S183372

Supreme Court Copy

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

PORFIRIO SERRANO AND LOURDES SERRANO Plaintiffs - Appellants, STEFAN MERLI PLASTERING COMPANY, INC. DBA INLAND CONCRETE PUMPING Defendant, COAST COURT REPORTERS, Respondent.	)	No. S183372 Court of Appeal No. B215837 Super. Ct. Los Angeles County No. BC324031

PETITIONERS' REPLY TO ANSWER TO PETITION FOR REVIEW

Appeal From the Superior Court
State of California, County of Los Angeles
Hon. Aurelio Munoz, Judge

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IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

PORFIRIO SERRANO AND LOURDES SERRANO	)	S183372
Plaintiffs - Appellants,	)	REPLY TO ANSWER
STEFAN MERLI PLASTERING COMPANY, INC. DBA INLAND CONCRETE PUMPING	)	
Defendant,	)	
COAST COURT REPORTERS,	)	
Respondent.	)	

INTRODUCTION

Petitioners to date spent $250,000+ in attorney time over $2,871.57 in statutorily invalid fees. They produced the significant benefit of a published opinion establishing guidelines and remedies to prevent abuse by private deposition reporters as ministerial officers of the Court without requesting anything approaching adequate reimbursement. **SERRANOS** could not have made normal financial arrangements for this with any

attorney. He was on Social Security Disability and she was working in a nursing home. (AA T21 634:3-14) They could not avoid costs of equal or greater magnitude to those risked. Their underlying injury case was settled, so their maximum recovery of $2,871.57 made them vulnerable to expense generating tactics noted in the motion (AA T21 626:22-627:14; 631:14-632:4; 636:5-638:25) prior to the filing of ***Serrano v. Stefan Merli Plastering*** (2008) 162 C.A.4th 1012.[1] Were costs and/or fees paid out of recovery, **SERRANOS** would not get back what they paid **COAST**. Their burden clearly transcended any personal or financial stake. (AA T21 618:23-22; 632:5-640:25) The uncontradicted evidence of Petitioners' motive, apart from the $2,871.57 (AA T21 632:5-633:3), was primarily to respond to the Trial Court's request for help, to take case up out of a sense of duty without regard to economics, because the entire situation was a matter of principle and unfair, and to prevent the continuation of the business practice. (AA T21 633:4-634:2) Petitioner's motion requested $50,000 rather than a far larger figure given that Respondent and the industry each bore responsibility, and a fair relative culpability allocation between COAST and the industry linked and limited COAST's share to 2.5 times its estimated annual revenue from the improper fee. (AA T21 625:10-629:17; 640:26-642:11; 648:1-5; 651:13-16; 605:4-13; 621:3-7) The balance represented the responsibility of the non-party amici industry against whom fees could not be sought.

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[1]***Serrano#1***. ***Serrano***#2 is this case, ***Serrano v. Stefan Merli Plastering*** (2010) 184 C.A.4th 178.

(AA T21 628:15-23) Any greater request would be unfair because in excess of the gain from the wrongdoing. Therefore, this was not an exercise to generate fees under ***Code Civ. Proc. §1021.5.***[2] The three industry amici and Respondent fought vigorously because, reasonably estimated, the at issue annual improper fees to California's industry are over $1,000,000 and $20,000 to Respondent. (AA T21 617:11-618:16; 626:15-627:14; 628:11-12; 640:26-642:17; 654:4-12; 745:3-4)

Since there was no economic incentive, why was this done? That was obvious to everyone but ***Serrano#2's*** majority, though the motion (AA T21 604-742) and particularly the declarations illustrate it well. (AA T21 625-654) The appeals and remand were pursued to protect the public from the abusive unconscionable practices of the Court's own ministerial officers clearly described by dissenting Justice Croskey. ***Serrano#2*** at 192, 193-194. The ***Serrano#2*** majority nonetheless stated the case had no important public issues and was not public interest litigation. It was apparently unimportant to the Trial Court which asked for help, to the tens of thousands annually paying for deposition copies affected by ***Serrano#1***'s holdings on both standard and expedite copy fees, and to everyone else. ***SERRANOS*** think it is important, and believe this Court agrees. The industry thinks so too.[3] Respondent's answer confesses that by

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[2]Hereafter, ***§1021.5*** All references are to the ***Code of Civil Procedure*** unless otherwise indicated. ***Bolded text*** with italics is a signal for "emphasis added."

[3]See Pet. 38 fn. 19 and particularly AA T21 840, 844, 845 (Deposition Reporter's Association ("**DRA**") **DRA** Amicus Letter- ***Serrano#1*** is "***watershed litigation***" resulting in a "***first-ever holding***" that had "***enormous practical consequence for our courts, for***

assembling unrelated 'facts," most completely contradicted by the undisputed record or complete distortions of it, intending to improperly color the Court's views. Respondent's unconscionable conduct, and inability to retain even one penny of its claimed industry standard fee on any theory,[4] requires such transparent diversions.

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thousands of deposition professionals, and for those thousands of attorneys who routinely use and order their services"); AA T21 718-723; (**DRA** "Serrano Compliance Project" noting ***Serrano#1*** is "***new California law***," "***entirely new legal terrain***," that "cases interpreting Serrano must be litigated ***with their potential impact on the whole profession in mind***," and ***Serrano#1*** means "***you cannot price in such a way to give the noticing party a break at the expense of the non-noticing party and their copy prices***.");(AA T 34 988-990)

[4]The typical industry circumstances presented here are that no cost was incurred other than by the noticing party's request for expedition, and the second transcript copy was only a copy. (***Serrano#1*** at 1022, 1024; AA T7 112:15-115:26; 116:11-118:21; 120:9-12; AA T10 478:3-24; 479:5-480:3; 480:12-484:23; PAA T7 91-92). Costs caused by the noticing party's request by statute must be borne by the noticing party. (***Serrano#1*** at 1038; ***§2025.510(b)*** Respondent performed exactly the same service costing exactly the same as when a standard copy was ordered, but according to its schedule charged up to a 100% premium (***Serrano#1*** at 1022) over the standard copy cost. It then used COD to enforce its bounty in litigation's short time frames. That total cost to Petitioners was more than 50% of the total $5,614.55 paid for the 10 deposition standard copy fees. (AA T10 480:12-481:10) Therefore, Respondent's fee was either an illegal shifting of some of its customer's statutory cost burden to Petitioners to favor its steady customer, as the amicus briefs showed was the industry norm (cf. ***Serrano#1*** at 1036; AA T13 506:6-508:3), or was a stand alone fee independent of the costs caused by or charged to its customer. Respondent took that position (AA T9 473A:3-12; 20-23; 473B:18-474A:9; 474C:21-475A:2, 7-23) to avoid a violation of ***§2025.510(b)***. However, Respondent was completely unable to offer any justification, other than "the industry does it," and failed to show any additional cost or service caused by the non-noticing party when the noticing party requested expedition to move to the head of the line. Thus, Respondent's and the industry fee was a wholly fictitious fee for no cost or service, measured as a percentage of the standard copy cost, and its service was already paid for by the standard fee. Because Respondent showed nothing extra it did (RTB 3:25-27; 4:24-5:18; 6:2-7:18), the Trial Court on remand ordered the entirety of the fee returned under ***Serrano#1 at 1038.***

CLARIFICATION OF JOSHUA S. IS AN IMPORTANT ISSUE OF LAW

Respondent's contrary claim is wrong. ***Serrano#1*** and the record before the sharply divided Court of Appeal appropriately present the clarification and correct interpretation of ***In re Joshua S.*** (2008) 42 C.4th 945.[5] Clarification is a ground for review. ***Gentry v. Superior Court*** (2007) 42 C. 4th 443, 452; ***Lazar v. Superior Court*** (1996) 12 C. 4th 631, 634. The sole non-clarification ground involves the correct standard for review of what constitutes an important right affecting the public interest, an issue upon which review was previously granted without disposition. ***The People ex rel. Department of Conservation v. El Dorado County*** (2005) 36 C.4th 971, 983 (fn 3)

THERE IS COMPLETE CONFLICT IN THE COURTS OF APPEAL

Respondent's argument there is uniformity of decision is specious. ***Beasley v. Wells Fargo Bank*** (1991) 235 C.A.3d 1407, 1417-1418, cited with approval (***Joshua S.*** at 955 (fn. 3), overruled on another point ***Olson v. Automobile Club of Southern California*** (2008) 42 C.4th 1142, 1152-1153, and ***Serrano#2*** at 186 are irreconcilably opposed and not settled by ***Joshua S.*** ***Beasley***, ***supra***, holds that the importance of the subject matter controls the important right determination, and that the scope and affect of the Defendant's conduct is a matter for the significant benefit element based on what the litigation achieves for the public. ***Serrano#2*** at 186, 189 and 190, interpreting ***Joshua S.***, holds that the effect of the Defendant's conduct on the public is an essential part of the

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[5]Hereafter, ***Joshua S.***

first element of important right affecting the public interest, not the significant benefit element.

THIS CASE IS IMPORTANT FOR REVIEW

Respondent's answer claims there is nothing important about this case. Everything is important for review.

A. Issue #1 - "Private Litigation"

Had Respondent had prevailed in ***Serrano#1*** on its arguments concerning no jurisdiction to prevent the withholding of evidence using COD until it obtained the price it wanted, it would mean ***the Court itself*** was powerless to act and that deposition reporters are beyond its authority. This litigation did not simply affect the parties - ***it was a test of the power of the Court*** far more important than an invoice dispute. Yet the ***Serrano#2*** majority just assumed, despite the total absence of prior authority, that ***Serrano#1*** was "private litigation" to order deposition reporters to do what a court wanted, that the legislative omission from ***§2025.510(c)*** of any reasonableness requirement until ***Serrano#1*** did not affect the public, and that the adverse precedent of ***Urban Pacific Equities Corporation v. Superior Court***, (1997) 59 C.A.4th 688, 691-692 confirming **COAST**[6] could charge all the market would bear without regulation meant nothing to the public. ***Serrano#2*** minimized this all, though ***Serrano#1's*** amicus

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[6] **COAST** was a dba of its owner Nancy Holly, which did not incorporate until after ***Serrano#1*** as it conceded.(RTC 3:27 - 4:8; AA T7 120:13-17, 23-25; 123; 126, T8 192: 8-9) Thus the distortion (Answer 4) about shifting liability to her is completely false.

participation requests stated the principles were novel, difficult and the legal questions important (PetRhrngRJN Exh. "1," p. 1; Exh. "2," p. 1), and though important right under ***§1021.5*** requires a broad rather than a narrow focus (Pearl, ***Cal. Attorney Fee Awards*** (Cont. Ed. Bar 3d ed.2010) §3.40 pp. 156-157) in light of the policy to effectuate important policy. (Pearl, ***supra*** §3.4 pp. 132-134 and cases cited).

Litigation between two private parties is most all litigation. Such litigation which resolves an important right affecting the public interest by appellate opinion is a powerful public interest weapon. Nothing in ***§1021.5's*** history suggests it should be excluded. Private party litigation on private matters without intent to benefit the public, involving such issues as the right to refuse medical treatment, and only affecting the parties were it not for the resulting prior appellate opinion, have always (until now) been thought eligible for ***§1021.5***. See, eg. ***Bartling v. Glendale Adventist Medical Center*** (1986) 184 C.A.3d 97, 101. Such cases are no longer precedent under ***Serrano#2's*** formulaic reading of ***Joshua S***, which, unless excised, will become a cancerous complication on the law of ***§1021.***5.

Without deferential review of catchy illustrative dictum from ***Joshua S.*** (***Serrano#2 at 190***), the majority should have directly discussed and exercised its legal judgment on the societal strength and importance of the rights in ***Serrano#1*** and on remand as required by ***Woodland Hills Residents Association, Inc. v. City Council*** (1979) 23 C.3d 917, 935 and ***Saleeby v. State Bar of California***, (1985) 39 Cal. 3d 547,

573-574. It seriously erred in that failing by instead mechanistically excluding under ***§1021.5*** any two private party case not suing an industry[7] despite statutory policies to encourage private litigation and avoid restrictions unless clearly mandated by ***§1021.5***'s language. ***Estate of Trynin*** (1989) 49 C.3d 868, 875; ***In re Head*** (1986) 42 C.3d 223, 227, 233.

Serrano#2 now twists ***Joshua S.***' language, at Respondent's urging[8] into protection every time a wrongdoer defends against enforcement proceedings initiated to redress its statutory violation, and then loses.[9] The Trial Court seized upon that "raising issue" language, quoting ***Joshua S.*** at 949, ruling without any reference to any of the specific elements of ***§1021.5***. (RTD 3:24-25; AA T36 1002-1003) ***Serrano#2*** 's majority followed suit, and language rather than the law, by stating at 188 that Respondent placed itself in the same position as the birth mother in ***Joshua S.*** in raising an argument resulting in adverse precedent. However, both were factually incorrect because in ***Joshua***

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[7]How does one do that?

[8]Respondent also argued that it ought not to be punished by fees because it did nothing wrong, that Petitioners' motivation was improper, and that the public interest was not implicated by a reasonable fee dispute between two parties. (AA T30 877:3-18; 877:20-28; 878:1-23; 879:1-884:22; 885:10-886:16)

[9]"Coast merely raised the argument that it, not the trial court, had the right to regulate the fees it charged." ***Serrano#2*** at 189. Not exactly - Coast raised not only that argument but the argument that its fees were industry standard and not unconscionable. ***Serrano #1*** at pp. 1021-1022 shows Petitioners objected to Respondent's expedite fee, and initiated court proceedings to determine its reasonableness **and validity** under ***§2025.510***. As shown by the record citations (Pet. 18 fn. 37), Respondent sought justification by cloaking itself in the mantle of industry standards and lost.

S' adoption, no one was sued for violation of anything. ***Serrano#2*** thereby unwittingly expanded restrictions on ***§1021.5***. beyond anything this Court intended and gave wrongdoers a free pass ***where there was enforcement and consequent loss. Joshua S.*** only protects ***when there is no enforcement.***

Respondent's illogical position on the "raising an issue in private litigation" language is obvious from the disconnect between the fee motion defenses constructed upon it and the nature of the refund defenses Respondent actually raised and litigated. The latter were all public issues about the court's power to redress copy fee abuse by its ministerial officers having a statutory product monopoly, and the validity of the statewide industry standard in typical "everybody does it" circumstances. These public issues made this a case one attacking an entire industry. Yet, ***Serrano#2's*** result is that anyone in a two private party case can litigate any important public issue, lose it, even bring in amici, and then claim private litigation.

Justice Croskey's cogent dissent properly observed the majority analysis was completely wrong factually because it did not understand the record on the temporary COD waiver,[10] Respondent's conduct was adverse to the public,[11] that proceedings were

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[10] See Pet. 29, fn. 49; AA T8 249:8-250:1, 261:28-262:7 and AA T8 93, 97-104 showing the fee on the ten at issue was only disputed, to be ruled on, and not waived, and COD was only suspended until the ruling, then reinstated. ***Serrano#1 at 1021.*** **SERRANOS** paid all invoices July 26, 2006 (***Serrano#1 at 1024***), timely within the terms on their face.

[11] Whether a violator is acting adversely to the public ***is inherent in violation of an important right which itself affects the public interest.***

brought to and did enforce the law against Respondent, the Trial Court and majority misread ***Joshua S.***, that the rights involved were obviously important and far greater than an invoice dispute, and that the majority therefore erred as a matter of law. (***Serrano#2*** at 193-194).[12]

The issues are squarely framed, and, as pointed out (Pet. at 22-31), the rights are important.[13] ***Serrano#2*** should have stuck to the elements of ***§1021.5*** Thus, Petitioners should prevail.

B. Issue#2 - Confusion of important right with significant benefit.

Beasley, supra, stated, discussing ***Angelheart v. City of Burbank*** (1991) 232 C.A.2d 460, a significant benefit decision reversing an award when there was no published opinion or other sufficient evidence:

> "The number of persons benefitted, and hence whether the benefit was "public" or "private," was crucial to the ***significant benefit criterion but had nothing to do with whether there was an important public interest at stake***. What mattered in the latter inquiry ***was whether the subject matter of the action implicated the public interest***." (emphasis added)

See also ***Beasley*** at 1418 to the same effect. This is a pre-***Joshua S.*** statement of the same

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[12]Justice Croskey even noted (***Serrano#2*** at 194 fn. 3) that because the Respondent charge of the improper industry standard fees affected all its customers, this was not "private litigation" under the majority's test.

[13] COAST's citation to Petitioners' letter at AA T27 860 referencing federal law, California law before 1986, and California law on costs (AA T27 859) is obviously out of context.

concept later quoted in ***Joshua S*** at 954 concerning"the rights of the public or a significant class of people." That language is in turn almost a direct quote ("the general public or a large class of persons") of the ***significant benefit provisions*** of ***§1021.5(a)***. ***§1021.5*** and ***Joshua S***. contemplate a simple causation and effect analysis. There are no fees if the benefit was not caused by the enforcement of the important right. That explains the ***Joshua S***. language Respondent relies literally upon. The published opinion it refers to, and thus the benefit, did not result from enforcement because there was no case brought to enforce anything. The language has nothing to do with important right.

Whether a law is an important right under ***§1021.5*** is a matter for ***legal judgment***, not the Defendant's size, or whether the litigation is between two private parties, or against an industry. ***Woodland Hills, supra,*** and ***Saleeby, supra***, make that plain. Importance is inherent in the law itself. ***Beasley*** says so. In contrast, ***Serrano#2*** holds [14] that the scope and effect of the Defendant's conduct and the fact that the litigation is only between two private parties is determinative, without reaching the significant benefit element. (***ibid*** at 190) Instead, it ***attributes this private litigation test to the first §1021.5 element of "important right affecting the public interest."*** (***ibid*** at 186, 189) ***Serrano#2*** confuses the number of people ***the defendant's adverse conduct affects*** with that factor

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[14]". . . Coast was not purporting to represent the public and **its conduct addressed in our opinion** had not been impairing the statutory or constitutional rights **of the public or even a large or significant class of people** (citations)" ***Serrano#2*** at 189 (emphasis added)

of important right concerning the class of people ***that the law's operation was intended by the Legislature to affect statewide***. It thereby imports significant benefit criteria into important right criteria, while simultaneously excluding two party private litigation.

Serrano#2 simply failed to recognize that an opinion in two private party litigation such as ***Bartling, supra***, is consistent with ***§1021.5***. Substantial benefit can come from enforcement as evidenced in an appellate opinion alone. Pearl, ***Cal. Attorney Fee Awards*** (Cont. Ed. Bar 3d ed.2010) §3.59 pp. 179-180 and cases cited. An opinion concerning an important right confers benefit on the public statewide, whereas a Trial Court judgment alone only benefits the two parties over the same right. The right remains important independently of whether enforced by a judgment or opinion. That is why an appellate opinion on an important right in two private party litigation like ***Bartling, supra*** is far more efficacious and beneficial than a trial court judgment purporting to directly benefit a group of people by injunction, mandate, class action or otherwise. In the latter instance absent the statewide effect of an appellate opinion, only then does the size of the group affected by Defendant's conduct become critical.

The elements cannot be so interrelated that they are not separate. Only bright lines will prevent endless confusion. This Court must decide which decision is correct to secure uniformity.

C. Issue#3 - Motivation is not an element.

The ***Serrano#2*** majority held (p. 188):

"[P]laintiffs were trying to protect their own private interest and not seeking to vindicate an important right affecting the public interest."

See also ***Serrano#2*** at 194 (fn. 4) (the dissent quoting the Trial Court's same ruling) But, as Justice Croskey there pointed out, subjective motivation to vindicate the public interest is not determinative. ***Satrap v. Pacific Gas & Electric*** Co. (1996) 42 C.A.4th 72, 77. Initial motivation by economic interests is clearly appropriate, the issue being whether the burden is or becomes disproportionate to the stake in the outcome. ***MBNA America Bank NA v. Gorman*** (2006) 147 C.A. 4th Supp. 1, 10; ***Estrada v. FedEx Ground Package Inc.*** (2007) 154 C.A.4th 1, 16-17; ***County of Orange v. Barratt American, Inc.*** (2007) 150 C.A.4th 420, 441-442; cf. ***Press v. Lucky Stores Inc.*** (1983) 34 C.3d 311, 321 (fn. 11 - standing requires personal or economic benefit). Once the burden becomes disproportionate, which the Trial Court and ***Serrano#2*** never ruled on, all the work on important right primarily benefits the public. ***§1021.5***'s precise requirement is "result in," requiring only that the litigation inures primarily to the public benefit. ***Beasley, supra*** at 1417; ***Choi v. Orange County Great Park Corp.*** (2009) 175 C.A.4th 524, 531. This litigation did not inure primarily to the benefit of Petitioners.

D. Issue #4 - Reasonableness is not a categorically excluded important right.

The ***Serrano#2*** majority commented (p. 190 fn 3) that **COAST**'s charge was "not unreasonable until the trial court ruled it so," implying reasonable people could differ and that Respondent did nothing wrong deserving the punishment of a fee award. However,

even a good faith belief of no violation would not exempt **COAST**. ***Joshua S*** at 958.

Regulation of monopolies reflect an important public policy. Reporters have a statutory monopoly on their copy product. (Pet. 22) As there noted (fn. 43), Courts endeavored for centuries to mitigate the injurious effect on the public of monopolies by regulation insuring reasonable rates. Yet ***Serrano#2*** suggests that industry wide improper fees imposed by monopoly. unregulated by court until ***Serrano#1***, not administratively regulated (***Hall v. Court Reporters Board*** (2002) 98 C.A. 4th 633, 638), and collected through the leverage of COD, did not rise to a sufficient level of adversity to the public to qualify as important because merely unreasonable.

Serrano#2's majority did not examine the underlying cause of why Respondent's fees were unreasonable though obviously germane to whether an important right is being violated. The evidence established the fee was unreasonable because it violated multiple statutes, only one of which required reasonableness, and was unconscionable because monopolistic. (Pet. 29-30, 22-23) Thus, the issue is if the cause of any unreasonableness is violation of underlying important rights. There can be no categorical exemption for something "merely" unreasonable.

E. Issue #5 - The Proper Standard of Review For Important Right is De Novo

Serrano#2 unmistakably failed to apply the correct standard of review to the correct issue. ***Serrano#2's*** majority reviewed everything ***except an important right affecting the public interest using a de novo standard***. At one point the majority

identifies the issue as the ***existence*** of an important right (***Serrano#2*** at 186), at another whether there was ***enforcement*** of an important public right (***ibid*** at 189), and at another (***ibid*** at 189, 190) whether this case was public interest litigation, ***each being wholly different issues***. However, its review until it reached the "public interest litigation" section at p. 189 was always stated as ***deferential***. ***Serrano#2*** at 182, 189. After acknowledging cases at pp. 185-186 stating the appropriate standard for review of an appellate opinion by its author court is de novo, it purported (p. 189) to review independently and de novo ***not whether this case involved an important right***, but whether it was ***public interest litigation*** under the assumption that ***Joshua S.*** made that another test. Then, it employed classic fence-straddling base-covering language demonstrating only confusion and leaving anyone befuddled as to the correct test. It summarized (p. 190) that the Trial Court's determination this was ***private litigation*** and there was ***no enforcement of an important public right*** was entitled to ***deference***, that ***de novo*** this was not ***public interest litigation***, and that the Trial Court ***did not abuse its discretion by denying fees because Petitioners failed to show the first element, an important public right***. Again, ***Serrano#2 reviewed everything except an important right affecting the public interest de novo***.

This Court's own precedents (eg. ***Woodland Hills***, ***supra***) require the exercise of legal judgment about important rights - clearly a de novo endeavor. This is consistent with de novo non-deferential review given that the application of ***Joshua S.*** based on

undisputed facts from ***Serrano#1***, ***Serrano#2*** and the record presents solely an issue of law. See **Connerly v. State Personnel Board**, (2006) 37 C. 4th 1169, 1175-1176; **Ghirardo v. Antonioli** (1994) 8 C. 4th 791, 799. Such review is also appropriate when appellate courts determine if their prior opinion satisfies ***§1021.5*** (**Laurel Heights Improvement Assn. v. Regents of UC**, (1988) 47 C. 3d 376, 426-427; **Protect Our Water v. County of Merced** (2005) 130 C.A. 4th 488, 494; **Mouger v. Gates** (1987) 193 C.A.3d 1248, 1258-1259 (n. 10)) and when abuse of discretion is departure from the correct legal standard (**City of Sacramento v. Drew** (1989) 207 C.A. 3d 1287, 1298 (***§1021.5***); **Flannery v. California Highway Patrol** (1998) 61 C.A.4th 629, 634 (***§1021.5***) from which there is never discretion to depart. **Haraguchi v. Superior Court** (2008) 43 Cal. 4th 706, 711-712 (n. 4).

Here, ***Serrano#2***, the Trial Court's rulings, and various remarks show a mistaken departure from the proper legal standards presenting pure questions of ***§1021.5*** law.

CONCLUSION

Review should be granted for the reasons stated.

Dated: June 28, 2010

Law Offices of David B. Bloom
A Professional Corporation

By _____
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Attorney for Petitioners

CERTIFICATE OF WORD COUNT

The undersigned counsel for Petitioners/ Appellants certifies pursuant to California Rules of Court, Rule 8.204(c)(1) that the total word count of this Reply, as counted by the WordPerfect program used to prepare it, is 4168 words, excluding tables, the certificate and such other items as are permitted by Rule 8.204(c)(3).

Dated: June 28, 2010

Stephen Monroe

PROOF OF SERVICE
STATE OF CALIFORNIA, 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: 3699 Wilshire Boulevard, Tenth Floor, Los Angeles, California 90010.

On June 28, 2010 I served the foregoing document described as **PETITIONERS' REPLY TO ANSWER TO PETITION FOR REVIEW** on the interested parties to this action by placing **A TRUE COPY** thereof enclosed in a sealed envelope addressed as follows:

See attached Service List

X **BY MAIL :**
I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in the Affidavit.

Executed on June 28, 2010 at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

KAREN BRUCE

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