S241812

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

BRETT VORIS
Plaintiff & Appellant,

vs.

GREG LAMPERT
Defendant & Respondent.

AFTER AN UNPUBLISHED DECISION BY THE COURT OF APPEAL
SECOND APPELLATE DISTRICT, DIVISION THREE, APPEAL NO. B265747
ON APPEAL FROM JUDGMENT OF LOS ANGELES SUPERIOR COURT
CASE NO. BC 408562, HONORABLE MICHAEL L. STERN, TRIAL JUDGE

ANSWER BRIEF ON THE MERITS

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INTRODUCTION

Plaintiff Brett Voris claims that this Court should create a brand new cause of action for conversion of wages, tortifying contract-based claims in the employment context. While certainly creative, Voris is wrong.

There is no reason to revive the discredited notion of a tortious breach of contract. Voris's contrary position is at odds with multiple decisions of recent vintage in which this Court has rebuffed litigants' efforts to "tortify" contract law; i.e., to pursue tort theories of recovery for conduct amounting to nothing more than failure to fulfill a contractual obligation. Rejecting such tortification of contract law is particularly justified in the employment context because the legislature has already enacted numerous statutory remedies on top of the traditional contract remedies available to aggrieved employees.

Contrary to Voris's attempt to open the floodgates for tort claims in this area, this Court's jurisprudence generally reflects its solicitude for the particularized policy choices made by the legislature and embodied in detailed statutory regimes. Judicial expansion of the Labor Code's extensive menu of available remedies would not promote public policy; it would magnify the volume of wage-and-hour litigation, an area that has become widespread in California where the costs of defending such cases are substantial. The Court should reject Voris's attempt to exponentially expand employers' potential liability by tortifying purely contractual or statutory claims.

Otherwise, to "expand liability by extending conversion law into this area would have a broad impact." (*Moore v. Regents of Univ. of California* (1990) 51 Cal.3d 120, 145.) By opening the doors to punitive damages and

emotional distress damages in garden variety wage claims, recognition of this additional tort claim will inevitably make it harder to settle such lawsuits, clogging the court system. While Voris devotes a significant part of his brief to establish the importance of paying employees' wages – a basic point beyond dispute – Voris fails to address the real issue: the adequacy of the abundant remedies currently in place to protect employees' rights.

Finally, Voris's attempt to impose liability on individual directors and officers of corporate employers is equally flawed. This Court has already limited the parameters for imposing personal liability in the employment context. There is no reason to radically change the law, given the legislature's careful decision to preclude a private right of action – as opposed to criminal penalties – against individuals associated with corporate employers' management.

Accordingly, the Court of Appeal majority's decision should be affirmed.

STATEMENT OF THE CASE

A. Voris's Operative Allegations

Plaintiff Brett Voris filed his original complaint in 2009. (1 AA 1-62.) The operative complaint, the first amended complaint, includes 24 causes of action against Greg Lampert and various entities. (1 AA 63-114.) The prolix complaint included all sorts of claims, ranging from breach of oral contract and quantum meruit to fraud, failure to pay statutory wages under Labor Code section 200 et seq., conversion of wages (1 AA 95-96, 100-101), conversion of stocks, bad faith and breach of fiduciary duty.

To summarize, Voris alleged that Lampert and a third party (Ryan Bristol) had solicited Voris to join a real estate investment venture. (1 AA 66, ¶¶ 16-17.) By Voris's own account, as articulated by his attorney, Voris was one of the "three core entrepreneurs, along with [Bristol] and Lampert, who were involved in founding or otherwise launching the businesses in question in the underlying dispute." (4 AA 960:10-12 [brackets added].)

Voris was the Chief Marketing Officer for one of those companies, Premier Ten Thirty One Capital Corp, dba Prop Point. (1 AA 67, ¶ 20; 1 AA 63, ¶2.) Voris alleged that he was not initially compensated despite being verbally promised by Lampert and Bristol, as directors and officers, that Voris would receive a 10% ownership share in Prop Point. (1 AA 66-67, ¶¶ 17-18.) Voris also invested $27,000 to obtain an ownership interest in this company. (1 AA 67, ¶ 22.) Although Voris was later paid his salary for a few months, Prop Point owes him $91,000 in salary plus reimbursement for car expenses, Voris alleged. (1 AA 67, ¶¶ 25-26.)

The operative complaint includes similar allegations pertaining to two other companies. For example, Voris alleged that he worked as a "marketing and advertising executive" for Liquiddium, another company in which Lampert was a director and officer, in exchange for a 6% ownership interest to compensate him in lieu of a salary. (1 AA 69-70, ¶¶ 30, 32, 34-36.) Voris also invested $3,000 to obtain an additional ownership interest in Liquiddium. (1 AA 69, ¶ 34.)

With respect to the third company, Sportfolio, Voris alleged that he was promised both an ownership interest and a salary for his marketing efforts, the former being valued at $525,013. (1 AA 71-72, ¶¶ 42-43.) Voris never received a salary from Sportfolio, another company in which Lampert was a director and officer, Voris alleged. (1 AA 71-72, ¶¶ 40, 44.) In

addition to his alter ego allegations against Lampert (1 AA 72-74), Voris claimed that he was the subject of retaliation because he had reported financial improprieties. (1 AA 74, ¶¶ 53-54; 72, ¶ 48.)

B. Lampert Challenges Voris's Complaint, Obtaining Dismissal of the Entire Case.

Lampert demurred to several causes of action. (1 AA 129, ¶ 5.) Because Voris did not amend his pleadings after the demurrer ruling, "the surviving causes of action against Lampert were Voris's 1st through 7th and 12th through 20th causes of action." (Typed opn., p. 3.) They include breach of oral contract, quantum meruit, Labor Code violations for failure to pay wages, and conversion. (1 AA 76-84; 90-101.)

After filing his answer (1 AA 118-122), Lampert moved for summary judgment on these remaining causes of action. (1 AA 129, ¶ 5.) The trial court granted summary judgment, dismissing Lampert from the entire action. (1 AA 134-137.) The trial court held that while the surviving claims in the operative complaint were based on Voris's alter ego theory, Voris had not presented any actual evidence to substantiate this theory of liability. (1 AA 130-133.) [1]

Voris appealed the judgment dismissing Lampert. (1 AA 267-269.)

C. Disposition of Claims Against the Other Defendants

While his appeal against Lampert was pending, Voris proceeded to trial against the other defendants, after filing a second amended complaint against the non-Lampert defendants. (1 AA 138-266.) Voris obtained a

[1] Prior to this point, the trial court had dismissed the entire action with prejudice as a terminating sanction against Voris. (4 AA 956:24-25.) Voris managed to obtain reinstatement, apparently after throwing his own attorney under the bus. (4 AA 956:25-957:3.)

judgment against two of the entity defendants (Liquiddium and Sportfolio) in addition to attorneys' fees. (1 AA 270-274; 277-284.)

By contrast, Voris lost his claims at trial against co-defendant Ryan Bristol. (1 AA 274, ¶ 4; 2 AA 309.) Voris's appeal of this nonsuit ruling was dismissed because Voris did not bother to file his opening brief to pursue his claims against Bristol. (4 AA 957:22.)

The third entity defendant, Prop Point, was initially the subject of bankruptcy proceedings. (1 AA 125.) At some point, the bankruptcy stay terminated (4 AA 957) as Prop Point's bankruptcy case was closed "without discharge." (2 AA 307, ¶ 13; 309, ¶5; 317, fn. 3.) Voris ultimately obtained a judgment against this third corporate defendant. (7 AA 1573:9-13.)

D. The Court of Appeal Reinstates Only the Conversion Claims against Lampert in *Voris I*.

Affirming most of the summary judgment ruling in favor of Lampert, the Court of Appeal ruled in the first appeal that "Voris failed to raise a triable issue with respect to his alter ego allegations against Lampert." (2 AA 286.) The court also ruled that "the viability of Voris's causes of action for conversion does not depend on Lampert's alter ego liability." (*Id.*) The court reasoned that "Lampert may be held individually liable for acts of conversion, without regard to whether the corporate veil may be pierced." (*Ibid.*) Accordingly, the court reversed the dismissal of the conversion claims.

E. On Remand, the Trial Court Dismisses the Conversion Claims.

After the remittitur was issued, Lampert filed two motions for judgment on the pleadings as to Voris's two sets of conversion claims.

Challenging the claim for conversion of wages, Lampert argued that California does not recognize such a cause of action. (3 AA 710-714.) Lampert filed a separate motion for judgment on the pleadings as to the claim for conversion of stocks. (3 AA 702-709.)

After receiving opposition (4 AA 889-921 [wage conversion]; 4 AA 851-888 [stock conversion]) and reply papers (4 AA 939-942 [wage conversion]; 4 AA 935-938 [stock conversion]), the trial court held a hearing. (RT 5:22-17:25.) The court granted both motions for judgment on the pleadings without leave to amend. (4 AA 944.)

F. Voris Appeals Again. In *Voris II*, the Majority Reinstates Only the Conversion Claim as to Stocks.

Following entry of judgment in favor of Lampert based on the rulings on his motions for judgment on the pleadings (7 AA 1573:4-8), Voris filed another appeal to challenge the dismissal of his claims. (9 AA 2189-2191.) [2]

After this appeal was filed, the court granted Lampert's request for attorneys' fees. (9 AA 2197-2200.) The court entered an amended judgment on October 8, 2015, reflecting the fee award. (9 AA 2211-2214.) Voris filed another notice of appeal the next day to challenge the fee award. (9 AA 2215.)

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[2] The notice of appeal, filed on July 28, 2015, erroneously indicated that the judgment was entered on June 1, 2015. (9 AA 2189.) In reality, the judgment was entered on May 21, 2015. (7 AA 1572.) Based on the notice of entry of judgment that was served on May 29, 2015 (7 AA 1576-1584), the appeal was filed on the sixtieth day after notice of entry. It is not clear from the record whether a file-stamped copy of the judgment was served by either side (or by the court) prior to serving the notice of entry.

The Court of Appeal reversed the dismissal of Voris's conversion claims against Lampert. The majority held that Voris can proceed only on his stock conversion claim, not his wage conversion claim. (Typed opn., pp. 8-19.) In his dissenting opinion, Justice Lavin held that Voris should be allowed to proceed on both sets of claims.

G. This Court Grants Review.

Voris challenged the majority's decision on his wage conversion claim. This Court granted review without modifying the specification of the following issues presented in the petition for review:

> "Is conversion of earned but unpaid wages a valid cause of action?
>
> "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?" (PFR 1.)

STANDARD OF APPELLATE REVIEW

A defendant's motion for judgment on the pleadings serves essentially the same function as a "general" demurrer, testing the sufficiency of plaintiff's complaint in stating a cause of action. (See Code Civ. Proc., § 438, subd. (c)(1)(B).) As such, the motion "is equivalent to a demurrer and is governed by the same standard of review." (*Pang v. Beverly Hosp.,* Inc. (2000) 79 Cal.App.4th 986, 989.)

On plaintiff's appeal from a judgment on the pleadings, the appellate court assumes the truth of all properly pleaded factual allegations in the complaint, as opposed to the contentions, deductions or conclusions of fact

or law, subject to a liberal construction. (*Gerawan Farming, Inc. v. Lyons* (2000) 24 Cal.4th 468, 515-516.) Rulings on such motions trigger de novo review. (*Id.*)

LEGAL DISCUSSION

I. The Court Should Reject Voris's Request to Create a Tort Theory for Recovering Unpaid Wages.

A. Creating a Tort Remedy Would Be Incompatible with This Court's Prior Decisions in the Employment and Other Contexts.

Because "the employment relationship is fundamentally contractual" (*Foley v. Interactive Data Corp.* (1988) 47 Cal.3d 654, 696), there is no reason to impose tort damages for an employer's failure to pay wages. Consistent with Lampert's view, this Court has cautioned that California courts must "exercise great care" before permitting a party to pursue tort remedies for breach of any contract outside the insurance context. (*Cates Construction, Inc. v. Talbot Partners* (1999) 21 Cal.4th 28, 46.) As explained below, the Court should reject Voris's request "to obliterate the distinction between contracts and torts." (*Erlich v. Menezes* (1999) 21 Cal.4th 543, 551.)

In *Foley,* for example, "this court rejected the concept of tort recovery for an employer's breach of the implied covenant of good faith and fair dealing." (*Cates Construction*, at p. 43.) The Court reasoned that the employment relationship does not "warrant judicial extension of the proposed additional tort remedies in view of the countervailing concerns about economic policy and stability, the traditional separation of tort and

contract law, and the numerous protections against improper terminations already afforded employees." (*Id.* at p. 46 [ellipses omitted].)

Subsequent decisions by this Court and the lower courts "have adhered to *Foley's* conception of the employment relation as fundamentally contractual, giving rise only to contractual damages in the event of breach in the absence of some violation of a fundamental public policy." (*Hunter v. Up-Right, Inc.* (1993) 6 Cal.4th 1174, 1182 [approving such intermediate court decisions and concluding that wrongful termination accomplished through fraudulent misrepresentation is not independently tortious].) Applying the same principle, the Court has held that "[i]n the employment context, an implied covenant theory affords no separate measure of recovery, such as tort damages." (*Guz v. Bechtel National Inc.* (2000) 24 Cal.4th 317, 352.) Because "the remedy for breach of an employment agreement, including the covenant of good faith and fair dealing implied by law therein, is solely contractual," allegations that the employer's "breach was wrongful, in bad faith, arbitrary, and unfair are unavailing," thus eliminating tort liability as a substitute for contractual recovery. (*Ibid.*)

While this Court's *Foley* decision abrogated tort claims for bad faith "as an independent source of job security" (*Wallis v. Farmers Group, Inc.* (1990) 220 Cal.App.3d 718, 734 overruled on other grounds in *Dore v. Arnold Worldwide, Inc.* (2006) 39 Cal.4th 384, 394 n.2), Voris seeks to resurrect another tort theory of liability as an independent source of non-contractual damages. Applying these cases here, an employee cannot bypass the rules governing contractual recovery by labeling a garden variety failure-to-pay-wage claim as a conversion claim.

In fact, this Court has applied the same approach in non-employment cases, precluding tort liability for conduct that merely breaches a contract.

(See, e.g., *Freeman & Mills, Inc. v. Belcher Oil Co.* (1995) 11 Cal.4th 85, 102 [abolishing the tort of fraudulent breach of contract claims outside the insurance context, "at least in the absence of violation of 'an independent duty arising from principles of tort law'"]; *Erlich, supra*, 21 Cal.4th at p. 558 [precluding award of emotional distress damages for ordinary breach-of-contract claims]; see also *Applied Equipment Corp. v. Litton Saudi Arabia Ltd.* (1994) 7 Cal.4th 503, 516 ["In the absence of an independent tort, punitive damages may not be awarded for breach of contract 'even where the defendant's conduct in breaching the contract was willful, fraudulent, or malicious'"].)

To be sure, tort damages are recoverable for breaching a contract in certain circumstances but those narrow situations represent limited exceptions to the general rule against such recovery. Those exceptions include claims where the breach of a duty causes physical injury, where the breach violates the covenant of good faith and fair dealing in insurance contracts, results in a wrongful discharge in violation of fundamental public policy, or where the contract was fraudulently induced. (*Erlich, supra*, 21 Cal.4th at pp. 551-552 [collecting cases].) None of these exceptions apply to the allegations raised in this case based on the non-payment of wages. While Voris assumes that the employer-employee relationship is comparable to the insurer-insured relationship, this Court has "emphasized the distinctions between the insurance and employment contexts." (*Hunter, supra,* 6 Cal.4th at p. 1181 [citing *Foley*].)

Therefore, Voris's recovery should be limited to contract (and statutory) damages, precluding the additional remedies associated with a conversion claim.

B. Creating Tort Liability Is Unnecessary Because Existing Remedies Fully Protect Employees' Legitimate Rights.

There are additional "reasons why it is inappropriate to impose liability for conversion based upon the allegations of [Voris's] complaint." (*Moore, supra,* 51 Cal.3d at p. 142.) As discussed below, given the various existing remedies protecting employees, "the tort of conversion is not necessary to protect [employees'] rights." (*Id.* at pp. 142-143.) Here's why.

- Under existing law, employees are entitled to prompt payment of wages upon discharge or resignation. (E.g., Lab. Code, § 201 [discharge], § 202 [resignation].)

- Under existing law, statutory liability is available when an employer fails to pay wages. (E.g., *id*, § 1194 [authorizing employees who receive less than the minimum wage or overtime compensation to recover unpaid balance in civil action]; *id.*, § 1194.2, subd. (a) [authorizing employees who receive less than the minimum wage to also recover liquidated damages in an amount equal to the wages unlawfully withheld]; *Cortez v. Purolator Air Filtration Products Co.* (2000) 23 Cal.4th 163, 173 [confirming that UCL authorizes restitution as a separate remedy, as opposed to contract or tort remedies].)

- Under existing law, extra-contractual, statutory penalties are recoverable for failure to timely pay wages upon discharge or resignation. (E.g., Lab. Code, § 203 [authorizing waiting time penalties of up to 30 days for willful violations].)

- Under existing law, a successful plaintiff in a wage claim action is entitled to attorneys' fees and costs. (*Id.*, § 218.5, subd. (a) [action

for non-payment of wages]; *id.*, § 1194, subd. (a) [minimum wage and overtime compensation actions].)

- Under existing law, a successful claim for unpaid wages triggers liability for prejudgment interest. (*Id.*, § 218.6.)

- Under existing law, failure to pay wages subjects the employer to civil penalties payable to the State. (*Id.*, § 210 [civil penalties of $100 for the initial failure to pay and $200 for each subsequent violation plus 25% of the amount unlawfully withheld]; *id.*, § 225.5 [same penalties for violating different underlying Labor Code statutes].) "An aggrieved employee may sue to compel the employer to pay these penalties under the Labor Code Private Attorneys General Act." (Hon. Chin, et al., Cal. Practice Guide, Employment Litigation (The Rutter Group 2016) ¶ 11:1476, p. 11-228; see also Bus. & Prof. Code, § 17206 [imposing civil penalty of $2,500 for each UCL violation in actions brought by public agencies].)

- Under existing law, "[n]umerous Labor Code sections impose criminal sanctions," including one "relating to time and manner of payment of wages" and a separate one "relating to unlawful withholding or reduction of wages." (Hon. Chin, Cal. Practice Guide, *supra*, ¶ 11:1500, p. 11-231 [citing Lab. Code, §§ 215, 225]; see also *People v. Hwang* (1994) 25 Cal.App.4th 1168, 1175-1178 [upholding magistrate's ruling which held employer to answer felony charges for unlawfully taking portion of workers' wages in violation of Labor Code section 1778].)

- Under existing law, in addition to civil liability based on the employee's own lawsuit, employers are subject to administrative enforcement by the Division of Labor Standards Enforcement. The DLSE can collect wages and benefits without assignment (Lab. Code, §§ 96.7,

1197.1), besides issuing citations and assessing waiting time penalties (§ 1197.1). Alternatively, the Labor Commissioner may prosecute judicial actions against the employer in lieu of a *Berman* hearing. (*Id.*, § 98.3 [governing collection of wages and penalties for those unable to employ counsel]; *id.*, § 1193.6 [recovery of unpaid minimum wages or overtime compensation].)

- Under existing law, an employee may obtain injunctive relief to enforce the wage laws. (E.g., Bus. & Prof. Code, § 17203; Lab. Code, § 1194.5 [authorizing injunctive relief in DLSE lawsuits].)

The availability of alternative remedies "militates against judicial creation of a tort cause of action for damages." (*Katzberg v. Regents of Univ. of Cal.* (2002) 29 Cal.4th 300, 327.) [3]

Furthermore, because "conversion is a strict liability tort" (*Moore, supra,* 51 Cal.3d at p. 144), imposing such liability could have pernicious effects on California businesses and, consequently, the California economy. "The expansion of tort remedies in the employment context has potentially enormous consequences for the stability of the business community." (*Foley, supra,* 47 Cal.3d at p. 699.) "Such a determination, which has the potential to alter profoundly the nature of employment, the cost of products and services, and the availability of jobs, arguably is better suited for legislative decisionmaking." (*Id.* at p. 694.) When the legislature deems it necessary to create liability for conversion, it certainly knows how to do so.

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[3] The availability of these statutory remedies also implicates the "new-right, exclusive remedy" doctrine. (See, e.g., *Brewer v. Premier Golf Properties* (2008) 168 Cal.App.4th 1243, 1252-1256.) However, because this argument was not briefed by either side in the Court of Appeal, we do not address it here.

(See, e.g., Com. Code, § 3420 ["The law applicable to conversion of personal property applies to instruments"].)

In sum, there is absolutely no reason to judicially expand the numerous remedies available under the Labor Code.

C. Transforming Inherently Contractual Disputes into Tort Claims Will Have Significant, Negative Consequences in Employment Litigation.

Adoption of Voris's view "throws kerosene on the litigation bonfire by holding out the allure of punitive damages, a golden carrot that entices into court parties who might otherwise be inclined to resolve their differences." (*Oki America, Inc. v. Microtech Int'l, Inc.* (9th Cir. 1989) 872 F.2d 312, 315 (conc. opn. of Kozinski, J.).) Because "[p]unitive damages pose an acute danger of arbitrary deprivation of property" (*Honda Motor Co. v. Oberg* (1994) 512 U.S. 415, 432), these grounds provide ample basis to resist the pressure toward "tortification" of contracts; i.e., "the tendency of contract disputes to metastasize into torts." (*Oki America,* at p. 315.)

The availability of a claim for conversion opens additional cans of worms besides those associated with the threat of punitive damages. For example, while claims for non-payment of wages do not trigger emotional distress damages (absent additional claims such as harassment or discrimination), the availability of a conversion claim will open the door to emotional distress damages, making it even more difficult to settle garden variety wage claims. (See, e.g., *Gonzales v. Personal Storage* (1997) 56 Cal.App.4th 464, 474, 477 [rejecting emotional distress damages for property damage under a negligence cause of action, but allowing such damages on a conversion theory]; see also *Gober v. Ralph's Grocery Co.*

(2006) 137 Cal.App.4th 204, 223 [noting that awards for emotional distress can have a punitive element].)

The availability of a conversion claim will also engender additional disputes regarding the prevailing party's right to seek contractual attorneys' fees, prolonging the litigation over whether the fee provision in a given case is broad enough to encompass conversion claims. (See, e.g., *Mustachio v. Great Western Bank* (1996) 48 Cal.App.4th 1145, 1151 [addressing contractual fee recovery associated with conversion claim].) "All too often attorney fees become the tail that wags the dog in litigation." (*Deane Gardenhome Assn.* v. *Dentkas* (1993) 13 Cal.App.4th 1394, 1399.)

The domino effect of creating or perpetuating disputes over these additional remedies – punitive and emotional distress damages and/or attorneys' fees – is the inevitable increase in the judicial backlog. Given the budget cuts, these additional factors will reduce the overall disposition rates of lawsuits, effectively reducing the public's access to the courts.

D. The Counter-Arguments Presented by Voris Do Not Justify the Creation of A Tort Theory for Recovering Wages.

Voris invokes various non-employment cases defining the elements of the cause of action for conversion (OBOM 26-28, 38-42), citing the trend in "recognizing new forms of intangible property under conversion claims." (*Id.* at p. 38.)

But even if we assume that all of the traditional elements of this cause of action can be transmuted to Voris's employment claim for non-payment of wages, that does not help his case. The recognition of a cause of action in a new context necessarily entails a balancing act, requiring

consideration of public policy and the practical ramifications of creating brand new theories of liability against millions of employers operating in the sixth largest economy in the world. A technical, academic satisfaction of the elements of a claim is merely the beginning, not the end, of the analysis. (See *Brown v. Kelly Broadcasting Co.* (1989) 48 Cal.3d 711, 739 [in fashioning common law principles, courts take into account public policy factors and ramifications].)

Voris's procedural and factual arguments are erroneous as well. For example, he claims that the Labor Code remedies are insufficient because, despite prevailing on his statutory claims, the corporate judgment debtors had no assets to satisfy the judgment that Voris obtained against them. (OBOM 36-37.) When a judgment debtor is insolvent, adding a common law claim (to increase the amount of damages awarded) is necessarily futile. The availability of a debtor's assets to satisfy the judgment does not depend on the cause of action identified in the judgment or its label. Therefore, Voris's attempt to explain the inadequacy of the statutory remedies makes no sense. While Voris also claims that he obtained a judgment against Lampert – in attempting to explain the inadequacy of the statutory remedies – the judgment reflects that *Lampert* prevailed in the trial court. (OBOM 36; 9 AA 2212, ¶ 2.) The judgment cited by Voris is against the corporate entities, not Lampert. (9 AA 2213.)

Besides the numerous statutory remedies available to employees under the Labor Code, an individual defendant can be held personally liable based on an alter ego theory for both employment and non-employment claims. (See, e.g., Code Civ. Proc., § 187 [setting general parameters for adding judgment debtors].) Here, however, because the alter ego ship sailed a long time ago (when summary judgment in favor of Lampert was upheld in the first appeal), Voris is asking this Court to create a new tort remedy