S235357

IN THE SUPREME COUT OF THE STATE OF CALIFORNIA

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DOMINIQUE LOPEZ,

Plaintiff, Appellant, and Petitioner,

vs.

SONY ELECTRONICS, INC.,

Defendant and Respondent.

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

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PETITIONER'S REPLY BRIEF ON THE MERITS

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Plaintiff, Appellant, and Petitioner Dominique Lopez (Dominique) hereby submits this reply brief on the merits.

INTRODUCTION

As shown by Dominique in her opening brief, the judgment of the Court of Appeal should be reversed because the statute of limitations applicable to her claim is Code of Civil Procedure section 340.8,[1] not section 340.4, and this action was timely filed under it. Section 340.8 is applicable based on its clear language and because it is a later, more specific statute.

In its answer brief, Defendant and Respondent Sony Electronics, Inc. (Defendant Sony or Sony) argues that the judgment of the Court of Appeal should be affirmed because this action is subject to and barred by the statute of limitations in section 340.4. Sony argues that nothing in the language or legislative history of section 340.8 indicates that the Legislature intended a claim for prebirth injuries based on exposure to a hazardous material or toxic substance to be governed by section 340.8, rather than section 340.4, and that the application of section 340.8 to such a claim would contravene the Legislature's intent.

These arguments fail because Defendant Sony ignores the rules of statutory construction. "'If no ambiguity appears in the statutory language,

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

we presume that the Legislature meant what it said, and the plain meaning of the statute controls.'" (*People v. Gray* (2014) 58 Cal.4th 901, 906, quoting *People v. Stanley* (2012) 54 Cal.4th 734, 737.) As both the court in *Nguyen v. Western Digital Corp.* (2014) 229 Cal.App.4th 1522 (*Nguyen*) and the dissent in the Court of Appeal in this case found, there is no ambiguity in the language of section 340.8, and the plain meaning of its clear language shows that it is the statute of limitations applicable to an action for prebirth toxic substance injuries. Sony cannot change the plain meaning of the statute by ignoring or asking this Court to rewrite its language or by resorting to its legislative history. "Although legislative history often can help interpret an ambiguous statute, it cannot change the plain meaning of clear language." (*In re Steele* (2004) 32 Cal.4th 682, 694.) Moreover, even if the legislative history of section 340.8 is considered, it does not support Sony's interpretation of the statute. Consistent with its statutory language, the legislative history shows that section 340.8 was enacted to establish a *separate* statute of limitations applicable to *all* actions for injury based on exposure to a hazardous material or toxic substance, *regardless of age*, except actions for injury based on exposure to asbestos or the professional negligence of a health care provider.

Accordingly, this Court should find, like the court in *Nguyen* and dissent below, that section 340.8 is the statute of limitations applicable to an action for prebirth injuries based on exposure to a hazardous material or

toxic substance, and it should reverse the judgment of the Court of Appeal because this action was timely filed under section 340.8.

LEGAL DISCUSSION

I. SECTION 340.8 IS THE APPLICABLE STATUTE OF LIMITATIONS BASED ON THE PLAIN MEANING OF ITS CLEAR LANGUAGE.

As discussed by Dominique in her opening brief, based on a plain language analysis, the statute of limitations applicable to her claim is section 340.8, not section 340.4. (Petitioner's Opening Brief on the Merits (OBM) at pp. 15-36.) Defendant Sony disagrees. It argues that section 340.4 is applicable because "[n]either the text nor the legislative history of section 340.8 mentions section 340.4, or claims arising from prenatal injuries," and because "[n]othing in the statute or in its legislative history states that the Legislature intended section 340.8 to have any effect whatsoever on the applicability of section 340.4." (Respondent's Answer Brief on the Merits (ABM) at p. 19; see also *id.* at pp. 4-5.) Sony is wrong, as it ignores the clear language of section 340.8 and improperly attempts to rewrite the statute using its legislative history.

A. The Clear Language Of Section 340.8 Establishes That It Is The Applicable Statute Of Limitations.

In her opening brief, Dominique explained in detail that, based on the plain meaning of its clear language, section 340.8, not section 340.4, is the statute of limitations applicable to an action for prebirth injuries based

on exposure to a hazardous material or toxic substance. (OBM at pp. 18-26.) First, section 340.8 is an all encompassing statute of limitations that applies to "any" – and thus every – "civil action for injury or illness based upon exposure to a hazardous material or toxic substance." (Code Civ. Proc., § 340.8, subd. (a); see *Delaney v. Superior Court* (1990) 50 Cal.3d 785, 798 ["the word 'any' means without limit and no matter what kind"]; *California State Auto. Ass'n Inter-Ins. Bureau v. Warwick* (1976) 17 Cal.3d 190, 195 ["From the earliest days of statehood we have interpreted 'any' to be broad, general and all embracing. . . . [T]he word 'any' means every ...."]; *California Highway Patrol v. Superior Court* (2008) 158 Cal.App.4th 726, 737 ["[T]he ordinary meaning of the word 'any' is clear, and its use in a statute unambiguously reflects a legislative intent for that statute to have a broad application."].)

Second, pursuant to its express language, section 340.8 excludes only two types of actions from its broad scope: (1) actions "subject to Section 340.2," the statute of limitations for asbestos-related injury claims; and (2) actions "subject to Section . . . 340.5," the statute of limitations for injury claims based on the professional negligence of a health care provider. (Code Civ. Proc., § 340.8, subd. (c)(1); *Nguyen*, *supra*, 229 Cal. App.4th at pp. 1540, 1546.) Section 340.8 does *not* exclude actions subject to section 340.4 from its coverage, i.e., actions for prebirth or birth injuries. (Code Civ. Proc., § 340.8, subd. (c)(1); *Nguyen*, at p. 1546.)

Third, the language in subdivision (d) of section 340.8 shows that while the statute was not intended to "change the law in effect . . . with respect to actions *not based upon exposure to a hazardous material or toxic substance*," (Code Civ. Proc., § 340.8, subd. (d), italics added), it was intended to "change the law in effect" with respect to actions that *are* based on exposure to a hazardous material or toxic substance, by making *all* such actions subject to its provisions, except for the two exclusions expressly specified in the statute. (See *Nguyen*, *supra*, 229 Cal.App.4th at p. 1548 [holding that subdivision (d) "supports the conclusion that section 340.8 was intended to change existing law regarding the limitations periods for actions 'based upon exposure to a hazardous material or toxic substance,' but not other types of actions"]; *Lopez*, typed dis. opn. of Rubin, J., at p. 8 ["the full import of this language [in subdivision (d)] becomes apparent by holding it up to an analytical mirror and examining its corollary obverse: Section 340.8 does 'limit, abrogate, and change the law in effect upon the effective date . . . with respect to actions' that are based on exposure to toxic substances. That language shows a clear intent to affect section 340.4, albeit by necessary inclusion, if not express iteration."].)

All of these provisions, read together according to their plain meaning, demonstrate that section 340.8 was intended to establish a separate statute of limitations having broad application to virtually *all* actions for injury based on exposure to hazardous materials or toxic

substances, *including prebirth injuries.* (See *People v. Blackburn* (2015) 61 Cal. 4th 1113, 1123 [a statute's provisions are to be read in "light of the statute as a whole"]; *City of Huntington Beach v. Board of Admin.* (1992) 4 Cal.4th 462, 468 ["all parts of a statute should be read together"]; *City and County of San Francisco v. Farrell* (1982) 32 Cal.3d 47, 54 ["In construing the words of a statute . . . to discern its purpose, the provisions should be read together . . . ."].) This was the analysis and conclusion of the court in *Nguyen* and the dissent below, (*Nguyen, supra,* 229 Cal.App.4th at pp. 1528, 1539-1540, 1543-1551; *Lopez,* typed dis. opn. of Rubin, J., at pp. 1-2, 4-13), and it should be the analysis and conclusion of this Court.

B. Defendant Sony's Arguments Regarding The Language Of Section 340.8 Are Meritless.

Unhappy with the plain meaning of section 340.8, Defendant Sony tries to avoid it by manufacturing an exclusion in the statute for actions subject to section 340.4, even though the Legislature chose not to include one itself. With respect to the application of section 340.8 to "any" action "based on exposure to a hazardous material or toxic substance," (Code Civ. Proc., § 340.8, subd. (a)), Sony argues that the Legislature's use "of the word 'any' . . . should not be interpreted as enacting an abrogation of section 340.4 . . . ." (ABM at p. 23.) Citing *Nelson v. Indevus Pharms., Inc.* (2006) 142 Cal.App.4th 1202, Sony claims that "the reasonable interpretation of the word 'any' in section 340.8 is that the delayed

discovery rule set forth therein is applicable to 'any' toxic exposure case regardless of the type of toxic substance at issue in the case; i.e., all toxic exposure cases previously subject to C.C.P. § 335.1." (ABM at p. 23.) This argument has no support in the language of the statute or *Nelson*.

In *Nelson*, the defendant argued that section 340.8 "applies only to actions concerning environmental hazards, not to personal injury actions such as this one, which are governed solely by section 335.1." (*Nelson*, *supra*, 142 Cal.App.4th at p. 1209.) The plaintiff argued "that section 340.8 is not limited to environmental hazards, but under its plain meaning applies to cases which allege personal injury caused by harmful chemicals." (*Ibid.*) The court agreed with the plaintiff:

> We agree with Nelson. When we look to the clear language of the statute [citation] we see that it applies to "any" civil action "for injury or illness based upon exposure to a hazardous material or toxic substance." Nothing in the statute limits its provisions to environmental hazards, or provides that they do not apply to cases alleging injury from prescription drugs, and we cannot import such a provision into the law.

(*Ibid*, fn. omitted.)

The same is true here. Nothing in section 340.8 limits its application to "toxic exposure cases previously subject to Section 335.1," as Defendant Sony contends. (ABM at p. 23.) Nor does the language of the statute state, or even suggest, that it does not apply to actions for prebirth injuries based on exposure to a hazardous material or toxic substance, and Sony "cannot

import such a provision into the law." (*Nelson*, *supra*, 142 Cal.App.4th at p. 1209.)

Moreover, the "reasonable interpretation" of the word "any," as used in section 340.8, subdivision (a), is the interpretation given to that word by the courts of this state, including this Court, "[f]rom the earliest days of statehood," (*California State Auto. Ass'n Inter-Ins. Bureau*, *supra*, 17 Cal. 3d at p. 195): that it is "broad, general and all embracing," (*ibid*); that "'any' means every," (*ibid*); that "'any' means without limit and no matter what kind," (*Delaney*, *supra*, 50 Cal.3d at p. 798); and that "the ordinary meaning of the word 'any' is clear, and its use in a statute unambiguously reflects a legislative intent for that statute to have a broad application." (*California Highway Patrol*, *supra*, 158 Cal.App.4th at p. 737.)

With respect to section 340.8, subdivision (c)(1), wherein the Legislature expressly excluded "action[s] subject to Section 340.2 or 340.5" from the term "any civil action" in section 340.8, subdivision (a), but did not exclude actions subject to section 340.4, Defendant Sony, citing *In re Michael G.* (1988) 44 Cal.3d 283, acknowledges the rule that where a statute expressly specifies exclusions, other exclusions will not be implied or presumed. (ABM at pp. 19.) It argues, however, that this rule is inapplicable here because it "does not apply 'where its operation would contradict a discernible and contrary legislative intent. [Citation].'" (*Ibid*, quoting *Michael G.*, at p. 291.)

Dominique agrees that this rule of construction is inapplicable where there is a clear and contrary legislative intent. Indeed, she cited *Michael G.* in her opening brief, along with *Imperial Merchant Servs., Inc. v. Hunt* (2009) 47 Cal.4th 381, where this Court observed that "'if exemptions are specified in a statute, [courts] may not imply additional exemptions unless there is a clear legislative intent to the contrary.'" (*Id.* at p. 389; see OBM at pp. 22-23, 29.) Defendant Sony's argument fails, however, because there is no "discernible" or "clear legislative intent" to exclude actions for prebirth injuries based on exposure to a hazardous material or toxic substance from section 340.8. The Legislature certainly did not express any such intent in the statute itself and, as discussed, the statute's plain language establishes that it was intended to create a separate statute of limitations applicable to all actions for injury based on exposure to a hazardous material or toxic substance, regardless of age, except actions for injury based on exposure to asbestos or the professional negligence of a health care provider. This was the conclusion in *Nguyen*, where the court found no "legislative intent that precludes application of the rule" against implying exclusions beyond those expressly specified in a statute. (*Nguyen*, *supra*, 229 Cal.App.4th at p. 1546 & fn. 10; see also *Lopez*, typed dis. opn. of Rubin, J., at p. 8 ["The Legislature's choice to specifically exempt asbestos exposure and medical malpractice claims from [section 340.8's] reach, but no others, also supports my interpretation" that section 340.8 is

the applicable statute of limitations].)[2]

With respect to section 340.8, subdivision (d), Defendant Sony adopts the interpretation given to that provision by the majority in the Court of Appeal, which "'read subdivision (d) to mean only that section 340.8 does not change any law except that it codifies the delayed discovery rule in personal injury cases based on toxic exposures that were previously governed by the two-year limitations period of section 335.1." (ABM at p. 25, quoting *Lopez*, typed maj. opn. at p. 10.) As discussed by Dominique in her opening brief, the majority's interpretation was erroneous because that is not what subdivision (d) says. (OBM at pp. 30-32)

Subdivision (d) states that "[n]othing in this section shall be construed to limit, abrogate or change the law in effect on the effective date of this section with respect to actions not based upon exposure to a hazardous material or toxic substance." As seen from its language,

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[2] The facts of *Michael G.* do not help Defendant Sony either, as the issue there was whether a juvenile court's contempt power under Welfare and Institutions Code section 213 was limited by the subsequent enactment of Welfare and Institutions Code sections 207 and 601, subdivision (b). (*Michael G.*, *supra*, 44 Cal.3d at pp. 288-295.) Notwithstanding the Legislature's failure to include section 213 amongst the specified exceptions to section 207, the Court held that because of "the fundamental nature of the contempt power," it would "not presume the Legislature intended to override such long-established power" unless such an intent was clearly apparent, and neither section 207 nor section 601, subdivision (b), clearly expressed this intent. (*Ibid.*) This case, of course, does not involve a court's fundamental contempt power or purported limits on that power. The issue in *Michael G.* was unique and the Court's analysis and resolution were specific to that issue.

subdivision (d) does not say that the only change in the law made by section 340.8 was to "codif[y] the delayed discovery rule in personal injury cases based on toxic exposures that were previously governed by the two-year limitations period of section 335.1," as the majority below concluded. (*Lopez,* typed maj. opn. at p. 10.) Rather, as the court in *Nguyen* held, the plain language of subdivision (d) "supports the conclusion that section 340.8 was intended to change existing law regarding the limitations periods for actions 'based upon exposure to a hazardous material or toxic substance,' but not other types of actions." (*Nguyen, supra*, 229 Cal.App. 4th at p. 1548.) Similarly, the dissent in the Court of Appeal found that "the full import of this language" in subdivision (d) shows that section 340.8 was intended to "'limit, abrogate, and change the law in effect upon the effective date . . . with respect to actions' that are based on exposure to toxic substances," and "shows a clear intent to affect section 340.4, albeit by necessary inclusion, if not express iteration." (*Lopez*, typed dis. opn. of Rubin, J., at p. 8.)

Defendant Sony cites *Poole v. Orange County Fire Auth.* (2015) 61 Cal.4th 1378, (ABM at pp. 13-15), but *Poole* supports Dominique's position. In *Poole*, the issue was whether the Firefighters Procedural Bill of Rights Act (FPBRA) (Gov't Code, § 3250 et seq.) "gives an employee the right to review and respond to negative comments in a supervisor's daily log, consisting of notes that memorialize the supervisor's thoughts and

observations concerning an employee, which the supervisor uses as a memory aid in preparing performance plans and reviews." (*Id.* at p. 1382.) Plaintiffs argued that the supervisor's daily log was subject to review and response under the FPBRA, specifically Government Code section 3255, "which provides that '[a] firefighter shall not have any comment adverse to his or her interest entered in his or her personnel file, or any other file used for any personnel purposes by his or her employer, without the firefighter having first read and signed the instrument containing the adverse comment indicating he or she is aware of the comment.'" (*Id.* at pp. 1382-1383.)

In resolving the issue, the Court noted that "[t]he statutory language [in Government Code section 3255] referring to a file 'used for any personnel purposes by his or her employer' might, in isolation, be read broadly enough to include [the supervisor's] log, which he used in the performance of his duties as a supervisor." (*Poole*, *supra*, 61 Cal.4th at p. 1385.) However, when construed in context with other provisions of the FPBRA, the Court found that "the Legislature did not intend section 3255 to be read so broadly." (*Id.* at p. 1385.) Read together with the FPBRA's other provisions, the Court held that "the phrase 'any other file used for any personnel purposes by his or her employer' . . . should be interpreted to encompass any written or computerized record that, although not designated a personnel file, can be used for the same purposes as a file of the sort described in section 3256.5 – as a record that may be used by the

employer to make decisions about promotion, discipline, compensation, and the like." (*Id.* at p. 1386.) The Court then held that "[a] supervisor's log that is used solely to help its creator remember past events does not fall within the scope of that definition," and that "[e]ven if a supervisor uses his or her notes to help draft performance evaluations and other documents that ultimately *are* placed in a personnel file, the notes themselves are not a file preserved by the employer for use in making decisions about the firefighter's employment status." (*Id.* at pp. 1386-1387.)

Contrary to Defendant Sony's argument, *Poole* does not undermine Dominique's position. As set forth above, Dominique agrees that statutory provisions must be read in context. (*Ante*, at pp. 11-12; see *Poole*, *supra*, 61 Cal.4th at pp. 1384-1385; *People v. Blackburn*, *supra*, 61 Cal.4th at p. 1123 [a statute's provisions are to be read in "light of the statute as a whole"].) In *Poole*, the Court read Government Code section 3255 in context with other provisions of *the same act*, i.e., the FPBRA, to resolve the issue in that case. As in *Poole*, the provisions of section 340.8 must be read together, not in isolation from each other. When that is done, it is clear that section 340.8 was enacted to establish a separate statute of limitations for all actions for injuries based on exposure to hazardous materials or toxic substances, including prebirth injuries, with the only exceptions being actions for injuries based on exposure to asbestos or the professional negligence of a health care provider.

C. The Legislature Was Not Required To Expressly State That Section 340.8 Supersedes Section 340.4 With Respect To Prebirth Toxic Substance Injury Actions.

Defendant Sony argues that "Section 340.4 should control" because "the Legislature made no express reference to section 340.4 in enacting section 340.8." (ABM at p. 21.) According to Sony, "[i]f the legislature intended to abrogate section 340.4" with respect to actions for prebirth injuries based on exposure to a hazardous material or toxic substance, "it would have done so expressly" in section 340.8. (*Id.* at p. 23.) This argument is baseless.

The mere fact that section 340.8 does not make an "express reference" to section 340.4, or expressly state that it is superseding section 340.4 with respect to actions for prebirth injuries based on exposure to a hazardous material or toxic substance, does not establish that it was the intent of the Legislature to exclude prebirth toxic substance injury actions from the broad scope of section 340.8 or that such actions are to be governed by section 340.4. Indeed, as discussed in Dominique's opening brief, (OBM at pp. 21-23), and as reiterated above, the absence of section 340.4 from the exclusions expressly specified in section 340.8, subdivision (c)(1), together with the statute's other provisions, establishes that it was the Legislature's intent *not* to exclude actions for prebirth toxic substance injuries from section 340.8.

The same argument made by Defendant Sony was rejected in

Nguyen, with the court there holding that "[w]hile the Legislature did not expressly state that it enacted section 340.8 in denigration of – or as an exception to – section 340.4, we think such a conclusion is necessarily implied from the broad language of section 340.8." (*Nguyen, supra*, 229 Cal.App.4th at p. 1547, citing *People v. Superior Court* (*Zamudio*) (2000) 23 Cal.4th 183, 199 (*Zamudio*).) As the court explained,

> section 340.8 applies to "any" action for injury or illness based upon exposure to a hazardous material or toxic substance. It expressly provides for delayed accrual of the cause of action under the discovery rule, and says that media reports alone are not enough to trigger the statute of limitations under the discovery rule. And while it exempts other types of claims from its coverage, it does not exempt birth or pre-birth injuries. All of these provisions in section 340.8 support the conclusion that the Legislature intended section 340.8 to have broad application to all claims based upon exposure to hazardous materials or toxic substances, including birth and pre-birth injuries.

(*Id.* at pp. 1547-1548.)

Moreover, as discussed in Dominique's opening brief, (OBM at pp. 33-34), a similar argument – that the Legislature was required to expressly state that a particular statute of limitations was applicable to a particular claim – was rejected in *Vafi v. McCloskey* (2011) 193 Cal.App.4th 874. Relying on the plain language of the statute, the court there held that a claim for malicious prosecution against an attorney is subject to section 340.6, the statute of limitations for actions against attorneys, rather than the general statute of limitations for malicious

prosecution claims in section 335.1. (*Id.* at pp. 880-881.) The court observed that "[t]here is no language in [section 340.6] which exempts malicious prosecution claims [against attorneys] from the limitations period," and it was "not persuaded by Vafi's argument that the Legislature was required to amend the statute to expressly add malicious prosecution to the reach of the statute," when the statute's plain language showed that it "applies to all actions, except those for actual fraud, brought against an attorney 'for a wrongful act or omission' which arise 'in the performance of professional services.'" (*Id.* at p. 881.)

The analysis in *Vafi* applies equally here. There is no language in section 340.8 excluding actions for prebirth injuries based on exposure to a hazardous material or toxic substance, and the Legislature was not required to expressly state that section 340.8 is applicable to such actions, when the plain language of the statute shows that such actions fall within its scope.

D. There Is No Inference That Legislature Intended Section 340.4, Rather Than Section 340.8, To Apply To Prebirth Toxic Substance Injury Actions.

Defendant Sony cites several cases for the purported proposition that "failure to address the potential conflict between two statutes gives rise to an inference that the Legislature intended the earlier statute to remain in effect." (ABM at pp. 21-22.) None of the cases cited by Sony, however, involved section 340.8 or 340.4, and none of them is apposite.

Defendant Sony cites three cases – *Anson v. County of Merced*

(1988) 202 Cal.App.3d 1195, *Martell v. Antelope Valley Hosp. Med. Ctr.* (1998) 67 Cal.App.4th 978, and *Roberts v. County of Los Angeles* (2009) 175 Cal.App.4th 474 – addressing whether an action for medical negligence against a public entity is subject to Government Code section 945.6, the statute of limitations for actions against a public entity, or section 340.5, the general medical malpractice statute of limitations. (ABM at pp. 21-22.) In *Anson*, the court held that Government Code section 945.6 was the applicable statute. (*Anson*, at pp. 1198-1202.) The plaintiff, relying on *Young v. Haines* (1986) 41 Cal.3d 883, argued that section 340.5 was applicable because it was a later, more specific statute. (*Id.* at pp. 1200-1201.) The court disagreed, holding that "neither [statute] [wa]s more specific" and, "[t]herefore, the premise upon which the Supreme Court based its decision in *Young*" was inapplicable. (*Ibid.*)

In *Martell*, the public entity defendant argued that Government Code section 945.6 was the applicable statute based on its "plain meaning," because it governs "'*any* suit brought against a public entity.'" (*Martell*, *supra*, 67 Cal.App.4th at p. 981.) The court agreed, holding that "'[s]uits against a public entity are governed by the specific statute of limitations provided in the Government Code, rather than the statute of limitations which applies to private defendants.'" (*Ibid.*) Thus, even though section 340.5 was a later statute, it was not more specific. (*Ibid.*)

In *Roberts*, the court held that "the statute of limitations in

Government Code section 945.6 can be harmonized with the three-year period in Code of Civil Procedure section 340.5 when the latter statute is viewed as establishing the outside date by which actions against health care providers, including public entities, must be brought." (*Roberts*, *supra*, 175 Cal.App.4th at p. 477; see *id.* at pp. 478-487.) As in *Anson*, the *Martell* court stated that it could not "apply the rule that the more specific provision trumps the more general statute" because "'neither [statute] is more specific than the other.'" (*Id.* at p. 484.)

Anson, *Martell*, and *Roberts* are inapposite because this case does not involve a claim for medical malpractice against a public entity or the interplay between Government Code section 945.6 and section 340.5 as it pertains to such a claim. The issue here is whether an action for prebirth injuries based on exposure to a hazardous material or toxic substance is governed by section 340.8 or 340.4. This issue was not considered in *Anson*, *Martell*, or *Roberts*, and those cases are therefore inapplicable. (See *Styne v. Stevens* (2001) 26 Cal.4th 42, 57 ["An opinion is not authority for a point not raised, considered, or resolved therein."].) Moreover, in contrast to *Anson* and *Roberts*, the premise upon which *Young v. Haines* was decided – that a later, more specific statute controls over an earlier statute – is fully applicable here because section 340.8 *is* a later, more specific