Case No. S230899

IN THE
CALIFORNIA SUPREME COURT

BARRY S. JAMESON,
Plaintiff and Appellant

vs.

TADDESE DESTA, M.D.,
Defendant and Respondent

California Court of Appeal, Fourth Appellate Dist., Div. One, Case No. D066793
San Diego County Superior Court Case No. GIS 9465
Hon. Joel M. Pressman, Judge

ANSWER TO PETITION FOR REVIEW

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I.

INTRODUCTION

In this action, the plaintiff, who was incarcerated at the time of treatment, alleges that the defendant, Taddese Desta, M.D., negligently treated his hepatitis with a one-year regimen of a drug known as "alpha-interferon," from which he suffered adverse side effects. He claims that rather than a one-year regimen of alpha-interferon, Dr. Desta should have treated him with a six-month regimen of a two-drug combination.

The San Diego Superior Court does not provide court reporters for civil proceedings, and the trial proceedings were not reported. Following opening statements, the court granted the defendant's motion for nonsuit on the grounds that based on his opening statement, the plaintiff was unable to establish his case. The Court of Appeal affirmed, holding that the plaintiff was precluded from obtaining a reversal on appeal in the absence of a reporter's transcript. (Opinion, page 17.) The appellate court held that "the trial court did not err in failing to have the proceedings transcribed by a court reporter." (Opinion, page 14.)

In his Petition, the plaintiff seeks to have this Court review the issue of whether he was entitled, as an indigent litigant, to be provided with a free court reporter. The plaintiff contends that he was denied "meaningful access" to the Court of Appeal because in the absence of a court reporter, he was unable to

present the Court of Appeal with an adequate record on appeal. However, the Petition fails to acknowledge that the plaintiff *could have* presented the appellate court with an adequate record on appeal by way of a settled statement had he chosen to do so, pursuant to California Rules of Court, Rule 8.137. The plaintiff made no effort to do so.

This case is not the appropriate case for this Court to review the issues presented in the Petition for the reasons discussed herein, including the fact that the statutory scheme provides for a settled statement as a perfectly acceptable alternative to a reporter's transcript in this case. If the superior court's not providing court reporters to indigent litigants can lead to a denial of "meaningful access" to the appellate court, as the plaintiff argues, this is not such a case, because the plaintiff could have presented an adequate record on appeal by way of a settled statement had he made the effort to do so.

II.

THE STATUTORY SCHEME

Government Code section 68086 governs payment for the fee of court reporting services in the superior court. The statute distinguishes between two types of reporters, official court reporters and certified shorthand reporters who serve as official pro tempore reporters, and sets forth a separate payment scheme

for each. The statutory scheme recognizes that official court reporters are provided "at the expense of the court"[1] and provides that the parties are to reimburse the court for the expense of providing official court reporters. Section 68086, subdivision (b) provides that the fee "shall be waived for a person who has been granted a fee waiver under Section 68631."

Section 68086, subdivision (d) authorizes the Judicial Council to adopt rules to ensure that "if an official court reporter is not available, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter..." and that if an official pro tempore reporter is used, "no other charge shall be made to the parties." In accordance with section 68086(d), the Judicial Council enacted California Rules of Court, Rule 2.956, which provides at subdivision (c), "If the services of an official court reporter are not available for a hearing or trial in a civil case, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter. It is that party's responsibility to pay the reporter's fee for attendance at the proceedings, but the expense may be recoverable as part of the costs, as provided by law."

In other words, where the court does not provide an official court reporter, a party can go out and hire a certified shorthand reporter to serve as an official pro tempore reporter, which includes paying the certified shorthand reporter directly

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[1]Government Code section 68086(a)(1)

for the reporting services rather than paying the court for the reporter's services.

Importantly, whereas subdivision (b) of section 68086 provides that the fee charged to parties to reimburse the court for the expense of an official court reporter is waived for parties who have obtained a fee waiver, no similar provision waiving the cost for a court reporter applies where a party retains a certified shorthand reporter to serve as an official pro tempore reporter. The statutory scheme does not obligate the court to pay the cost of hiring a certified shorthand reporter to act as an official pro tempore reporter on behalf of a party who has obtained a fee waiver.

Of course, there is an enormous difference between waiving a fee payable to the court to reimburse the court for a cost incurred by the court and obligating the court to pay an expense incurred by a party. The Legislature expressly enacted a fee waiver for the former (section 68086, subd. (b)), while not enacting any provision for the payment by the court of pro tempore reporters. This Court should not interfere with the clear statutory scheme enacted by the Legislature.

Ironically, in his Petition, the plaintiff references the use of electronic recording in other states and the provision of free transcripts to indigents in federal court (Petition, page 9) which were *legislatively enacted provisions* rather than court imposed requirements. The plaintiff is arguing that this Court should implement free reporters as a matter of public policy by comparing it to what other

jurisdictions have implemented through the legislative process. It should be left for the Legislature to determine whether to provide free reporters to indigent litigants.

In a case cited in the Petition, California Court Reporters Assn. v. Judicial Council of California (1995) 39 Cal. App.4th 15, the Court of Appeal struck down rules of court adopted by the Judicial Council allowing electronic recording of superior court proceedings because it was contrary to a statutory scheme authorizing official shorthand reporting of proceedings and the Legislature's rejection of legislation authorizing electronic recording.

In rejecting the argument that the Judicial Council was co-equal to the Legislature in enacting rules of court, the court stated, "The Constitution reserves to the Legislature and the people of this state the higher right to provide the rules of procedure." Id. at 22. In analyzing the issue, the court explained, "We must determine whether the statutory scheme addresses the making of the official record in such a manner as to suggest that the Legislature implicitly intended that this record be made by certified shorthand reporters rather than by electronic recording." Id. at 26.

The court concluded, "After having reviewed the statutory scheme, we find that the Legislature intended the official record of superior court proceedings to be prepared only in the manner authorized by statute. [Citation.] Until the Legislature

amends [Code of Civil Procedure] section 269 to permit electronic recording to create an official record, the normal practice in California superior courts is for an official shorthand reporter to create the official record." Id. at 33.

Thus, it should be left to the Legislature to determine the procedure for the provision of court reporters to report superior court proceedings, including under what circumstances a party must be provided with a reporter paid for by the court. Adopting the conclusion of the court in the California Court Reporters case to the facts in this case: Until the Legislature amends Government Code section 68086 to require the provision of court reporters to indigents in courts that do not provide such reporters, the normal practice in California superior courts is that all litigants must pay for a reporter in courts that do not provide official reporters."

In other words, it is for the Legislature to determine whether courts are required to provide reporters free to indigents and under what circumstances. The current statutory scheme does not provide for the provision of free reporters to indigents in courts that do not provide such reporters, and if that is to be changed, it is the role of the Legislature to do so by amending section 68086.

In the Petition, the plaintiff states that under section 68086(b), plaintiff "was entitled to an official reporter free of cost" and that the superior court denied the plaintiff the benefit of that section: "What the Legislature gave, the superior court took away." (Petition, pages 1-2.) However, that is a misreading of the

statute. Section 68086(b) provides for a waiver of the fee of an official court reporter for those with fee waivers *where courts provide official court reporters.* It does not in any way mandate that courts provide official court reporters to those with fee waivers. (That is what the plaintiff would like this Court to do in the absence of any legislative mandate.) The superior court did not "take away" what was given by the Legislature, because the Legislature never gave it.

The Petition cites Government Code section 68630 (at pages 3 and 15) as support for plaintiff's argument that the court's paying for a pro tempore reporter is part of a legislatively recognized policy of providing access to the judicial system. However, that is an overly broad reading of the statute, which pertains specifically to "court fees":

> "The Legislature finds and declares all of the following:
>
> (a) That our legal system cannot provide 'equal justice under law' unless all persons have access to the courts without regard to their economic means. California law and court procedures should ensure that **court fees** are not a barrier to court access for those with insufficient economic means to pay **those fees**.
>
> (b) That fiscal responsibility should be tempered with concern for litigants' rights to access the justice system. The procedure

for allowing the poor to use court services without paying **ordinary fees** must be one that applies rules fairly to similarly situated persons, is accessible to those with limited knowledge of court processes, and does not delay access to court services. The procedure for determining if a litigant may file a lawsuit without paying a fee must not interfere with court access for those without the financial means to do so.

(c) That those who are able to pay **court fees** should do so, and that courts should be allowed to recover previously waived fees if a litigant has obtained a judgment or substantial settlement."

This expressed policy is consistent with section 68086's providing for a waiver of **fees** for official court reporters provided by the court while not paying the cost of reporters not provided by the court. The statute's repeated reference to "court fees" and lack of reference to any other type of cost incurred by indigent plaintiffs demonstrates that the scope of the policy enunciated by the statute is limited to a waiver of court fees, and does not constitute some sort of legislative policy that all indigent litigants should be provided with free court reporters paid for by the superior court. While section 68630 may allow for the waiver of court fees, it does not mandate the provision of free court reporter services to indigents.

III.

THE PLAINTIFF COULD HAVE PROCEEDED BY WAY OF A SETTLED STATEMENT

The statutory scheme provides an alternative to the use of a reporter's transcript on appeal in situations where the proceedings are not reported, and that is by way of a settled statement, pursuant to California Rules of Court, Rule 8.137(a)(2)(B). The use of a settled statement where the proceedings were not reported applies to indigent and nonindigent litigants alike.

The use of a settled statement is not only a permissible alternative for proceeding on appeal, but it would have been a perfectly acceptable alternative in this case. Significantly, the plaintiff did not even attempt to proceed by way of a settled statement.

Judgment was entered in favor of the defendant following the granting of the defendant's motion for nonsuit made after opening statements. No witness testimony or evidence was presented. This was not an appeal following a lengthy trial wherein the plaintiff can maintain that a settled statement would not be an effective means to pursue an appeal.

To the contrary, in this case, a settled statement would have been a perfectly acceptable and effective means by which to establish a record on appeal. The proceedings were reflected in the court's minute order:

"Mr. Wallace for Dr. Desta [moves] for a non-suit per CCP 581a as Mr. Jameson did not state in his opening that his expert could prove a causal connection between breach of standard of care and damages.

"Mr. Jameson responds on the causation issue, that each time he brought it up in opening statement that the Court sustained the defense objection. The Court states that it was because he relied upon the appellate decision only.

"Mr. Wallace states that it is plaintiff's burden to prove the standard of care, and that the plaintiff didn't try to amend, and has not met his prima facie case." (R.A. 257.)

The court granted the motion for nonsuit:

"Mr. Jameson did not establish causation in his opening statement. The Court allowed all of the plaintiff's exhibits into evidence as requested. The court finds that Mr. Jameson did not have an expert available.

"The Court finds that it's clear that the plaintiff cannot establish causal connection between treatment [by] Dr. Desta and alleged damages.

"The Court states that the plaintiff had not established Dr. Cooper was unavailable and even in the deposition Dr. Cooper gave no opinion on causation or damages. It is clear, that no matter how far the Court allowed the plaintiff to go in trial he could not overcome these issues. The Court GRANTS the non-suit on all causes of action...." (R.A. 257-258.)

There is absolutely no reason why the appeal in this matter could not have effectively been pursued by way of a settled statement should the plaintiff have chosen to do so. Nowhere in the appeal did the plaintiff dispute the accuracy of the court's minutes cited above. The plaintiff does not claim that court's minutes do not accurately reflect what occurred at the trial.

In fact, the plaintiff has not asserted that the result would have been any different had there been a reporter's transcript instead of a settled statement. He has made no argument either in the Court of Appeal or in his Petition before this Court that a settled statement would have been an ineffective means to pursue his

appeal. The issue on appeal in regard to the nonsuit turned on whether the plaintiff had an expert witness available to testify at trial to establish a prima facie case regarding negligent medical care rendered by the defendant. This was a straightforward legal issue based on the plaintiff's opening statement. The plaintiff has presented no argument regarding why a settled statement was not or could not have been used as the record on appeal.

The Petition erroneously states that the use of a private court reporter pro tempore was "the only permissible way under the trial court's policy for him to make an adequate record for appeal." (Petition, pages 9-10.) Not true. A record on appeal *could have been* presented to the Court of Appeal by way of a settled statement had the plaintiff chosen to do so, but he elected not to do so.

To the extent that the plaintiff did not have "meaningful access" to the Court of Appeal, as he argues, it was because he did not take the proper steps to have a record on appeal prepared by way of a settled statement. The statutory scheme expressly provides an alternative method of presenting the record on appeal where proceedings are not reported, and that method could have been used here.[2] The Petition does not even acknowledge the alternative of presenting a

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[2]The Petition states, "But the trial court in this case did *nothing at all* to ensure that Jameson had meaningful access to the appellate process following the fourth dismissal of his case." (Petition, page 23; emphasis in the original.) In fact, it was Jameson who did not take the proper step of seeking to obtain a settled statement in order to ensure that he could present an adequate record on appeal.

settled statement as the record on appeal or explain why that could not have been done here.[3]

This is not a case in which the plaintiff was unable to pay for a reporter in a lengthy trial, wherein the plaintiff could viably maintain that a settled statement would have been an ineffective means for establishing an adequate record on appeal. Even if this Court wants to review the issues presented in the Petition, this is not the appropriate case to do so, because the use of a settled statement would have been an acceptable method of presenting the record on appeal in this case, and the plaintiff was not denied "meaningful access" to the Court of Appeal by virtue of not having a reporter at the trial.

IV.

THIS IS NOT THE APPROPRIATE CASE FOR THIS COURT TO ADDRESS THE ISSUE RAISED IN THE PETITION

Although the Petition sets forth two issues that the plaintiff is asking this Court to review (Petition, pages 2-3), the issues both boil down to a single question: Does the superior court have to provide court reporters free of charge to parties proceeding under a fee waiver in civil actions? Regardless of what this

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[3]Of course, the Petition does not do so because to acknowledge the availability of a settled statement as an option to submit the record on appeal is fatal to the plaintiff's faux argument that having a court reporter was the "only permissible way" for him to make an adequate record on appeal.

Court's answer to that question might ultimately be, this case is not the appropriate case for the Court to address the issue for the following reasons:

A. The Plaintiff Did Not Take Appropriate Steps to Request A Court Reporter Prior to Trial.

Regardless of whether the superior court is obligated to provided indigent litigants with a free court reporter, the plaintiff did not take steps to request a court reporter. The statutory scheme provides for a procedure to be followed where the court does not provide a court reporter. Section 68086(d) and Rule 2.956, when read in conjunction, require that a party must request the presence of an official court reporter, and if none is available, then the burden is on the party to retain a certified shorthand reporter to serve as an official pro tempore reporter.

The record is clear that the trial court judge advised the parties 10 days prior to the commencement of trial that the court did not provide court reporters.[4] (The court informed the parties that the court did not provide court reporters on April 18, 2014, and trial did not start until April 28, 2014. (R.A. 231; 254.)) However, there is no record of the plaintiff having requested an official court reporter or

[4]As noted by the Court of Appeal at page 14, fn. 10 of its Opinion, the plaintiff did not argue on appeal that the trial court did not follow the exact procedure set forth in Rule 2.956(b) regarding the court providing notice that an official court reporter would not be provided. That issue is waived and should not be an issue herein. The bottom line is that the plaintiff was advised by the trial court judge 10 days prior to the hearing that a court reporter would not be provided at trial.

undertaken any steps to procure a pro tempore reporter.

In fact, in his Opening Brief on appeal, the plaintiff erroneously stated, "*By waiting until trial started to disallow a Court Reporter*, Jameson could only object, as there was no time to make a motion..." (AOB page 43; emphasis added.) The court did not "disallow" a court reporter at the start of trial. The court advised the parties ten days prior to the start of trial that the court did not provide court reporters. The Supreme Court should not grant review of a case based on an erroneous representation that the trial court waited until the start of trial to advise the parties that a court reporter would not be provided by the court. A party cannot play "fast and loose" with the facts and expect Supreme Court review.

In addition, the plaintiff admits that he did not request a court reporter. His reasoning was that he assumed his request would be "ignored," so he did not make any such request: "By waiting until trial started to disallow a Court Reporter, Jameson could only object, as there was no time to make a motion; especially, *a motion that would simply be ignored.*" (AOB page 43; emphasis added.) This constitutes an admission that the plaintiff did not request the presence of a court reporter for trial. He simply decided that such a request would be futile and chose not to request a reporter.

The plaintiff could have requested the presence of a reporter in a variety of ways had he chosen to, including by way of ex parte application, a motion in

limine, or simply a document requesting a court reporter. The voluminous record on appeal demonstrates that the plaintiff certainly knew how to file documents and motions with the court and did so extensively. Having chosen to sit on his hands in regard to requesting a court reporter, and not file any request for a reporter, the plaintiff cannot now be heard to complain that a reporter was not provided. This Court should not grant review of the issue of whether the court had to provide the plaintiff with a court reporter where the plaintiff did not timely request a reporter.

The plaintiff stated at page 42 of his Opening Brief on appeal that he objected when the defendant's counsel suggested that no court reporter be used. However, according to the plaintiff, this occurred "when trial was set to commence." In other words, this happened at the beginning of trial. (AOB page 42.) An objection by the plaintiff at the commencement of trial to proceeding without a reporter does not constitute a proper request for a court reporter. A party cannot simply show up and request the presence of a court reporter as trial is about to commence, especially where the party knowingly chose not to make any such request after having informed 10 days earlier that the court would not be providing a court reporter. This failure to timely request a court reporter makes this a bad case for Supreme Court review of the issue.

B. The Plaintiff Did Not Adequately Raise the Issue On Appeal.

The plaintiff raised the issue of his not having been provided a free court reporter in a mere three paragraphs at pages 42-43 of his Opening Brief, wherein he argued that he was entitled to a waiver of court reporter fees under section 68086(b). The appellate court's Opinion addressed the argument raised by the plaintiff, discussing the application of section 68086 and Rule 2.956 (which is mandated by section 68086(d)), and concluding that this statute and rule did not require that the trial court order that the proceedings be transcribed by a court reporter. (Opinion, pages 13-14.) The appellate court also concluded that section 68086(b) "does not mandate that a trial court provide indigent litigants with court reporter services where no official court reporter is provided by the court, as was true in this case." (Opinion, pages 14-15.) The court also concluded that San Diego Superior Court policy did not require that the plaintiff be provided with a free reporter. (Opinion, page 15.) In other words, the appellate court's Opinion responded to the narrow issue raised by the plaintiff on appeal.

The Petition, however, raises issues and arguments that were not raised by the plaintiff and not addressed by the appellate court in its Opinion. Throughout the Petition, the plaintiff hints that the issue is a matter of due process and equal protection, *which was neither raised as an issue in the Court of Appeal nor addressed in the court's Opinion.* At page 18, the plaintiff cites Yarbrough v.

Superior Court (1985) 39 Cal.3d 197, 200 as stating that access to the courts by an indigent prisoner is "'a matter of due process and equal protection...'" At pages 20-21, the plaintiff cites authority that holds that an indigent prisoner being sued has a "federal and state constitutional right, as a matter of due process and equal protection, of meaningful access to the courts in order to present a defense."

At page 21, fn. 18, the plaintiff argues that "given the sheer arbitrariness of effectively limiting access to the appellate process based on an appellant's poverty and the county in which he filed his complaint, the superior court's policy raises substantial federal equal protection and due process concerns as well." However, implicitly recognizing that these issues were not raised in this case either in the trial court or the appellate court, immediately after arguing that equal protection and due process rights are implicated in the court not providing him with a court reporter, the plaintiff suggests that the appeal is "likely resolvable on narrower non-constitutional grounds..." The plaintiff is arguing that the appellate court's Opinion violates the plaintiff's equal protection and due process rights, but knowing that these issues were not raised below, is simultaneously arguing that these are not issues herein.

In other words, after arguing the constitutional issue throughout his brief, the plaintiff turns around and states that this appeal does turn on a constitutional issue of equal protection or due process. This argument demonstrates why this

case is not the right case for the Supreme Court to address the issue presented – the issue is inextricably intertwined with the issues of equal protection and due process, which were not raised as issues on appeal. If the Court wants to address the issue, it should wait until it is presented with a case in which those issues were raised in the trial and appellate courts.

C. <u>There Is No Lack of Uniformity of Decisional Law</u>.

At page 13 of the Petition, the plaintiff states that review is necessary in order to "secure the uniformity of decisional law regarding the rights of access to civil appeals..." However, there is no lack of such uniformity. This is the first published opinion on the issue of whether the court has to pay for or provide a court reporter to parties proceeding with a fee waiver.

At page 3 of the Petition, the plaintiff states, "Each year, thousands of indigent litigants seek civil redress in California's courts." If so, then presumably, this issue will be before the appellate court on numerous appeals, and the various appellate districts can weigh in on their interpretation of the relevant statutes, at which time a split of authority may or may not develop. Should such split of authority arise, then this Court can review a future case to secure uniformity of the decisional law.

D. The Plaintiff Failed to Proceed By Way of a Settled Statement.

As has been discussed herein, the plaintiff could have, but chose not to, proceed by way of a settled statement. The fact that a settled statement was an avenue by which he could have submitted a record to the Court of Appeal refutes the underlying premise of the Petition, which is that without the court providing a court reporter, the plaintiff had no viable way to present a record on appeal, and was thereby denied "meaningful access" to the court.

If this Court is going to review the issues presented in the Petition, then it should do so in a case where an indigent litigant really had no viable method of submitting a record on appeal, such as where the litigant's motion to use a settled statement is denied or where the litigant establishes that the use of a settled statement would be an ineffective means to achieve appellate review.

E. This Court Can Order That The Opinion Be Depublished.

In the event this Court is of the opinion that the appellate court's opinion constitutes bad public policy, then this Court can order that the opinion be depublished, which is a better option than granting review.

V.

THE STATE'S BUDGETARY CRISIS

Not only is this case not the proper vehicle for presentation of the issues raised in the Petition, but the argument that the courts are mandated to provide free court reporters is not well taken in a time of extreme budget cuts. This is not the time for this Court to be mandating that courts pay for court reporters. As explained in Reed Smith LLP, *Why You Need a Court Reporter to Set the Record Straight* (September 2014)[5], "Privately arranging for and paying for court reporters is the new normal. [¶] California's ongoing budget woes are the primary reason for this change. In 2013 alone, the courts absorbed nearly a half-billion-dollar cut. Chief Justice Tani Cantil-Sakauye has estimated that the courts need *at least* $266 million just to tread water this year. The Chief Justice also outlined a Three-Year Blueprint for a Fully Functioning Judicial Branch, which does not even mention the return of reporters to the courtroom."

The website maintained by the California Courts states on the page entitled *Reduced Court Services*[6], "Superior courts statewide continue to face significant financial challenges as the result of the current fiscal crisis, which the Legislature has recognized as one of the most serious and dire ever to affect the state." As

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[5]http://www.reedsmith.com/Why-You-Need-a-Court-Reporter-To-Set-the-Record-Straight-09-03-2014/

[6]http://www.courts.ca.gov/12973.htm

reported by KQED News, *Cutbacks Still Felt Deeply in California's Civil Courts* March 11, 2015)[7], "Since 2008, according to the Judicial Council of California, thousands of court staffers have lost jobs while 52 courthouses and more than 200 courtrooms have been shuttered. In some counties, residents must now make a long drive to a different city to simply pay a fine; in all, the council estimates that 2.1 million Californians have lost access to a courtroom in their community." Courthouse closures can be a denial of meaningful access to the courts for many, including the poor, the elderly and the disabled, who are unable to make the long journey to the courthouse now that local courthouses have been closed.

This is not the time for this Court to consider the request of a litigant for free reporting services where that litigant had open to him an avenue to present the record on appeal (a settled statement) but chose not to do so. As the extensive record on appeal shows, Jameson was no stranger to filing motions. His argument in the Petition may have had more weight if he had filed a motion to use a settled statement and been denied or if he had made some convincing argument why he could not have presented an adequate record on appeal by way of a settled statement. However, he neither filed a motion to use a settled statement nor presented any argument to the Court of Appeal or in his Petition why a settled statement would not have been sufficient. It takes a lot of chutzpah to ask for free

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[7]http://ww2.kqed.org/news/2015/03/12/court-budget-cuts-delay-justice

services in these times of the court's budgetary woes where the plaintiff failed to avail himself of a method available to him to submit a record on appeal.

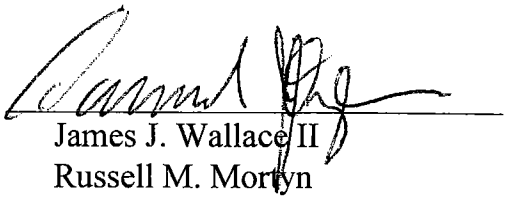
VI.

CONCLUSION

Based on the foregoing, the defendant respectfully requests that the Petition be denied.

DATED: December 17, 2015

LA FOLLETTE, JOHNSON,
DE HAAS, FESLER & AMES

By 
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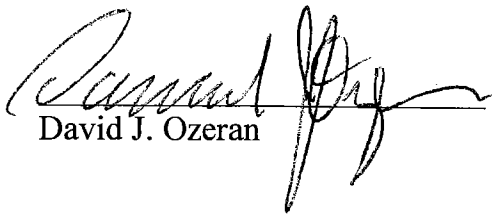
CERTIFICATE OF COMPLIANCE

Counsel certifies that the enclosed brief is produced using 13-point Roman type, including footnotes, and contains approximately 5,364 words. Counsel relies on the word count of the computer program used to prepare this brief.

DATED: December 17, 2015



David J. Ozeran

PROOF OF SERVICE - 1013a, 2015.5 C.C.P.

STATE OF CALIFORNIA]
] ss.
COUNTY OF LOS ANGELES]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 865 South Figueroa Street, 32nd Floor, Los Angeles, California 90017-5431.

On December 17, 2015, I served the foregoing document described as **ANSWER TO PETITION FOR REVIEW** on the interested parties in *Jameson v. Desta*, California Supreme Court case no. S230899, by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

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(Original + 13 copies)

I caused such envelope to be served via **overnight mail**.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on December 17, 2015, at Los Angeles, California.

Ruth Vowels