “the wrongful exercise of dominion over the property of another.” *Oakdale Village Group v. Fong*, 43 Cal.App.4th 539, 543 (1996). To state a claim for conversion, a plaintiff must allege that (1) he or she had ownership or the right to possess the property at issue at the time of the conversion; (2) the defendant converted the property by wrongful act, including preventing the plaintiff from having access to it; and (3) the plaintiff suffered damages as a result of the defendant’s conduct. *Id.* at 543-544; CACI No. 2100. Money can be the subject of a cause of action for conversion if there is a specific, identifiable sum involved. *PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro*,

LLP, 150 Cal.App.4th 384, 395 (2007). While a specific sum must be capable of identification, the law does not require a plaintiff to identify the physical coins or notes allegedly converted. *Haigler v. Donnelly*, 18 Cal.2d 674, 681 (1941).

Here, Voris specifically alleged Lampert's intentional conversion of earned but unpaid wages in the total amount of \$157,000 (\$91,000 earned by Voris from work with PropPoint, and \$66,000 earned by Voris from work with Sportfolio). (Slip Op. [Exhibit A], concurring and dissenting opinion at 1-2.)

As recognized by the slip opinion's concurrence and dissent, this Court has not expressly determined one way or the other whether a plaintiff can maintain a common law claim for conversion of wages. However, the Court has suggested that such a claim would be valid in other holdings, including *Lu v. Hawaiian Gardens Casino, Inc.*, 50 Cal.4th 592, 604 (2010) (suggesting that employees whose tips had been pooled and redistributed, in violation of a Labor Code provision that did not give rise to a private right of action, could allege a common law claim for conversion) and *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal.4th 163, 178 (2000) (holding that plaintiffs there could recover earned overtime wages as restitution because they had a vested possessory interest in their wages as soon as the wages were earned, even if still actually in the possession of defendant). Allowing an action for conversion of earned but unpaid wages would also arguably be consistent with modern conversion law's broad application to different categories of property. *See, e.g., Fremont Indemnity Co. v. Fremont General Corp.*, 148 Cal.App.4th

97, 124 (2007); Slip Op. [Exhibit A], concurring and dissenting opinion, at 4-5.

As Justice Lavin's concurring and dissenting opinion observes, any potential burden on employers from potential tort liability for conversion is also arguably outweighed by strong California policy interests in protecting the average worker's need for the prompt and complete payment of his or her accrued wages. California courts have long recognized that wage and hour laws concern not only the health and welfare of the workers themselves, but also the public health and general welfare. *See, e.g., Gould v. Maryland Sound Industries, Inc.*, 31 Cal.App.4th 1137, 1148-1149 (1995) [discharge of employee to avoid paying commissions, vacation pay, and other amounts he had earned violated a fundamental public policy of this state].) Similarly, the Legislature's decision to criminalize certain employer violations of the overtime and minimum wage laws, *see* Labor Code § 1199, including the failure to pay earned wages, reflects a determination that such conduct affects a broad public interest. (Slip Op. [Exhibit A], concurring and dissenting opinion, at 4.) "Because of the economic position of the average worker and, in particular, his dependence on wages for the necessities of life for himself and his family," wages are not ordinary debts. *In re Trombley*, 31 Cal.2d 801, 809 (1948). Thus, it would readily accord with important policy interests of this state to hold that an employer who knows that wages are due and has the ability to pay them, but still refuses to do so, intentionally acts in a manner that should lead to tort liability. (Slip Op. [Exhibit A], concurring and dissenting opinion, at 4.)

Against this are the potentially competing policy concerns identified by the majority opinion, including the majority's perception of a policy of care in expanding the conversion tort to new contexts, Slip Op. [Exhibit A] at 12, citing *Moore v. Regents of University of California*, 51 Cal.3d 120 (1990), and the perceived risk that if employees were to be allowed to allege conversion claims for unpaid wages, "any claimed wage and hour violation would give rise to tort liability for conversion as well as the potential for punitive damages," which the majority sees as an undesirable result "given the adequacy of statutory remedies" already provided in the Labor Code for unpaid wages. (Slip Op. at 12, citing Labor Code §§ 201, 203.)

Such differing views on the proper weighting of the potentially competing policy concerns, as well as the proper interpretation and extension of California wage and conversion law based on existing law and prior opinions of this Court making suggestions in these areas are not limited to the appellate panel here, but are playing themselves out in trial courts bound to apply California law to employee wage claims, including federal courts. For example, the district court in *Sims v. AT&T Mobility Services LLC*, 955 F.Supp.2d 1110 (E.D. Cal. 2013) opined, after a thorough and well-reasoned consideration of California law, that "if the issue were presented to the California Supreme Court, it would approve a conversion action for unpaid wages." The *Sims* court's reasoning and conclusion has been followed by a number of district courts since. *See, e.g., Rodriguez v. Cleansource, Inc.*, 2015 WL 5007815, at *9 (S.D. Cal. Aug. 20, 2015); *Alvarenga v. Carlson Wagonlit Travel, Inc.*, No. 1-15-CV-01560 AWI BAM, 2016 WL 466132 (E.D. Cal. Feb. 8, 2016);

Dittmar v. Costco Wholesale Corp., No. 14-CV-1156 LAB (JLB), 2016 WL 3387464, at *2 (S.D. Cal. June 20, 2016).

On the other hand, other district courts, at least prior to the *Sims* opinion, had reached contrary conclusions on the viability of conversion claims for unpaid wages under California law. *See, e.g., In re Wal-Mart Stores, Inc. Wage and Hour Lit.*, 505 F.Supp.2d 609, 618-619 (N.D. Cal. 2007); *Green v. Party City Corp.*, No. CV-01-09681 CAS (EX), 2002 WL 553219 (C.D. Cal. 2002); *Jacobs v. Genesco, Inc.*, No. CIV. S-08-1666 FCD DAD, 2008 WL 7836412 (E.D. Cal. 2008).

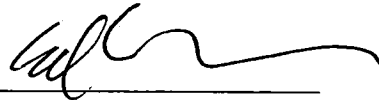
The conversion of wages issue is clearly an important one in California law, it is clearly unsettled, and courts are clearly reaching inconsistent determinations of the issue, in the absence of guidance from this Court. The present case provides a valuable opportunity for the Court to consider the issue, with an appellate majority opinion and concurrence and dissent that well frames the issues on each side, and with a factual context where the Court can consider the question of viability of conversion of wages in the broad employer-employee context, or also consider it in the narrower context of closely held corporations where the specific failure to pay wages was alleged to be the result of financial malfeasance by the small set (two) of controlling corporate principals who essentially enriched themselves personally in part by diverting corporate funds from debts like wages to payments that improperly benefitted the principals personally. (*See* Slip Op. [Exhibit A] at 3 and concurring and dissenting opinion at 3-4.)

V. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant this Petition for Review.

Dated: May 8, 2017

Respectfully submitted,

By: 

Edward M. Anderson
ANDERSON YEH PC

Attorneys for Petitioner
BRETT VORIS

CERTIFICATE OF WORD COUNT

I certify pursuant to California Rules of Court 8.204 and 8.504(d) that this Petition for Review is proportionally spaced, has a typeface of 13 points or more, contains 3,638 words, excluding the cover, the tables, signature block, verification, and this certificate, which is less than the total number of words permitted by the Rules of Court. Counsel relies on the word count feature of Microsoft Word 2013 used to prepare this brief.

Dated: May 8, 2017

By: _____

Regina Yeh

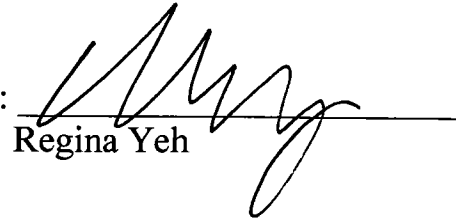
A handwritten signature in black ink, appearing to read 'Regina Yeh', is written over a horizontal line. The signature is fluid and cursive.

EXHIBIT A

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

COURT OF APPEAL - SECOND DIST

DIVISION THREE

FILED

MAR 28 2017

BRETT VORIS,

Plaintiff and Appellant,

v.

GREG LAMPERT,

Defendant and Respondent.

B265747 JOSEPH A. LANE Clerk

(Los Angeles County Superior Court
Super. Ct. No. BC408562)

APPEAL from a judgment and order of the Superior Court of Los Angeles County, Michael L. Stern, Judge. Reversed in part and remanded with directions and affirmed in part.

Anderson Yeh, Edward M. Anderson and Regina Yeh for Plaintiff and Appellant.

Paul Kujawsky for Defendant and Respondent.

Plaintiff and appellant Brett Voris (Voris) appeals a judgment entered following the grant of a motion for judgment on the pleadings brought by defendant and respondent Greg Lampert (Lampert). Voris also appeals a postjudgment order awarding attorney fees to Lampert.

The essential issue presented is whether Voris's causes of action for conversion of wages and conversion of stock were well pled.

We conclude unpaid wages do not give rise to a cause of action for conversion. However, Voris's claims for conversion of stock are well pled. Therefore, we reverse the judgment on the pleadings with respect to Voris's stock conversion claims. We also reverse the attorney fee award because Lampert is not the prevailing party at this juncture.

FACTUAL AND PROCEDURAL BACKGROUND¹

1. Earlier proceedings.

This case arises out of the business relationship between Voris and defendants Lampert and Ryan Bristol (Bristol) (not a party to this appeal). In November 2005, Voris joined with Bristol and Lampert to form Premier Ten Thirty One Capital (PropPoint), a real estate investment company. Voris helped PropPoint with marketing and advertising and was promised an ownership share in the company as compensation for his services. Voris eventually began receiving a salary of \$3,000 per month from PropPoint. Voris alleged similar involvement in two other

¹ This summary is based in part on this court's prior opinion in *Voris v. Lampert* (May 22, 2014, B234116) [nonpub. opn.] (*Voris I*).

entities, Liquiddium Capital Partners, LLC (Liquiddium) and Sportfolio, Inc. (Sportfolio).

In the fall of 2006, Voris discovered alleged financial improprieties by Bristol and Lampert, including commingling of the funds of PropPoint, Liquiddium, Sportfolio and other companies for the individual defendants' personal benefit, and use of company funds to pay individual defendants' personal expenses. Voris also alleged that Bristol and Lampert failed to observe corporate formalities such as keeping minutes of board meetings and notifying shareholders of meetings.

Upon learning of the alleged financial improprieties, Voris confronted Bristol and Lampert, who then retaliated against Voris by criticizing his work performance and accusing him of stealing money from the company. Voris ultimately was terminated in January 2007.

Voris filed the operative first amended complaint on July 7, 2009, alleging 24 causes of action, based on these and other alleged improprieties. All 24 causes of action were asserted against Lampert, in addition to other defendants.

On September 22, 2009, the trial court sustained Lampert's demurrers to Voris's 8th through 11th and 21st through 24th causes of action with leave to amend. Voris did not amend his pleadings. Thus, following the sustaining of the demurrers, the surviving causes of action against Lampert were Voris's 1st through 7th and 12th through 20th causes of action.

On April 19, 2011, Lampert obtained summary judgment on the ground that no triable issue of fact existed as to Voris's alter ego allegations against him. Voris appealed.²

² As for the remaining defendants, Voris proceeded to trial against Bristol, Sportfolio and Liquiddium, the action against

In *Voris I*, this court reversed in part and affirmed in part. We concluded Voris failed to raise a triable issue with respect to his alter ego allegations against Lampert, because in resisting summary judgment, Voris filed an opposing separate statement that failed to specify the evidence on which he would rely to establish alter ego liability. However, we also concluded the viability of Voris's causes of action for conversion did not depend on Lampert's alter ego liability, because Lampert could be held individually liable for acts of conversion, without regard to whether the corporate veil should be pierced. Therefore, we reversed the judgment in favor of Lampert with respect to the 14th through 20th causes of action, and otherwise affirmed.

2. *Proceedings on remand.*

On remand, Lampert filed a motion for judgment on the pleadings on Voris's stock conversion claims (14th, 15th, 17th, 18th and 19th causes of action), on the ground that Voris had failed to state a claim for conversion. Lampert contended that Voris had failed to allege that he was deprived of his ownership interests, there was no allegation by Voris that Lampert had declared his shares forfeited, and "[a]t most Mr. Voris alleges he was deprived of some of the benefits of ownership." According to Lampert, Voris alleged "he was not issued share certificates, but he fails to allege facts even tending to show that he suffered any harm from not having them."

PropPoint having been stayed due to its bankruptcy. Bristol successfully moved for nonsuit. On October 19, 2011, Voris obtained a judgment following jury trial, which determined that Liquiddium and Sportfolio were liable for the conversion of his ownership interests in the amounts of \$55,599.32 and \$52,631.58, respectively.

Lampert filed a separate motion for judgment on the pleadings with respect to the 16th and 20th causes of action, on the ground that "California law does not recognize a cause of action for conversion of money or wages due under a contract."

Voris also filed a motion seeking a pretrial determination as to "whether and to what extent the October 19, 2011 Judgment in this action has res judicata and collateral estoppel effect on the parties." Voris's motion also sought an order enabling him to present his case against suspended corporation PropPoint to the jury without opposition. Voris argued that if he were to establish PropPoint's liability for conversion, Lampert would have the opportunity to present his evidence and argument that he was not personally liable for PropPoint's conversion.

On January 15, 2015, the motions came on for hearing.

The trial court granted Lampert's motions for judgment on the pleadings with respect to Voris's stock conversion and wage conversion claims, as requested.

The trial court then denied Voris's motion, which (1) sought a determination as to whether and to what extent collateral estoppel or res judicata applied to Voris's claims against Lampert based on Voris's October 2011 judgment against Sportfolio and Liquidium, and (2) an order enabling Voris to present his case against PropPoint without opposition. The trial court reasoned Voris's motion was moot because "Lampert, based on these rulings, is out of the case."

Voris proceeded to a bench trial against PropPoint and was awarded damages of \$171,951.02 plus \$126,795.84 in prejudgment interest.

On May 21, 2015, the trial court entered judgment in favor of Lampert and against Voris, and in favor of Voris against PropPoint.

On July 28, 2015, Voris filed a timely notice of appeal from the judgment in favor of Lampert, notice of entry having been served on May 29, 2015.

On August 25, 2015, the trial court granted Lampert's motion for reasonable attorney fees pursuant to the Liquiddium operating agreement, and awarded Lampert \$125,100 in fees and \$2,385.50 in costs.

On August 28, 2015, the trial court granted Voris's motion for an award of attorney fees against PropPoint pursuant to Labor Code section 218.5, finding that Voris was the prevailing party in a claim for nonpayment of wages and was entitled to \$35,274.88 in fees and \$20,246.54 in costs.

On October 9, 2015, Voris filed a second notice of appeal, specifying the August 25, 2015 order awarding attorney fees and costs to Lampert.

CONTENTIONS

Voris contends: it is law of the case, based on *Voris I*, that Lampert may be held personally liable for conversion; the trial court erred in granting Lampert's motion for judgment on the pleadings on his wage conversion claims and his stock conversion claims; the trial court erred in refusing to allow Voris to present evidence and argument as to the impact of res judicata and collateral estoppel on Voris's claims against Lampert; and if the judgment on the pleadings is reversed, the award of attorney fees to Lampert should also be reversed.

DISCUSSION

1. *Prior decision in Voris I is not law of the case with respect to the viability of Voris's conversion claims.*

Voris contends this court in *Voris I* clearly held that his conversion claims against Lampert are not dependent on alter ego liability, and therefore Lampert is now barred from asserting that Voris must prove alter ego liability to prevail on his conversion claims against Lampert. Voris asserts it is law of the case that Lampert may be held personally liable for conversion.

The law of the case doctrine states that when, in deciding an appeal, an appellate court states in its opinion a principle or rule of law necessary to the decision, that principle or rule becomes the law of the case and must be adhered to throughout its subsequent progress, both in the lower court and upon subsequent appeal. (*Kowis v. Howard* (1992) 3 Cal.4th 888, 892-893.)

The issue before this court in *Voris I* was whether Lampert was entitled to summary judgment with respect to Voris's alter ego allegations against him. We concluded that Lampert was entitled to summary adjudication on Voris's alter ego claims because Voris failed to specify evidence supporting his alter ego allegations. However, with respect to the 14th through 20th causes of action, we noted that as an officer or director of the corporate entities, Lampert could be held individually liable for intentional torts, without regard to whether the corporate veil should be pierced. (*Voris I, supra*, slip opn., p. 11.)

However, *Voris I* did not determine whether unpaid wages or withheld shares of stock could be the basis of a cause of action for conversion, and therefore is not law of the case on those issues. We now examine those questions.