No. H051485

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

DAVID CHAI,
Plaintiff-Appellant,

v.

VELOCITY INVESTMENTS, LLC, et al.
Defendants-Respondents.

Superior Court for the County of Santa Clara,
Case No. 20cv373916
Hon. Theodore C. Zayner

APPLICATION TO FILE BRIEF OF AMICI CURIAE UC BERKELEY CENTER FOR CONSUMER LAW & ECONOMIC JUSTICE, K & G ALEXANDER COMMUNITY LAW CENTER AT SANTA CLARA LAW, COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, CONSUMERS FOR AUTO RELIABILITY & SAFETY, DISABILITY RIGHTS CALIFORNIA, IMPACT FUND, NATIONAL HOUSING LAW PROJECT, PUBLIC COUNSEL, PUBLIC JUSTICE, UNIVERSITY OF SAN DIEGO LEGAL CLINICS, AND WESTERN CENTER ON LAW AND POVERTY IN SUPPORT OF PLAINTIFF-APPELLANT

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APPLICATION TO FILE BRIEF OF AMICI CURIAE

Pursuant to California Rules of Court, rule 8.200(c), the organizations described below respectfully request permission to file the attached brief as amici curiae in support of Plaintiff-Appellant.

This application is timely made within 14 days of the filing of the reply brief on the merits. No party or counsel for any party in the pending appeal authored the proposed amicus brief in whole or in part, or made a monetary contribution intended to fund the preparation or submission of the brief, and no person or entity made a monetary contribution intended to fund the preparation or submission of the brief other than the amici curiae, their members, or their counsel in the pending appeal.

I. INTERESTS OF AMICI CURIAE.

Amici curiae are nonprofit organizations that represent and advocate for economic justice on behalf of consumers, workers, and vulnerable populations in the San Francisco Bay Area and across California. In their advocacy, amici regularly seek to enforce statutory rights created by the California Legislature and intended for vindication in California courts, including those rights conferred by the landmark Fair Debt Buying Practices Act of 2013. Amici and counsel for amici were involved in the

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drafting and design of the FDBPA and possess specific knowledge of the law and its origins.[1]

The **Center for Consumer Law and Economic Justice**, housed at the University of California, Berkeley, School of Law, is the leading law school research and advocacy center dedicated to ensuring safe, equal, and fair access to the marketplace. Through regular participation as amicus curiae in the California Supreme Court and Courts of Appeal, as well as the United States Supreme Court and Courts of Appeals, the Center seeks to develop and enhance protections for consumers and to foster economic justice. The Center appears in this proceeding to bring to this Court's attention the absence from the California Constitution, the California Code, and California Supreme Court precedent of a general concrete injury in fact standing requirement to bring legal claims in California state courts. The Center also believes the proceeding would benefit from a detailed exploration of the consequence of a decision to impose such a requirement on potential plaintiffs' access to justice, particularly with respect to claims brought under federal and California statutes that establish informational

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[1] See Mermin, *The Not-Quite-Accidental Genius of EBCLC's Consumer Justice Clinic: Lessons for Legal Services Providers* (2018) 106 Cal. L.Rev. 547, 550-551; Cohen, *Students Play Key Role In Proposed Consumer Protection Bill*, Berkeley Law (Mar. 9, 2012), https://perma.cc/9TS7-MA5S.

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and notice requirements to safeguard consumers against fraud and deception.

The **Katherine & George Alexander Community Law Center** is the civil clinical program (KGACLC) for Santa Clara Law. For over 25 years the KGACLC has advocated on behalf of consumers in Santa Clara County on a variety of issues including debt collection and thus has an interest in this case dealing with the continued viability of cases brought under the FDBPA in California courts.

Community Legal Services in East Palo Alto (CLSEPA) is a nonprofit organization that offers legal services that improve the lives of low-income families throughout the Bay Area. CLSEPA is committed to pursuing multiple innovative strategies, including community education, individual legal advice and representation, legal assistance to community groups, policy advocacy, and impact litigation.

Consumers for Auto Reliability and Safety (CARS) is a national, award-winning non-profit auto safety and consumer advocacy organization based in Sacramento and dedicated to preventing motor vehicle-related fatalities, injuries, and economic losses. CARS has spearheaded enactment of many landmark laws to protect California consumers, to enhance their safety and economic viability. CARS has a strong interest in the issues raised by the litigation in this case, regarding when victims of illegal practices have standing in state courts.

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Disability Rights California (DRC) is a California non-profit corporation and the largest disability rights firm in the nation. For nearly 50 years, DRC has worked to protect the legal and human rights of Californians with disabilities. DRC engages in individual and broad-based advocacy, representing clients in administrative hearings, impact and class litigation, and policy matters to enforce the right of people with disabilities to access appropriate and affordable housing and healthcare, and to receive necessary resources and consumer protections. Recent successful impact litigation includes consumer rights in the regional center system and in ensuring appropriate service providers in their homes.

The **Impact Fund** is a nonprofit legal foundation that provides strategic leadership and support for impact litigation to achieve economic, environmental, racial, and social justice. The Impact Fund provides funding, offers innovative training and support, and serves as counsel for impact litigation across the country. The Impact Fund has served as party or amicus counsel in major civil rights cases brought under federal, state, and local laws, including cases challenging employment discrimination; unequal treatment of people of color, people with disabilities, and LGBTQ people; and limitations on access to justice. Through its work, the Impact Fund seeks to use and support impact litigation to achieve social justice for all communities.

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The mission of the **National Housing Law Project** (NHLP) is to advance housing justice for poor people and communities. NHLP achieves this by strengthening and enforcing the rights of tenants and low-income homeowners, increasing housing opportunities for underserved communities, and preserving and expanding the nation's supply of safe and affordable homes. NHLP was founded as a support center to assist the newly formed legal services organizations. NHLP continues to play that role, providing technical assistance and training to legal aid attorneys and co-counseling on key litigation. Access to the courts is a key tool in its work to advance housing justice, so the narrowing of California's standing rules poses a threat to our mission, to the work of the legal aid partners and to the communities we serve.

Public Counsel is a nonprofit public interest law firm dedicated to advancing civil rights and racial and economic justice, as well as to amplifying the power of our clients through comprehensive legal advocacy. Public Counsel's Consumer Rights & Economic Justice (CREJ) Project is one of the oldest projects within Public Counsel. Our mission is to advance racial and economic justice by providing legal counsel for, and advocacy on behalf of, low-income individuals and their families to advance their rights, address the inequalities in bargaining power embedded in our legal system, and oppose those who take advantage of our client communities. We regularly represent clients in debt collection lawsuits and bring claims

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against debt collectors and debt buyers for violations of the federal and California Fair Debt Collection Practices Acts and the California Fair Debt Buying Practices Act. Public Counsel therefore has a strong interest in ensuring that California courts retain jurisdiction over these kinds of cases.

Public Justice is a nonprofit legal advocacy organization that specializes in socially significant civil litigation, with a focus on fighting corporate and governmental misconduct. The organization maintains an Access to Justice Project that pursues litigation to remove procedural obstacles that unduly restrict the ability of workers, consumers, and people whose civil rights have been violated to seek redress in the civil court system. This case is of interest to Public Justice because it raises questions regarding state standing law, which affects the ability of injured consumers to seek remedies through the civil justice system. Public Justice has litigated dozens of cases in federal and state courts fighting for proper interpretation of federal Article III and state-court standing rules.

Established in 1971 as a volunteer project, the **University of San Diego (USD) Legal Clinics** have evolved into a comprehensive network of 12 client-facing clinics providing free legal services to low-income San Diego County residents. The USD Legal Clinics has a dual mission. First, to provide outstanding clinical training to law students to teach them how to practice law at the highest level. Second, to help low-income individuals most in need in the San Diego community. The USD Legal Clinics Civil

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Clinic regularly represents qualifying consumers in defending against debt collection, debt collection abuse and harassment cases, as well as other consumer financial protection matters in San Diego County Superior Court. Accordingly, the Clinic has an interest in ensuring the viability of protections for low-income consumers in California.

The **Western Center on Law and Poverty**, founded in 1967, is the oldest and largest support center for California's neighborhood legal services programs. Throughout its history, Western Center has co-counseled on litigation seeking broad systemic relief for Californians living in poverty. Litigation opponents have often raised standing as an issue, citing federal precedent. California courts have consistently rejected those arguments in our cases. (See, e.g., *Stocks v. City of Irvine* (1981) 114 Cal.App.3d 520 [holding that non-residents of a city could challenge restrictive zoning laws without identifying a particular proposed housing development; and refusing to follow contrary U.S. Supreme Court precedent].) Restricting standing in the way proposed by the Defendants in this case would harm Western Center, the legal aid programs it supports, and low-income people throughout California.

* * *

Amici write to emphasize the importance of California courts' retaining broad general jurisdiction over cognizable legal claims, in light of preserving access to justice in the face of the increasingly stringent federal

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standing requirements imposed by the U.S. Supreme Court under Article III of the United States Constitution. In recent years, those requirements have come to include a burden on plaintiffs to establish a concrete and particularized injury in fact, a standard that has made it increasingly difficult for consumers, workers, and other vulnerable individuals to enforce their rights in federal courts, particularly with respect to informational and other statutorily derived harms. As a result, the removal of state courts as a potential forum would amount to a complete denial of access to justice.

II. NEED FOR FURTHER BRIEFING.

The proposed amici curiae believe that further briefing will assist the Court by providing a more in-depth historical analysis of the standing inquiry in California state court, as opposed to federal court, than what is contained in the parties' briefs. The proposed amicus brief traces the history of the bedrock principle that state courts, including the California courts, are courts of general jurisdiction, meaning that they are able to adjudicate virtually all disputes. The California Constitution confers broad authority on the state judiciary to hear any matters that are before them, cabined only by specific statutory directives to the contrary. By contrast, federal courts are courts of limited jurisdiction, able to adjudicate only enumerated types of cases and controversies as required by Article III of the United States Constitution and federal statute. As the brief details, the text and history of

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the California Constitution, in addition to firmly established California Supreme Court precedent, make clear that the state charter contains no similar provision and that a universal injury in fact standing requirement has no place in California courts.

The brief also explicates with specificity the lenient standing requirements that exist in California: simply, that plaintiff must possess a sufficient interest in the matter to ensure that they vigorously prosecute their case. Apart from that commonsense standard, standing to bring causes of action in California is determined statute-by-statute by the legislative branch. The brief further explains that the heightened "beneficial interest" standing requirement contained in section 1086 of the Code of Civil Procedure is a statutory obligation limited to actions brought under that law; it does not—contrary to the Defendant's assertions and an aberrant Fifth District decision on the subject, *Limon v. Circle K Stores Inc.* (2022) 84 Cal.App.5th 671—govern standing for all claims brought in California courts.

Finally, the proposed brief applies the historical and doctrinal information it has gathered to Mr. Chai's claims under the Fair Debt Buying Practices Act and concludes that plaintiff and the putative class of consumers have a right under statute to seek redress in California courts.

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III. CONCLUSION.

For the foregoing reasons, the proposed amici curiae respectfully request that the Court accept the accompanying brief for filing in this case.

Dated: July 19, 2024

Respectfully submitted,

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INTERESTS OF AMICI CURIAE

Amici curiae are nonprofit organizations that represent and advocate for economic justice on behalf of consumers, workers, and vulnerable populations in California. In their advocacy, amici regularly seek to enforce statutory rights created by the California Legislature and intended for vindication in California courts, including those rights conferred by the landmark Fair Debt Buying Practices Act of 2013.[1] Amici appear in this proceeding to provide a more in-depth historical analysis of the standing inquiry in California state court, as opposed to federal court, than is contained in the parties' briefs.

Amici write to emphasize the importance of state courts retaining broad general jurisdiction over cognizable legal claims, in light of both the dual structure of the American judicial system and the increasingly stringent standing requirements under Article III of the United States Constitution. Those requirements now include a burden on plaintiffs to establish a concrete and particularized injury in fact, a standard that has made it increasingly difficult for consumers, workers, and other vulnerable individuals to enforce their rights in federal courts.

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[1] Amici and counsel for amici played a principal role in designing and drafting the FDBPA, and thus have a particular knowledge and interest in the law's enforceability. (See Mermin, *The Not-Quite-Accidental Genius of EBCLC's Consumer Justice Clinic: Lessons for Legal Services Providers* (2018) 106 Cal. L.Rev. 547, 550-551.)

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INTRODUCTION AND SUMMARY OF ARGUMENT

The "standing" requirement imposed by Article III of the United States Constitution has no application to plaintiffs in California's state courts. (See, e.g., *Grosset v. Wenaas* (2008) 42 Cal.4th 1100, 1117 & fn. 13 ("article III of the federal Constitution does not apply in state courts"); see *ASARCO Inc. v. Kadish* (1989) 490 U.S. 605, 617 ["[T]he constraints of Article III do not apply to state courts]; *N.Y. State Club Assn., Inc. v. City of New York* (1988) 487 U.S. 1, 8, fn. 2 ("the special limitations that Article III of the Constitution imposes on the jurisdiction of the federal courts are not binding on the state courts"].)

This proposition is not controversial. Unlike federal district courts, California superior courts are courts of general jurisdiction. They are presumed to properly exercise authority over any dispute unless a statute specifically prohibits it.[2] Federal courts, by contrast, are courts of limited jurisdiction. They may hear only the specified types of cases affirmatively set forth by the federal Constitution and by federal statute. (*Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee* (1982) 456 U.S. 694, 701-702.) Specifically, federal courts may only hear "cases" and "controversies" (U.S. Const., art. III, § 2), which the U.S Supreme Court has interpreted to require a concrete and particularized injury in fact. (See,

[2] 13 Wright & Miller, Federal Practice & Procedure (3d ed. 2023) Courts of Limited Jurisdiction § 8 (hereafter "Wright & Miller").

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e.g., *Lujan v. Defenders of Wildlife* (2016) 504 U.S. 555, 560.)

There is no such "case and controversy" restriction on the jurisdiction of California courts. (See Cal. Const., art. VI, § 10 [extending the state judicial power to all "causes"].) Indeed, under the dual judicial system that exists in the United States, the limited jurisdiction of federal courts contemplates that state courts remain courts of general jurisdiction.[3] Crucially, neither the U.S. nor the California Constitution limits state court plaintiffs to those who have suffered an injury in fact.

All that California requires is that plaintiffs plead a valid cause of action and evince a sufficient interest in the outcome. (*Bilafer v. Bilafer* (2008) 161 Cal.App.4th 363, 370 ["In assessing standing, California courts are not bound by the 'case or controversy' requirement of article III of the United States Constitution, but instead are guided by 'prudential' considerations"].) Given the minimal constitutional limitations, it is generally not the state constitution, but rather the statute under which a case is brought, that determines which plaintiffs may avail themselves of the protections of that law. (See *Modern Barber Colleges v. Cal. Employment Stabilization Com.* (1948) 31 Cal.2d 720, 726-727.)

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[3] Wright & Miller, *supra*, § 3522 ("A federal court's entertaining a case that is not within its subject matter jurisdiction is no mere technical violation; it is nothing less than an unconstitutional usurpation of state judicial power").

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The opinion relied on by the superior court in this case, *Limon v. Circle K Stores Inc.* (2022) 84 Cal.App.5th 671, is an aberration from this bedrock aspect of California jurisdictional law. Contrary to that opinion's conclusion, the California Constitution places no limits on standing comparable to those in federal court. Unless otherwise provided by California statute, state courts in California do not require that a plaintiff experience injury in fact in order to bring a claim. And, contrary to the holding in *Limon* and the handful of decisions it relies on, the beneficial interest test contained in Code of Civil Procedure section 1086 does not apply broadly to all statutes; it is limited to the writ of mandate proceeding for which the Legislature devised it.

Applying the principles of California standing law to this case is thus straightforward. Mr. Chai meets the minimal constitutional and general statutory standards for bringing a claim: he has a personal stake and sufficient interest in the outcome of this case. The Legislature has imposed no further standing requirements on plaintiffs seeking redress under the Fair Debt Buying Practices Act (FDBPA). As the parties have stipulated, Mr. Chai did not receive the notice required by the Legislature in the FDBPA. Under California law, therefore, Mr. Chai has standing to prosecute his claims.

The judgment of the superior court dismissing the case for lack of standing should be reversed.

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ARGUMENT

I. FEDERAL STANDING DOCTRINE HAS NO EQUIVALENT, AND NO PLACE, IN CALIFORNIA COURTS.

Standing in California state courts differs fundamentally from standing in the federal courts. Federal courts must abide by the constitutional limitation that the federal judicial power extends only to "cases . . . and . . . controversies." (U.S. Const., art. III, § 2.) The United States Supreme Court has interpreted that provision to require a concrete and particularized injury in fact that is fairly traceable to the defendant's actions and is redressable by a judicial decision in order to invoke federal jurisdiction. (See, e.g., *TransUnion LLC v. Ramirez* (2021) 594 U.S. 413, 423; *Spokeo, Inc. v. Robins* (2016) 578 U.S. 330, 338.) Article III standing has no analogue, however, in the California Constitution, whose standing requirements are far more lenient. (See Cal. Const., art. VI, § 10; *Connerly v. State Personnel Bd.* (2001) 92 Cal.App.4th 16, 29.)

The California Supreme Court has established unequivocally that plaintiffs in California courts need not establish an injury in fact akin to the showing required under Article III's case and controversy regime. (See *Weatherford v. City of San Rafael* (2017) 2 Cal.5th 1241, 1247-1248 [explaining that the California Constitution contains no "case or controversy requirement imposing an independent jurisdictional limitation"]; *Grosset*, *supra*, 42 Cal.4th at p. 1116, fn. 13 (stating that, with

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respect to the case and controversy requirement, "[t]here is no similar requirement in our state Constitution"]; see also *Kwikset Corp. v. Super. Ct.* (2011) 51 Cal.4th 310, 322, fn. 5 ["There are sound reasons to be cautious in borrowing federal standing concepts, born of perceived constitutional necessity, and extending them to state court actions where no similar concerns apply"].)

This District, along with other districts of the courts of appeal, has similarly held repeatedly that no Article III-type standing requirement applies in California courts. (See, e.g., *The Rossdale Group, LLC v. Walton* (2017) 12 Cal.App.5th 936, 944 ["Article III of the federal Constitution imposes a case-or-controversy limitation on federal court jurisdiction . . . . There is no similar requirement in our state Constitution"]; *Jasmine Networks, Inc. v. Super. Ct.* (2009) 180 Cal.App.4th 980, 990 ["no such wariness surrounds the subject matter jurisdiction of California courts"]; *Nat. Paint & Coatings Assn. v. State* (1997) 58 Cal.App.4th 753, 761-762 [finding "no California cases holding that concrete injury and redressability are essential prerequisites to justiciability in California"].)

Even the United States Supreme Court has reiterated that "the constraints of Article III do not apply to state courts, and accordingly the state courts are not bound by the limitations of a case or controversy." (*ASARCO*, *supra*, 490 U.S. at p. 617 [noting that this rule applies to state courts "even when they address issues of federal law"]; *N.Y. State Club*

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Assn., *supra*, 487 U.S. at p. 8, fn. 2 ["The States are thus left free as a matter of their own procedural law to determine . . . matters that would not satisfy the more stringent requirement in the federal courts that an actual 'case' or 'controversy' be presented for resolution"]; see also *Ramirez*, *supra*, 594 U.S. at p. 459, fn. 9 (dis. opn. of Thomas, J.) ["By declaring that federal courts lack jurisdiction, the Court has thus ensured that state courts will exercise exclusive jurisdiction" over claims that do not satisfy the injury in fact requirement].)

Given the depth and strength of this precedent, the decision by the trial court here—like that of the court of appeal in *Limon*, *supra*, 84 Cal.App.5th, upon which it relied—represents a startling departure.[4] The constitutions, statutes, and decisional law of both the State of California and the United States carefully distinguish the heightened injury-in-fact requirement in federal court from the lenient standard in state court. To confuse the two is reversible error.

A. The California Constitution Contains No Article III-Type Standing Requirement.

The California Constitution, which sets the outer bounds of the power of the state judiciary (*Cal. Redevelopment Assn. v. Matosantos*

[4] Velocity's invocation of *federal* cases, which appropriately apply the Article III standard to cases brought in the federal courts, reflects the same misapprehension and is of little help in clarifying *state* court standing doctrine. (Resp. Br. at pp. 13-24; see Reply at pp. 5-6).

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(2011) 53 Cal.4th 231, 252; *Harrington v. Super. Ct.* (1924) 194 Cal.185, 188), does not impose any significant limitations on the jurisdiction of California courts to hear disputes. Under article VI, section 10, of the California Constitution, California's superior courts may widely exercise "original jurisdiction in all . . . causes." (See *Ex Parte Shaw* (1953) 115 Cal.App.2d 753, 755 [stating that pursuant to section 10, "[t]hus, the superior courts are courts of general jurisdiction"].) A "cause" in this context refers to "every matter that could be decided" by the judicial power. (*In re Wells* (1917) 174 Cal. 467, 472-473; see *In re Stevens* (1925) 197 Cal. 408, 413-414 [similarly defining cause for the purpose of appellate jurisdiction].) This provision thus embodies "the state Constitution's broad conferral of jurisdiction." (*Donaldson v. Nat. Marine, Inc.* (2005) 35 Cal.4th 503, 512, citing Cal. Const., art. VI, § 10; see also *Wells* at pp. 472-473 [stating that "cause" in section 10 confers a "broad meaning" with an "all-embracing application"].) The general jurisdiction of California courts, descending from the California Constitution, cannot be altered by the Legislature. (*Matosantos*, *supra*, at p. 252 ["Where the judicial power of courts, either original or appellate, is fixed by constitutional provisions, the legislature cannot either limit or extend that jurisdiction," quoting *Chinn v. Super. Ct.* (1909) 156 Cal. 478, 480].)[5]

[5] The Legislature, of course, "does retain the power to regulate matters of judicial procedure"; however, power may not be wielded to intrude on the

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The broad grant of jurisdiction in the California Constitution, as interpreted by this state's high court, is a far cry from the standard set by the federal Constitution's case and controversy requirement. (See *Lujan*, *supra*, 504 U.S. at p. 560; *Rossdale*, *supra*, 12 Cal.App.5th at p. 944 [explaining that the federal standard is "rooted in the constitutionally limited subject matter of jurisdiction of those courts"].)[6]

That no case and controversy limitation governs the California judiciary has been evident since statehood. Neither California's first constitution in 1849 nor its subsequent charter in 1879, which is still in effect today, has significantly limited the jurisdiction of the California courts. Moreover, the state Constitution has been amended over 500 times,[7] and at no point has the Legislature or the voters of California adopted a constitutional provision imposing an injury in fact or other restriction on standing.

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general jurisdiction of the judiciary. (*Matosantos* at pp. 252-253 [explaining that courts "avoid such constitutional conflicts whenever possible by construing legislative enactments strictly against the impairment of constitutional jurisdiction"].)

[6] See also Doggett, *"Trickle Down" Constitutional Interpretation: Should Federal Limits on Legislative Conferral of Standing Be Imported into State Constitutional Law?* (2008) 108 Colum. L.Rev. 839, 876 ("the California Constitution refers exclusively to the adjudication of 'causes' rather than 'cases,' perhaps implying a rejection of federal justiciability standards").

[7] Carrillo et al., *California Constitutional Law: Direct Democracy* (2019) 92 S.Cal. L.Rev. 557, 573.

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The original 1849 Constitution conferred broad jurisdiction on state trial courts in all matters above an amount-in-controversy threshold. (See Cal. Const. of 1849, art. VI, § 6 [“The district courts shall have original jurisdiction in law and equity in all civil cases where the amount in dispute exceeds two hundred dollars”]; *Cohen v. Barrett* (1855) 5 Cal. 195, 210 [noting the state trial courts’ “common law or chancery powers as courts of general jurisdiction”].)[8] The drafters modeled article VI largely on similar provisions in the Iowa Constitution, which also broadly extended trial courts’ original jurisdiction to “all civil and criminal matters . . . in such manner as shall be prescribed by law”[9]; notably, the federal Constitution—with its case and controversy requirement—was not a source of inspiration for the drafters of the jurisdictional standards of either state charter.[10] A subsequent amendment to the California Constitution in 1862 distributed jurisdiction over certain subject matters among the different courts of first

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[8] See also Blume, *California Courts in Historical Perspective* (1970) 22 Hastings L.J. 121, 128-130 (examining the debates at the 1848 Constitutional Convention over the amount-in-controversy jurisdictional prerequisite).

[9] Iowa Const. of 1846, art. VI, § 4.

[10] See Saunders, *California Legal History: The California Constitution of 1849* (1998) 90 Law Library J. 447, 457-458; Burlingame, *The Contribution of Iowa to the Formation of the State Government of California in 1849* (1932) 20 Iowa J. Hist. & Pol. 182, 209-212, 215. The constitution of New York, the other document that the drafters largely considered, did not contribute to article VI, section 6 of the California Constitution. (See Burlingame at p. 215.)

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instance, but never imposed jurisdictional limits analogous to federal standing.[11]

The historical record for the 1879 California Constitution, which instituted the modern jurisdictional grant in article VI, section 10, also contains no evidence that the delegates to California's constitutional convention referenced or considered adopting the jurisdictional limits of the federal case and controversy regime. Following discussions of several proposed amendments affecting the jurisdiction of the trial courts[12] – during which time Article III was never mentioned – the delegates ultimately re-aggregated the courts into a system of superior courts and afforded them jurisdiction over a broad array of cases.[13] Furthermore, in a public address that aimed to "set[] forth the salient points of difference between the existing Constitution and the [1879] Constitution [being] adopted," the delegates explained that the new superior courts were intended to inherit the

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[11] See Blume, *supra* note 8, at pp. 141-145.

[12] See 2 Willis & Stockton, Debates and Proceedings, California Constitutional Convention 1878-1879, pp. 966-967 (detailing discussion of proposed amendments to the superior courts' geographic jurisdiction and to the minimum dollar value of "property in controversy" that should fall within their purview); 3 Willis & Stockton, *supra*, at pp. 1333-1334 (reporting negotiations about a proposed amendment to the superior courts' geographic jurisdiction in certain matters pertaining to real property).

[13] *Id.* at pp. 1514-1515; see also Blume, *supra* note 8, at pp. 165-169 (discussing the jurisdiction of the superior courts).

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broad jurisdiction of the judicial entities they succeeded.[14] That grant of jurisdiction effectuated by the 1879 California Constitution is still in effect.

B. The Difference In Federal And State Standing Doctrine Reflects The Difference Between Courts Of Limited And General Jurisdiction.

Because they are courts of general jurisdiction, the courts of California play a fundamentally different role than the courts of limited jurisdiction that make up the federal judiciary. [15] This "result properly follows from the allocation of authority in the federal system." (*ASARCO*, *supra*, 490 U.S. at p. 617 [explaining that a case in Arizona state court that would have been dismissed in federal court for lack of Article III standing could proceed because the "state judiciary here chose a different path, as was their right, and took no account of federal standing rules"). State courts of general jurisdiction—the California courts among them—are able to adjudicate virtually all disputes that come before them.[16] Their power is

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[14] 3 Willis & Stockton, *supra*, at pp. 1521-1522 (indicating that the jurisdiction of the superior courts "includes substantially the same as all other Courts thus superseded.")

[15] See Williams, The Law of American State Constitutions (2009) pp. 298-299 ("State courts occupy different institutional positions and perform different judicial functions from their federal counterparts"); Hershkoff, *State Courts and the "Passive Virtues": Rethinking the Judicial Function* (2001) 114 Harv. L.Rev. 1833, 1886 (noting that "commentators have recognized that significant institutional differences distinguish many state courts from federal courts").

[16] See, e.g., Wright & Miller, *supra*, § 3522; Gardner, *The Failed Discourse of State Constitutionalism* (1992) 90 Mich. L. Rev. 761, 808-809 ("Unlike the federal courts, which are courts of limited jurisdiction, state courts may

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"expansive."[17] Importantly, since the Founding, state courts have also been able to exercise concurrent jurisdiction over federal claims absent an express prohibition to the contrary. (See *Tafflin v. Levitt* (1990) 493 U.S. 455, 458 [declaring the "axiom" that "state courts have inherent authority, and are thus presumptively competent, to adjudicate claims arising under the laws of the United States"]; *Claflin v. Houseman* (1876) 93 U.S. 130, 138-142 [adducing Founding-era cases supporting this principle].)[18] Indeed, given their broad grant of jurisdiction, the presumption is that state courts have the authority to adjudicate any matter that comes before them. (See *Galpin v. Page* (1873) 85 U.S. 350, 365-366 ["a superior court of general jurisdiction, proceeding with the general scope of its powers . . . is

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be courts of general jurisdiction"); California Courts, *Jurisdiction and Venue: Where to File a Case*, https://perma.cc/GHW8-AZ8X (as of July 15, 2024) (defining "General Jurisdiction, which means that a court has the ability to hear and decide a wide range of cases. Unless a law or constitutional provision denies them jurisdiction, courts of general jurisdiction can handle any kind of case. *The California superior courts are general jurisdiction courts*," emphasis added).

[17] Hershkoff, *supra* note 15, at p. 1888 ("State power . . . is plenary and inherent, and the theory of state judicial power is correspondingly expansive"); see also 20 Am.Jur.2d Courts (2024) General and Limited Jurisdiction, § 66 ("State courts are invested with general jurisdiction that provides expansive authority to resolve myriad controversies brought before them").

[18] See also The Federalist No. 82 (Hamilton) ("When . . . we consider the State governments and the national governments, as they truly are, in the light of kindred systems, and as parts of ONE WHOLE, the inference seems to be conclusive, that the State courts would have a concurrent jurisdiction in all cases arising under the laws of the Union, where it was not expressly prohibited").

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presumed to have jurisdiction to give the judgments it renders until the contrary appears" and evaluating a matter that originated in the California courts].)[19]

By contrast, "it is a fundamental precept that federal courts are courts of limited jurisdiction." (*Owen Equipment & Erection Co. v. Kroger* (1978) 437 U.S. 365, 374.)[20] The outer bounds of their authority are specified by the U.S. Constitution and Congress. (*Kokkonen v. Guardian Life Ins. Co. of America* (1994) 511 U.S. 375, 377; see *Nat. Federation of Independent Business v. Sibelius* (2012) 567 U.S. 519, 533 [explaining that "[t]he Federal Government is acknowledged by all to be one of enumerated powers . . . The enumeration of powers is also a limitation of powers," internal quotations omitted].) The limited jurisdiction of the federal judiciary "functions as a restriction on federal power." (*Insurance Corp. of Ireland*, *supra*, 456 U.S. at p. 702) The default presumption regarding

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[19] Accord Wright & Miller, *supra*, § 3522 ("Most state courts are courts of general jurisdiction, and the presumption is that they have subject matter jurisdiction over any controversy unless a showing is made to the contrary."); Gardner, *supra*, note 16, at p. 809 ("In the absence of limiting constitutional language, the ordinary presumption would be that state courts are constitutionally empowered to hear cases, not that they share a limitation in common with federal courts.")

[20] Accord Wright & Miller, *supra*, § 3522 ("It is a principle of first importance that the federal courts are tribunals of limited subject matter jurisdiction. . . . [They] cannot be courts of general jurisdiction"); 17A Moore's Federal Practice—Civil (2024) § 120.02 ("By and large, federal courts are *not* courts of general jurisdiction," emphasis in original).

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jurisdiction is the inverse of that for the state courts: as a matter of default, a federal court lacks jurisdiction, and it is the burden of the plaintiff to establish it. (*DaimlerChrysler Corp. v. Cuno* (2006) 547 U.S. 332, 342, fn. 3 ["we presume that federal courts lack jurisdiction unless the contrary appears affirmatively from the record"]; *Kokkonen* at p. 377; accord *United States v. Arnaiz* (9th Cir. 1988) 842 F.2d 217, 219 & fn. 3.)

The relative leniency of standing requirements in state courts, including California courts, compared to those in federal courts reflects their different grants of jurisdiction. (See *Jasmine*, *supra*, 180 Cal.App.4th at p. 990 [explaining that Article III standing is "rooted in the constitutionally limited subject matter jurisdiction of [federal] courts . . . [but] no such wariness surrounds the subject matter jurisdiction of California courts"].)[21] Standing to pursue particular causes of action in state courts is, and must remain, a readily surmountable burden to make manifest the general jurisdiction of the state judiciary.[22] Relaxed standing in state

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[21] See Williams, *supra* note 15, at p. 298-299 [finding that barriers to standing are "usually lower at the state level"]; Doggett, *supra* note 8, at p. 875 ("many commentators have suggested that the lack of case and controversy language in state constitutions should be read to suggest a broader scope of the judicial power in state courts"); Gardner, *supra* note 16, at p. 809, fn. 202 ("Many states have far more relaxed rules of standing than federal courts due to the unrestricted jurisdiction of state courts").

[22] See Hershkoff, *supra* note 15, at p. 1940 (positing that "state courts, because of their differing institutional and normative position, should not conform their rules of access to those that have developed under Article III. Instead, state systems should take an independent and pragmatic approach

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court helps satisfy a foundational purpose of the American judicial system: to ensure that there exists a forum to hear and adjudicate all manner of disputes and to provide remedies to redress legal harms. When federal courts, which are bound by the strictures of Article III's case and controversy requirement, cannot entertain claims that lack an injury in fact but are otherwise cognizable—and real—harms, state courts are the only available forum for those harms to be redressed.[23]

C. Importing Article III Standing To California Courts Would Undercut The Legislature's Express Intent And Would Vitiate Access To Justice.

A holding that state-court plaintiffs must establish Article III-type injury would severely undermine the longstanding role of the California judiciary in providing broad access to justice for the state's residents. (See *Super. Ct. v. County of Mendocino* (1996) 13 Cal.4th 45, 66 (noting that "[t]he judiciary . . . has a keen and overriding interest in assuring that the public enjoys the broadest possible access to justice through the judicial system"].)[24]

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to judicial authority in order to facilitate and support their integral and vibrant role in state governance").

[23] Wright & Miller, *supra*, § 3522 ("A federal court's entertaining a case that is not within its subject matter jurisdiction is no mere technical violation; it is nothing less than an unconstitutional usurpation of state judicial power.")

[24] As Justice William Brennan explained, "state courts that rest their decisions wholly or even partly on state law need not apply federal principles of standing and justiciability that deny litigants access to the

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Depriving litigants of a forum in California courts, when they are simultaneously foreclosed from bringing their case in federal court, would mean that parties would have *no* forum in which to bring their case. Especially as the U.S. Supreme Court has in recent years narrowed access to federal judicial relief for lack of Article III standing, litigants now increasingly file or refile their matters in state court.[25] If those same litigants must satisfy a stringent constitutional standing prerequisite in *state* court as well, they would likely have no access at all to a judicial resolution of their claims. The facts of the *Limon* case illustrate the paradox: after the federal district court dismissed the consumers' claims under the Fair Credit Reporting Act for lack of Article III standing under *Ramirez*, the consumers refiled in state court, only to have the state court dismiss their claims under the same federal standard. (*Limon*, *supra*, 84 Cal.App.5th at p. 680.)[26]

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courts. (Brennan, *State Constitutions and the Protection of Individual Rights* (1977) 90 Harv. L.R. 489, 501.)

[25] See Carter, *Bringing Federal Consumer Claims in State Court: A 50-State Analysis of Standing Rules* (Mar. 27, 2022) Nat. Consumer Law Center, https://perma.cc/U5WY-MG2D (as of July 15, 2024) (recommending that filing consumer cases alleging intangible injuries in state court is an "attractive alternative" after *Ramirez*); https://perma.cc/AZ84-7JWF; Frankel, *State Court Will Be Next Frontier For Consumer Class Actions Under Federal Law*, Reuters (June 28, 2021), https://tinyurl.com/mw2h88mp (anticipating such a trend).

[26] For this reason, state courts should not be subject to Article III standing requirements irrespective of whether the claims are founded on federal law, like in *Limon*, or state law like this case.

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Moreover, imposing an Article III standing requirement in state court would undermine the many California statutory protections enacted by the Legislature with private enforcement regimes. Dozens of such statutes expressly prohibit privacy or informational-type injuries—the types of intangible harms that largely do not satisfy Article III standing after *Spokeo* and *Ramirez*—and deputize private consumers and workers to bring private lawsuits in court to remedy those harms.[27] The Legislature created private enforcement regimes like these out of concern that crucial statutory protections go underenforced. (See, e.g., *Kwikset*, *supra*, 51 Cal.4th at p. 330 (recognizing "the significant role . . . private consumer enforcement

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[27] See, e.g., Bus. & Prof. Code, § 17533.7 (prohibiting under the False Advertising Law misrepresentation of goods as being "Made in U.S.A." that were produced outside of the U.S.); *id.*, §§ 22444-22445 (misrepresentations about immigration services made by non-lawyer immigration consultants to clients); Civ. Code, § 1770, subd. (a)(27) (misrepresentation of goods under the Consumer Legal Remedies Act as "Made in California"); *id.*, § 1770, subd. (a)(25) (failure under that same law to disclose that events or workshops regarding veterans' benefits are not sponsored by or affiliated with the federal or state Departments of Veterans Affairs); *id.* §§ 1788.14, 1788.30 (disclosure and notice requirements under the Rosenthal Fair Debt Collection Practices Act); *id.*, §§ 1798.82, subd. (a), 1798.84 (requirement to disclose any breach of consumer information under California Data Breach Notification Act); *id.*, § 1798.150 (private right of action to redress unauthorized access or disclosure of personal information under the California Consumer Privacy Act); *id.*, §§ 2982-2983 (disclosure requirements on conditional sales contracts and private right of action under the Reese-Levering Motor Vehicle Sales and Finance Act); Lab. Code, § 226, subds. (a), (e) (requirement for employers to furnish itemized wage statements and authorizing employees to seek damages due to a knowing and intentional failure to comply); *id.* §§ 1401, 1404 (notice requirements for employees before mass layoffs under the WARN Act.)

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plays for many categories of unfair business practices" and finding standing to challenge label misrepresentations under the UCL.)[28]

Adoption of an injury in fact requirement in California courts would undermine private enforcement of statutory protections for Californians in their own state courts.[29] It would create a bizarre scenario in which hundreds if not thousands of statutes, duly enacted by the California Legislature, are left largely unenforced. And this sea-change would have occurred not because of any action by the Legislature, which has historically determined the standing requirements for each statute (see *infra*, Section III), but because the judiciary had determined that a century and a half of constitutional interpretation and balance among the branches of government was simply wrong. It is difficult to imagine that outcome.

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[28] See also Norris, *The Promise and Perils of Private Enforcement* (2022) 108 Va. L.Rev. 1483, 1506-1507 ("Private attorneys general are lauded for their ability to supplement public enforcement and to fill gaps where public enforcement capacity is weak or lacking").

[29] Gilles, *The Private Attorney General in a Time of Hyper-Polarized Politics* (2023) 65 Ariz. L.Rev. 337, 375-378; Chemerinsky, *What's Standing After* TransUnion LLC v. Ramirez (2021) 96 N.Y.U. L.Rev. Online 269, 283-286 ("It is hard to overstate how dramatic [*Ramirez*] could be in limiting the ability to sue under federal laws" and considering the implications of the decision to various federal civil rights, consumer protection, and workplace statutes).

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II. CALIFORNIA'S STANDING REQUIREMENT IS NOTABLY LENIENT AND EASILY MET.

The California Supreme Court has identified a simple requirement for standing in California courts: a "sufficient interest" in "actual controversies." (*Kim v. Reins Internat. Cal., Inc.* (2020) 9 Cal.5th 73, 83; see also *Turner v. Victoria* (2023) 15 Cal.5th 99, 111 ["At its core, standing concerns a specific party's interest in the outcome of a lawsuit"].)[30] These are the basic factors that guarantee that a party possess a sufficient interest in the matter to bring the case. (See *Weatherford*, *supra*, 2 Cal.5th at p. 1249 [explaining that the California Supreme Court's standing law "reflects a sensitivity to broader prudential and separation of powers considerations elucidating how and when parties should be entitled to seek relief under particular statutes"].) As this Court has explained, these considerations are invoked "in the exercise of judicial restraint." (*Mavrixx Initiatives v. Doe* (2006) 138 Cal.App.4th 872, 877-878.)

The standing requirement in California ensures that the parties will "press their case with vigor." (*Common Cause v. Bd. of Supervisors* (1989) 49 Cal.3d 432, 439-440; see also *Harman v. City & County of S.F.* (1972) 7 Cal.3d 150, 159 [explaining that "[a] party enjoys standing to bring his complaint into court if his stake in the resolution of that complaint assumes

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[30] The "controversies" required here bear little resemblance to the "controversy" now required by the U.S. Supreme Court under Article III. (See *Grosset*, *supra*, 42 Cal.4th at p. 1117, fn. 13.)

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the proportions necessary to ensure that he will vigorously present his case"].) While the requirement of an "actual controversy" may sometimes be "difficult to define and hard to apply" (*Cal. Water & Telephone Co. v. L.A. County* (1967) 253 Cal.App.2d 16, 22), a broad consensus of the Courts of Appeal has held that the controversy must simply be "substantial," or that the party would be "benefited or harmed" by the outcome. (*In re Marriage of Marshall* (2018) 23 Cal.App.5th 477, 485, quoting *City of Santa Monica v. Stewart* (2005) 126 Cal.App.4th 43, 59; accord *Blumhorst v. Jewish Family Services of L.A.* (2005) 126 Cal.App.4th 993, 1000-1001.) The sufficient interest prerequisite does not impose the same standing requirements as the far more stringent case and controversy standard currently articulated by the U.S. Supreme Court.

The closely related general statutory requirement that "every action must be prosecuted in the name of the real party in interest, except as otherwise provided by statute" (Code Civ. Proc., § 367) serves simply to reinforce the necessity of a sufficient interest. (See *Zolly v. City of Oakland* (2022) 13 Cal.5th 780, 789 [defining the "real party in interest" simply as "'any person or entity whose interest will be directly affected by the proceeding' including anyone with 'a direct interest in the result,'" quoting *Connerly*, *supra*, 37 Cal.4th at p. 1169].) The statute does not interpose any additional standards, including those imposed by Article III. (*Jasmine*, *supra*, 180 Cal.App.4th at p. 991.) The real party in interest is just the

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individual or entity with "the right to sue under the substantive law." (*River's Side at Washington Square Homeowners Assn. v. Super. Ct.* (2023) 88 Cal.App.5th 1209, 1225.) Section 367 assures that the plaintiffs have an actual controversy, and that a suit is brought in the name of the entity that has the right to sue under the substantive law invoked.[31] As this Court has twice explained, "This provision is not the equivalent of, and provides no occasion to import, federal-style 'standing' requirements . . . . [S]ection 367 simply requires that the action be maintained in the name of the person who has the right to sue under the substantive law." (*Jasmine* at p. 991; *Mavrixx*, *supra*, 138 Cal.App.4th at pp. 877-878 [distinguishing the prudential concerns from the injury in fact requirement derived from Article III].)[32]

No other general standing requirements demarcate the jurisdiction of the California judiciary.

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[31] Section 367's analogue in federal court, Federal Rule of Civil Procedure, rule 17, similarly only requires that the "action should be brought in the name of the party who possesses the substantive right being asserted under the applicable law." (Wright & Miller, *supra*, History and Purpose of Rule 17, § 1541.)

[32] See also Wright & Miller, *supra*, Real Party in Interest, Capacity, and Standing Compared, § 1542 [observing that "courts and attorneys frequently have confused the requirements for standing with those used in connection with real-party-in-interest or capacity principles"].)

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III. STANDING IN CALIFORNIA COURTS IS PRIMARILY DETERMINED BY THE LEGISLATIVE BRANCH AS A FEATURE OF EACH STATUTE.

Because there are no significant constitutional limitations to standing in California courts, it is the province of the Legislature or the voters to establish the standing requirements for each statute they enact. When the Legislature creates a cause of action—as it did when it enacted the FDBPA—it determines who may bring a claim under the law. Whether standing remains at the default lenient level or is made for stringent for a given statute is a legislative determination.

A. The Legislature Possesses Plenary Power To Enact A Cause Of Action And Establish Standing To Bring It.

For parties to have standing in California, they must have a cause of action. (*Parker v. Bowron* (1953) 40 Cal.2d 344, 351 ["The right to relief . . . goes to the existence of a cause of action]; accord *Librers v. Black* (2005) 129 Cal.App.4th 114, 124.) A cause of action is, among other things, "'a right to recover money or other personal property by a judicial proceeding.'" (*Amalgamated Transit Union, Local 1756, AFL-CIO v. Super. Ct.* (2009) 46 Cal.4th 993, quoting Civ. Code, § 953.) When the Legislature (or the voters)[33] creates a statutory cause of action, it creates a "party's right to make a legal claim" for a violation of the statute, and thus confers

[33] See Cal. Const., art. IV, § 1 ("The legislative power of this State is vested in the California Legislature . . . but the people reserve to themselves the powers of initiative and referendum").

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standing to seek relief in court. (*Dent v. Wolf* (2017) 15 Cal.App.5th 230, 233-234; see also *Librers* at p. 124 [defining standing to sue as a "party's right to make a legal claim or seek judicial enforcement," quoting Black's Law Dict. (8th ed. 2004) p. 1442, col. 1].)

The Legislature retains "plenary" power to enact laws (*Matosantos*, *supra*, 53 Cal.4th at p. 254), including those that create statutory harms and remedies. (*Modern Barber*, *supra*, 31 Cal.2d at p. 726 [declaring that the Legislature "may create new rights or provide that rights which have previously existed shall no longer arise, and it has full power to regulate and circumscribe the methods and means of enjoying those rights"].) California state courts cannot obligate any further showing under the statute. (*Ibid.* [stating that "[n]otwithstanding th[e] constitutional grant of jurisdiction" to superior courts, "the Legislature has complete power over the rights involved" in civil actions due to its authority to "create or abolish particular causes of action"].) This rule contrasts with that of the federal courts. Congress may define a cause of action by statute and a right to seek redress of a statutory violation, but Article III's case and controversy requirement compels federal courts to further scrutinize the harm resulting from that violation for injury in fact. (*Ramirez*, *supra*, 594 U.S. at pp. 426-428 ["[U]nder Article III, an injury in law is not an injury in fact"].) In California, however, in the absence of a statutory mandate, state courts are under no such obligation, and possess no such authority.

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Legislative intent—ascertained through the statute's text, purpose, context, and legislative history—is the source of standards establishing standing. (*Adolph v. Uber Technologies, Inc*. (2023) 14 Cal.5th 1104, 1120 ["Where . . . a cause of action is based on a state statute, standing is a matter of statutory interpretation"]; see, e.g., *Turner*, *supra*, 15 Cal.5th at p. 114-123 (finding broad standing to bring action for breach of charitable trust under the Nonprofit Corporation Law by analyzing the statutory text, legislative history, and purpose); *In re Tobacco II Cases* (2009) 46 Cal.4th 298, 319 [evaluating proposition's language and ballot materials to determine standing for absent class members in Unfair Competition Law (UCL) class actions].) Obligating parties to establish a concrete injury in fact in addition to a statutory harm runs counter to the intent of the Legislature in enacting statutory causes of action. (See *White v. Square, Inc.* (2019) 7 Cal.5th 1019, 1024 ["Standing rules for statutes must be viewed in light of the intent of the Legislature and the purpose of the enactment"].) As this Court has succinctly stated, "Standing requirements will vary from statute to statute based upon the intent of the Legislature." (*Librers*, *supra*, 129 Cal.App.4th at p. 124, quoting *Blumhorst*, *supra*, 126 Cal.App.4th at 1000-1001.)

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B. The Array of Different Statutory Standing Requirements In California Evinces The Legislature's Predominant Role In Determining Standing In California.

The fact that the Legislature and electorate can relax or tighten standing requirements for specific laws makes plain the legislative branch's singular role in defining standing. (See, e.g., Civ. Code, § 17204 [setting forth standing requirement to bring a UCL action]; Lab. Code, § 2699, subd. (a) [defining standing under the Private Attorney Generals Act].) The various standing requirements for public interest concerns are emblematic of the Legislature's role. For example, taxpayer standing, which authorizes actions by a private person against the officers of a local government to restrain the unlawful expenditure of public funds (Code Civ. Proc., § 526a) confers a special cause of action that necessitates "no showing of special damage to the particular taxpayer." (*White v. Davis* (1975) 13 Cal.3d 757, 764-765 [contrasting the statutory standing requirement with "restrictive federal doctrine" that required a "specific harm"].) In light of the statute's broad mandate, the California Supreme Court has repeatedly rejected attempts to limit taxpayer standing through imposition of an injury prerequisite. (See, e.g., *Weatherford*, *supra*, 2 Cal.5th at pp. 1249-1251 [ruling that the text of section 526a does not require plaintiffs to have paid property tax to have taxpayer standing]; *Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1086 [holding that taxpayers had standing to challenge the constitutionality of the city's anti-camping ordinance without alleging they

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had been cited under the ordinance or were homeless].)[34] A court-defined standing doctrine akin to that imposed by Article III would undermine the goals of the Legislature to broadly create a cause of action that empowers taxpayers to keep government accountable. (See *Thompson v. Spitzer* (2023) 90 Cal.App.5th 436, 454-455 ["[N]othing in the text of the statute requires a plaintiff to identify a person harmed by the program to maintain taxpayer standing, nor are we aware of any case law to this effect. We refuse to adopt such a requirement, as it would interfere with the goals of taxpayer standing"].)

On the other hand, the adoption of *restrictive* standing requirements also makes plain that it is principally statutes, not any other source of law, confer (and limit) standing in California. For example, prior to 2004, private plaintiffs could file suit under the Unfair Competition Law even if they "had not been injured by the business act or practice at issue." (*Cal. Medical Assn. v. Aetna Health of Cal., Inc.* (2023) 14 Cal.5th 1075, 1086.) In 2004, however, California voters enacted Proposition 64, which "curtailed the universe of those who may enforce" the UCL to just "a person who has suffered injury in fact and has lost money or property as

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[34] By contrast, taxpayer standing is not available in federal courts "because it does not give rise to the kind of redressable 'personal injury' required for Article III standing." (*Hein v. Freedom From Religion Foundation, Inc.* (2007) 551 U.S. 587, 599; see *id.* at p. 602 [noting only one "narrow exception" to challenge government expenditures that violate the Establishment clause].)

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result of the unfair competition." (*Kwikset*, *supra*, 51 Cal.4th at pp. 321-322; see Bus. & Prof. Code, § 17204, as amended.) The measure was intended to restrict "the UCL's generous standing provision." (*Tobacco II Cases*, *supra*, 46 Cal.4th at p. 324.)

That a concrete injury-in-fact is now required under the UCL confirms that no such background standing requirement previously existed under the law; rather, a voter initiative was necessary to establish an injury in fact mandate. The example of the UCL also makes clear that the voters, like the Legislature, can craft bespoke standing requirements for each statute: post-Proposition 64 standing under the UCL, for example, does not include the traceability or redressability elements of the Article III standing inquiry, but in other ways is even more restrictive in that it specifically requires the "loss of money or property." (*Cal. Med. Assn.*, *supra*, 14 Cal.5th at pp. 1087-1088.)

Similarly, until recently, the Private Attorneys General Act conferred "fairly broad" standing for an "aggrieved employee" to bring an action against their employer on behalf of the Labor Commissioner for workplace violations. (*Adolph*, *supra*, 13 Cal.5th at pp. 1121-1122; see Lab. Code, § 2699, subd. (a).). The Legislature provided that any person "employed by the alleged violator" who experienced "one or more of the alleged violations" had a cause of action to bring a PAGA suit, "including a plaintiff who has suffered no actual injury." (*Kim*, *supra*, 9 Cal.5th at pp.

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83-84, 86 [explaining that "[t]he state can deputize anyone it likes to pursue its claim," interpreting original statute].) The plain text of the law and its legislative history demonstrated that the Legislature sought to avoid "restrict[ing] PAGA standing to plaintiffs with some 'redressable injury.'" (*Id*. at pp. 84, 90-91 ["The Legislature defined PAGA standing in terms of violations, not injury"].) However, this year, facing the threat of a ballot measure that would have repealed PAGA, the Legislature amended the law to restrict statutory standing only to those employees who "personally suffered each of the violations alleged." (Lab. Code, § 2699, subd. (c)(1), as amended by Stats. 2024, ch. 44, § 1 (Assem. Bill 2288).)

The varied and evolving jurisdictional standards pertaining to these two statutes demonstrate the authority and the flexibility accorded to the legislative branch—the Legislature and the electorate—in setting standing requirements. The case law involving the two laws equally demonstrates the lack of latitude afforded to the judicial branch. As a general matter, litigants need not establish a concrete injury to file suit—unless the statute requires it. And that is a decision left to the Legislature or the voters, not the courts.

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IV. THE "BENEFICIAL INTEREST" SPECIFICALLY REQUIRED TO SEEK A WRIT OF MANDATE DOES NOT APPLY GENERALLY TO CASES BROUGHT IN CALIFORNIA COURTS.

There is no merit to Velocity's assertion (Resp. Br. at p. 30)—echoed in *Limon*, *supra*, 84 Cal.App.5th at pages 699-700, and the superior court here (AA 122)—that the "beneficial interest" requirement for seeking a writ of mandate (Code Civ. Proc., § 1086) creates a wholesale standing requirement for all other cases. The beneficial interest standard is simply another example of the Legislature creating a bespoke standing requirement, in that instance, for parties seeking a writ of mandate to compel public agencies or officials to perform their official duties. (See *Carsten v. Psychology Examining Com.* (1980) 27 Cal.3d 793, 796-797.) There is no indication in the text or history of the statute that this highly particularized standard somehow applies generally to standing in all matters brought in the California courts.

A. The Beneficial Interest Requirement Is Limited to Writs of Mandate And Analogous Equitable Actions.

The condition that specified writs of mandate may be brought only by "the party beneficially interested" in the outcome (Code Civ. Proc., § 1086) is intimately tied, and limited, to the "extraordinary remedy" that this cause of action affords. (*Wenzler v. Mun. Ct. for Pasadena Jud. Dist.* (1965) 235 Cal.App.2d 128, 131-133.) The singularity of the writ of mandate in itself suggests that the standing requirement cannot be superimposed on

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other causes of action that serve different purposes and provide adequate remedies. (*Id.* at p. 132 [noting that the writ of mandate is available only "for specified purposes" and through "a separate procedure"].) Recognizing that the writ affords equitable relief only, not damages, the Legislature specified that the writ may be issued only "in cases where there is *not* a plain, speedy, and adequate remedy." (Code Civ. Proc. § 1086, italics added; see *Drummey v. State Bd. of Funeral Directors & Embalmers* (1939) 13 Cal.2d 75, 82 ["Its purpose is to supply defects of justice; and accordingly it will issue, to the end that justice will be done, in all cases where there is a specific legal right and no specific legal remedy for enforcing such right," quoting 9 Halsbury's Laws of England 744, § 269].)

Consistent with the Legislature's intent to impose a greater burden on individuals seeking the writ, the California Supreme Court has long construed the statutory "beneficially interested" standard to require heightened standing under section 1086 and its predecessors: a "special interest to be served or some particular right to be preserved or protected." (*Carsten*, *supra*, 27 Cal.3d at pp. 796-797; see *Linden v. Bd. of Supervisors of Alameda County* (1872) 45 Cal. 6, 6 [stating that the interest of the party seeking the writ "must be of a nature which is distinguishable from that of the mass of the community"].) As discussed below, this narrowly applied standard has been interpreted to be "equivalent to the federal injury in fact

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test" under Article III. (*Associated Builders & Contractors, Inc. v. S.F. Airports Com.* (1999) 21 Cal.4th 352, 361-362.)

But this heightened requirement cannot be uncoupled from the extraordinary equitable nature of the remedy itself: to ensure justice where no other remedy is available. For this reason, the California Supreme Court has examined whether parties are "beneficially interested" in the outcome for the purposes of standing where they are seeking writs of mandate. (See, e.g., *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 170 [finding that association had "the direct, substantial sort of beneficial interest" to seek a writ of mandate in a California Environmental Quality Act challenge]; *People ex rel. Dept. of Conservation v. County of El Dorado* (2008) 36 Cal.4th 971, 988-989 [holding that agency director has beneficial interest to seek a writ challenging surface mining reclamation plans].) Other decisions by the high court invoking beneficial interests involve analogous equitable actions against government authorities. (See *San Diegans for Open Government v. Public Facilities Financial Authority of City of San Diego* (2019) 8 Cal.5th 733, 739 [considering statutory standing to challenge public contracts involving financial conflicts of interest under Gov. Code § 1090; *Teal v. Super. Ct.* (2014) 60 Cal.4th 595, 599-600 [finding standing to file a petition for recall of sentence under Pen. Code § 1170.126, subd. (b)]; *Dix v. Super. Ct.* (1991) 53 Cal.3d 442, 450-

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454 [stating that the beneficial interest test applies under the extraordinary writ of prohibition, Code Civ. Proc., § 1102].)[35]

Applying the beneficial interest requirement across all causes of action, not just writs of mandate and like provisions for equitable relief, would not only diminish the animating principle behind section 1085. It would also import a statutory requirement that the Legislature intended for one particular cause of action into a host of other causes, almost all of which already afford a sufficient remedy. (See *Carsten*, *supra*, 27 Cal.3d at pp. 796-797 [expressing the "controlling *statutory* requirements for standing for mandate," emphasis added].) There is no evidence in the text or history of the statute that the Legislature intended the beneficial interest standard to apply to the full panoply of cases brought in superior court, particularly cases like this one brought under statutes providing for damages. (Civ. Code, § 1788.62, subds. (a)-(b).)[36]

Notably, in certain circumstances even the writ's beneficial interest requirement itself can itself be relaxed. That exception proves the rule: it confounds logic to argue, as Velocity must, that some background concrete

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[35] The only exception to this rule is in the unrelated context of real property and trust law, from which the principle of a beneficial interest derives. (See, e.g., *Yvanova v. New Century Mortgage Co.* (2016) 62 Cal.4th 919, 927 [involving a beneficial interest in a deed of trust to challenge a nonjudicial foreclosure].)

[36] Not to mention, of course, that any such general application would run counter to 150 years of California jurisprudence.

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harm requirement deriving from the writ of mandate's statutory procedures exists in *all* cases when those requirements do not apply even in all writ proceedings. Specifically, section 1085's broad public interest standing exception does not require any showing of concrete injury to sue for a writ of mandamus, and neither the Legislature nor the California Supreme Court has ever required it. (See, e.g., *Environmental Protection Information Center v. Cal. Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 479-480 [holding that labor union had public interest standing to challenge industrial logging plan because "a public right and a public duty were at stake"]; *Green v. Obledo* (1981) 29 Cal.3d 126, 144-145 [finding that public benefits recipients had public interest standing to challenge regulation affecting benefits calculations].) In such instances, a party's interest for standing purposes is simply "as a citizen in having the laws executed and the duty in question enforced." (*Bd. of Social Welfare v. L.A. County* (1945) 27 Cal.2d 98, 100-101.)

California courts regularly permit public interest plaintiffs to seek a writ of mandate even though they would not have met the beneficial interest test of Code of Civil Procedure section 1086. (See, e.g., *Weiss v. City of Los Angeles* (2016) 2 Cal.App.5th 194, 205-206 [affirming public interest standing to an individual challenging a city's hiring of third-party contractor to conduct the initial review of parking tickets "because ensuring that the City follows the proper procedure for processing and collecting

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parking tickets is a matter of public right"]; *Hector F. v. El Centro Elementary School Dist.* (2014) 227 Cal.App.4th 331, 341 [finding student's father had public interest standing to enforce anti-discrimination and harassment laws under the Education Code against school district]; *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 915-916 [holding nonprofit corporation had public interest standing to bring CEQA challenge "even if neither Rialto Citizens nor any of its members have a direct and substantial beneficial interest in the issuance of the writ"].) In these cases, a concrete injury in fact was not required even for parties seeking a writ of mandate under section 1085. It is therefore clearly not required, *sub silentio*, for the vast sweep of non-writ cases in California courts.

B. The Precedent On Which Velocity Relies Provides No Grounds For The General Application Of Federal Standing Doctrine To California Courts.

Velocity's argument that the beneficial interest requirement applies generally to all causes of action in California (see Resp. Br. at pp. 30-32) has no viable support. It relies on precedent that either falls within the section 1085 writ of mandate exception or simply makes the claim without providing supporting analysis for an assertion that flies in the face of a doctrine as old as California itself.

The cases that *Limon* cites derive originally from decisions relying, properly, on the statutory exception to minimal standing contained in

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section 1086 of the Code of Civil Procedure. In 1980, the California Supreme Court held in the *ur*-case that the plaintiff lacked a beneficial interest "within the meaning of the statute" to seek a writ of mandate against an administrative occupational board. (*Carsten*, *supra*, 27 Cal.3d at pp. 796-797 [requiring a "special interest" or "particular right" that is "over and above the interest held in common with the public at large"].) In 1999—nearly two decades later—the high court briefly revisited the *Carsten* standard and equated it, albeit without analysis, to the requirements of Article III standing. (See *Associated Builders*, *supra*, 21 Cal.4th at p. 362.) In both of these decisions, the high court evaluated the beneficial interest test in the context of section 1085 writ of mandate cases only; it said nothing about standing for other causes of action.

It was two years later that the court of appeal, in *Holmes v. California National Guard* (2001) 90 Cal.App.4th 297, first applied the language of *Carsten* and *Associated Builders* outside the writ of mandate context and gave rise to what would become the small, peculiar line of decisions upon which *Limon*—and Velocity—rely. Though *Holmes* was not itself a writ of mandate case, it did involve a similar situation: a challenge by military veterans to their discharge under the federal armed forces' "Don't Ask, Don't Tell" policy that sought injunctive and declaratory relief. (*Id.* at p. 318.) And though *Holmes* did not analyze standing principles under *Carsten* or any other California Supreme Court precedent, the court

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at least applied *Carsten* in an analogous set of circumstances. Notably, because the court ultimately found that plaintiffs had standing under the heightened standard, there was no pressing need to examine the standard that the court had used to arrive at that decision.

Since the *Holmes* decision, a number of other appellate courts have cited the language of that opinion and of *Carsten*, but without examining standing doctrine. It was not until *Limon* that a California appellate court in this line undertook to analyze the general California law of standing. And though the analysis that *Limon* performed does not support even its conclusion that "[t]here are a number of California cases that indicate the 'beneficial interest' requirement applies generally to questions of standing," (*Limon*, *supra*, 84 Cal.App.4th at p. 699), the court's collection of these outlying cases serves to illustrate just how little weight they provide for a conclusion that Article III standing—or the beneficial interest test—applies generally in California courts.

Several of the decisions cited by *Limon* and Velocity are simply writ of mandate cases, and therefore fall within the statutory scope of section 1086.[37] Other cited decisions are, like *Holmes*, largely analogous to writ of

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[37] See, e.g., *Synergy Project Management, Inc. v. City & County of S.F.* (2019) 33 Cal.App.5th 21, 31; *SJJC Aviation Services LLC v. City of San Jose* (2017) 12 Cal.App.5th 1043, 1053; *Coral Construction Inc. v. City & County of San Francisco* (2004) 116 Cal.App.4th 6, 14-15; App. Br., *Coral*, *supra*, 2003 WL 23153309, at p. *2.

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mandate cases and so, while technically and textually not subject to heightened standing requirements, could perhaps be considered within the penumbra of section 1086 (and rely, without analysis, on *Carsten* and *Holmes* for their standard). And since each of these courts again found standing even under the heightened standard, there was little consequence to its holding on justiciability.[38] Finally, there remain a few cases cited by *Limon* that were not brought under section 1086, that are not analogous to writ of mandate cases, and that point ultimately to *Carsten* and *Holmes*—or simply cite each other—for the purported general rule that "[t]o have standing, a party must be beneficially interested in the controversy." (*Limon*, *supra*, 84 Cal.App.5th at p. 699.)[39] Not a single one of these cases

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[38] See *Teal*, *supra*, 60 Cal.4th at pp. 599-600 (petition to recall sentence); *Dominguez v. Bonta* (2022) 87 Cal.App.5th 389, 413 (injunctive relief case quoting, without analysis, *Teal* and *Associated Builders*); *City of Palm Springs v. Luna Crest, Inc.* (2016) 245 Cal.App.4th 879, 883 (injunctive relief case citing *County of San Diego v. San Diego NORML* (2008) 165 Cal.App.4th 798, 814, which itself cites *Carsten* and *Holmes*); *Sipple v. City of Hayward* (2014) 225 Cal.App.4th 349, 358-359 (tax refund case citing *Iglesia Evangelica Latina, Inc. v. Southern Pacific Latin Am. Dist. of the Assemblies of God* (2009) 173 Cal.App.4th 420, 445, which cites, without analysis, *Carsten* and *Holmes*); *TracFone Wireless, Inc. v. County of L.A.* (2008) 163 Cal.App.4th 1359, 1364 (tax refund case that cites *CashCall, Inc. v. Super. Ct.* (2008) 159 Cal.App.4th 273, 286, which quotes *Holmes*).

[39] See *DFEH v. M&N Financing Corp.* (2021) 69 Cal.App.5th 434, 443-444 (citing *Boorstein v. CBS Interactive, Inc.* (2013) 222 Cal.App.4th 456, 466, which cites *Carsten* and *Holmes*); *MTC Financial Inc. v. Cal. Dept. of Tax & Fee Administration* (2019) 41 Cal.App.5th 742, 747 (citing *Palm Springs*, *supra*, and *Mendoza v. JPMorgan Chase* (2016) 6 Cal.App.5th 802, 814, which cites *Saterbank v. JPMorgan Chase Bank, N.A* (2016) 245 Cal.App.4th 808, 813-814, which itself cites, once again, *Holmes*. A final

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provides any additional support for that naked (and inaccurate) contention, any analysis of standing doctrine, or even so much as a mention of the century and more of precedent explaining that heightened standing requirements do not apply generally in California state court.

Ultimately this curious web of cases, including *Limon* itself, is unconvincing. None of the decisions addresses the constitutional and legislative history of standing in California courts (see *supra* Sections I.A-B, II), the bright line of separation from Article III standing that the California Supreme Court has uniformly drawn (see *supra* Section I.A), the role of the legislative branch as the arbiter of standing in California including in establishing the beneficial interest test under section 1086 (see *supra* Section III), or the pernicious consequences to access of justice (and legislative intent) of imposing an across-the-board federal-type standing requirement on litigants in California courts (see *supra* Sections I.C.)

The beneficial interest test is simply a specific example of standing created by statute for a particular purpose and remedy, in this case to vindicate particular rights where no other relief is possible. It makes little sense to apply a test designed for a specific and extraordinary purpose to cases wholly outside that context. Neither the California Constitution nor the statutes of our state provides support for any such expansion.

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case cited in *Limon* at pages 696-697, *Schoshinski v. City of Los Angeles* (2017) 9 Cal.App.5th 780, 791, analyzes mootness, not standing.

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V. CHAI HAS STANDING UNDER THE FAIR DEBT BUYING PRACTICES ACT TO BRING HIS CLAIMS IN A CALIFORNIA COURT.

The Fair Debt Buying Practices Act (FDBPA) permits consumers whose statutory rights have been violated by debt buyers to sue for relief under the Act. No injury in fact is required.

The text and stated purpose of the Act, supported by the legislative history, clearly evince the Legislature's intent to confer standing broadly to consumers to enforce their rights against debt buyers and not to impose any particular limitations—least of all a concrete injury in fact requirement. In 2013, the Legislature unanimously enacted the FDBPA to create "enforceable standards" to curb abuses by the third-party consumer debt collection industry and to ensure the accuracy of the information held by debt buyers. (Stats. 2013, ch. 64, § 1 (Sen. Bill No. 233); see Civ. Code, § 1788.50 *et seq.*; App. Br. at pp. 20-26.) The law imposes basic notice and information requirements on debt buyers, companies that seek to collect charged-off consumer debts that they purchased, for pennies on the dollar, from the original creditors. (Civ. Code, § 1788.52.) Violators of the Act, including its notice requirements, may be subject to claims for actual or statutory damages as well as attorneys' fees. (*Id.*, § 1788.62, subds. (a)-(d).) According to the bill's authors, debt buyers regularly tried to collect from and sue the wrong person, often for the wrong amount, or to collect debts that were already paid or time-barred—in large part because debt buyers

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lacked adequate documentation practices to maintain accurate information.[40] The notice requirements were thus intended to "ensure that the consumer will at least have basic information about the debt in question."[41]

The Legislature intended for private suits to be the principal mechanism for enforcement. The law creates a cause of action for "any person" whose rights under the Act are violated. (Civ. Code, § 1788.62, subd. (a) ["a debt buyer that violates any provision of this title with respect to any person shall be liable to that person"].) That standing under the FDBPA is broadly defined accords with the remedial purpose of the Act's documentation and notice requirements to "protect consumers, provide needed clarity to courts, and establish clearer criteria for debt buyers and the collection industry." (Stats. 2013, ch. 64, § 1(f).) Moreover, the bill analysis makes clear that the law "provides a private right of action against a debt buyer who violates any provision of this act."[42]

Affording standing broadly to any FDBPA plaintiff who has suffered a notice violation ensures that the protections provided by the Legislature

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[40] Asm. Com. on Judiciary, Analysis of Sen. Bill No. 233 (2013-2014 Reg. Sess.) as amended May 15, 2023, p. 3 ("Asm. Judiciary Analysis"); Sen. Com. on Judiciary, Off. of Sen. Floor Analyses, 3d reading analysis of Sen. Bill No. 233 (2013-2014 Reg. Sess.) as amended May 15, 2023, p. 6 ("Sen. Floor Analysis").

[41] Asm. Judiciary Analysis, *supra*, at p. 4.

[42] *Id.* at p. 6.

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are fully enforceable. If the Legislature intended for only those plaintiffs who suffered an injury in fact to have a cause of action, it could and would have done so in the statutory text. Yet the Legislature did not restrict (or, according to the legislative record, even contemplate restricting) standing in the original bill. Nor did the Legislature enact any additional standing requirements in two subsequent amendments to the Act.[43]

The Legislature's decisions make sense. Although significant economic, reputational, and emotional harm can result from improper debt collection practices resulting from inaccurate or sloppy documentation,[44] those harms are difficult to measure or quantify. To read the Act's private right of action provision as limited only to parties who can allege a concrete injury, as Velocity proposes, would result in widespread increases in robo-signing, lawsuits threatened against the wrong person, and other abusive practices because debt buyers would enjoy de facto immunity for not maintaining adequate documentation practices and not providing proper notice to consumers.[45] Requiring a showing of concrete injury in California

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[43] See Stats. 2021, ch. 265 (Assem. Bill No. 430); Stats. 2015, ch. 804 (Sen. Bill No. 641).

[44] Sen. Floor Analysis, *supra*, at p. 6.

[45] See Federal Trade Comm., *Repairing A Broken System: Protecting Consumers in Debt Collection Litigation and Arbitration* (2010), https://perma.cc/FDX4-ZJF2 (describing how collectors falsely represent amounts owed, causing consumers to potentially pay debts they do not owe and disallowing others from being able to stop efforts to collect because they do not know how much they owe). The Legislature considered this

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courts would reduce the number of claims far below the level that the Legislature intended and would render the FDBPA's private right of action largely toothless.

Mr. Chai satisfies the statutory standing requirement provided in the FDBPA to bring his action in California courts. He alleged (and Velocity concedes) that he and other class members did not receive the notice required by Civil Code section 1788.52, subdivision (d)(1), in the first debt collection-related communications from Velocity and its agent. (See App. Br. at 14.) That violation gave rise to a cause of action for damages under the Act. Mr. Chai has a direct and personal interest in the outcome of the suit: he is being pursued by a debt buyer, he did not receive the statutorily prescribed notice, and he is entitled to legislatively-approved redress for that violation. (See Civ. Code, § 1788.62, subd. (a) [conferring the right to sue under the FDBPA for a violation of "any provision" of the Act].) Because the courts of California are courts of general jurisdiction, and because the Legislature did not restrict standing under the FDBPA, Mr. Chai is able—because he has brought his case in California state court—to do something too often unavailable to people in his position: he is able to access justice.

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report in the enactment of the FDBPA. (Asm. Judiciary Analysis, *supra*, at pp. 4-5; Sen. Floor Analysis, *supra*, at pp. 5-6.)

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CONCLUSION

For the foregoing reasons, the judgment of the superior court should be reversed.

Dated: July 19, 2024

Respectfully submitted,

/s/ SETH E. MERMIN

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the typeface and volume limitations set forth in California Rules of Court, rule 8.204(c)(1). The brief has been prepared in 13-point Times New Roman font. The word count is 10,857 words based on the word count of the program used to prepare the brief.

Dated: July 19, 2024

By: /s/ *David S. Nahmias*
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CERTIFICATE OF SERVICE

I, the undersigned, declare that I am a citizen of the United States, over the age of 18 years, reside in Oakland, California, and not a party to the within action. My business address is the University of California, Berkeley, School of Law, 308 Berkeley Law, Berkeley, CA 94720-7200.

On the date set forth below, I caused a copy of the following to be served:

APPLICATION TO FILE BRIEF AND BRIEF OF AMICI CURIAE UC BERKELEY CENTER FOR CONSUMER LAW AND ECONOMIC JUSTICE, IMPACT FUND, K & G ALEXANDER COMMUNITY LAW CENTER AT SANTA CLARA LAW, COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, CONSUMERS FOR AUTO RELIABILITY & SAFETY, DISABILITY RIGHTS CALIFORNIA, NATIONAL HOUSING LAW PROJECT, PUBLIC COUNSEL, PUBLIC JUSTICE, UNIVERSITY OF SAN DIEGO LEGAL CLINICS, AND WESTERN CENTER ON LAW AND POVERTY IN SUPPORT OF PLAINTIFF-APPELLANT

on the following interested parties in this action via the **TrueFiling portal:**

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I further served via First-Class mail at Berkeley, California enclosed in a sealed envelope, with postage fully prepaid, addressed to:

The Honorable Theodore C. Zayner
Santa Clara County Superior Court
161 North First Street, Dept. 19
San Jose, CA 95113

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on July 19, 2024, in Oakland, CA.

By: /s/ *David S. Nahmias*
David S. Nahmias

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