ORIGINAL

24-1250

In The Supreme Court Of The United States

Art Bullock, James Goguen,
Petitioners
v.
R-Ranch Property Owners' Association, et al.,
Respondents

On Petition For Writ Of Certiorari
Of California Supreme Court And
California Court Of Appeal Decisions

PETITION FOR WRIT OF CERTIORARI

Art Bullock
791 Glendower St.
Ashland OR 97520
458-488-6603
protect_rranch@yahoo.com
in propria persona

James Goguen
1441 Oleander St.
Medford OR 97504
541-630-6865
goguen_james@yahoo.com
in propria persona

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Questions Presented

California's 1928 Constitutional Amendment withdrew authority for California Supreme Court (CSC) to adopt appellate rules, after giving that authority in 1926 to Judicial Council of California (JCC), composed of many justices and judges.

In 1974, CSC began adopting rules, governing all parties in all California courts, barring stare-decisis citation to selected cases, even when the case re-litigates a past case with the same parties and privies under the same determinative law and facts, as here.

Using stare decisis, CSC barred all lower courts from reviewing CSC's no-stare-decisis rules' constitutionality, then denied Appellants' review-petition, thereby preventing any state-court review.

Questions raised:

Does U.S. Constitution, Amendment XIV, §1 (14A-§1) allow California Supreme Court to adopt Calif. Rules Of Court (CRC), CRC.8.1100-1125 (Title 8, Div.5), governing all state courts, bar lower-court review of no-stare-decisis rules--under stare decisis, then deny its own (petitioned) review, thereby preventing any state-court review of state-rules' constitutionality?

Did CSC violate 14A-§1 to bar stare-decisis citation after losing constitutional authority in 1928 to adopt any appellate rules?

Are CSC's no-stare-decisis rules unconstitutional by content or effects?

Given that stare decisis bars any lower court review, does CSC denial of petitioned review of CSC rules violate Appellants' statutory rights to appeal?

What procedures must American courts use to satisfy *Boddie v. Connecticut*, 401 U.S. 371, 375 (1971) (*Boddie***)

requirements to never exercise its "monopoly...over binding conflict resolution" to assume subject-matter-jurisdiction over a case outside society-set boundaries?

Under 14A-§1, may an attorney firm advise corporate board members, then sue the board-majority on the subjects of the advice?

Parties

Per Rule 14.1(b)(i), parties are 2 Petitioners and 6 Respondents.

R-Ranch Property Owners' Association (R-Ranch POA or POA) is Plaintiff, Cross-Defendant, Appeal-Respondent, Petition-Respondent.

Art Bullock and James Goguen are Defendants, Cross-Complainants, Appellants, and Petitioners.

Mark Grenbemer, John Crosby, Ron Bucher, and Timothy Caswell (Individual Cross-Defendants, or ICDs) are Cross-Defendants, Appeal-Respondents, and Petition-Respondents.

Timothy Stearns is Goguen's attorney at Trial Court, Appeal-Respondent, and Petition-Respondent.

Per Rule 29.4(c), 28 USC §2403(b) may apply, so the initial document in this case (Application To Extend Time To File Petition For Writ Of Certiorari) was served on California Attorney General Rob Bonta, who was not a party below.

Per Rule 29.4(c) and 28 USC §2403(b), to our knowledge, neither 3DCA nor CSC certified to California Attorney General that constitutionality of CSC-adopted rules was drawn into question.

Related Proceedings

Stearns v. Goguen, Soares. Siskiyou County Superior Court SCSCCVCV 14-500, Court Of Appeal C078092, dismissed 3/7/16; C083948 Opinion 2/25/22, Judgment Affirmed. S273696 4/27/22 Petition For Review Denied.

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Petition For Writ Of Certiorari

Stare decisis is the most fundamental judicial concept in American jurisprudence.

"{S}tare decisis exists to secure" "the...rule of law". *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 411 (2024) (*Loper***411).

This court held that when a court decides disputes, its decision is the law.

> {T}he very concept of the rule of law underlying our own Constitution requires such continuity over time that a respect for precedent is, by definition, indispensable. *Planned Parenthood v. Casey*, 505 U.S. 833, 854 (1992).

Over decades, this court has carefully clarified stare decisis, established criteria for overturning precedent, separated questions of policy in balancing competing goals from questions of law, assessed quality of precedent reasoning, decided status of cases decided under overturned precedent--and most importantly, protected "the very rule of law values that stare decisis exists to secure." *Loper***411. *Kimble v. Marvel Entertainment, LLC*, 576 U.S. 446, 456-457 (*Kimble*** 456-457).

Stare decisis works because it activates 2 critical quality-control mechanisms.

First, same-hierarchy-level courts (sister-courts) review precedent reasoning and results, and may independently reach contrary conclusions.

Second, sister-court conflicts or wrongly reasoned/decided precedent require higher-court resolution and correction.

Without stare-decisis, these corrective judicial mechanisms don't exist.

> {S}tare decisis calls for...us to test our present conclusions carefully against the work of our predecessors. *Loper***429, Concurring Opinion By Justice Gorsuch.

That's only possible if the court is allowed to openly review predecessors.

Further, stare-decisis analysis requires courts to study the web of precedent-subsequent cases to assess "the workability of the rule established (*Loper***375, *Kimble***459-460), and any "doctrinal underpinnings...eroded over time" (*Kimble***-458).

That's only possible if the web of predecessors can be cited and reviewed.

The core issue here is not deciding if precedent holds.

It's the judicial ability to do the analysis.

(1) After losing constitutional authority in 1928 to adopt any appellate rules, CSC adopted rules barring citation for stare decisis.

(2) CSC separately barred--under stare decisis--any lower-court review of its no-stare-decisis rules.

> The decisions of this court are binding upon and must be followed by all the state courts of California. Courts exercising inferior jurisdiction must accept the law declared by courts of superior jurisdiction. It is not their function to attempt to overrule decisions of a higher court. *Auto Equity Sales, Inc. v. S.C.* (1962) 57 Cal.2d 450, 455.

(3) Then, as the only California Court that could review these rules, CSC denied petitioned review, thereby blocking any California-court review of rule unconstitutionality, leaving only U.S. Supreme Court to review and remedy.

This case shows the 3-way blockade's dramatic effects.

A CSC-commissioned study of these rules found that >91% of appellate opinions (all published online) are labeled "unpublished". Moghadam,Rafi. Judge Nullification: A Perception of Unpublished Opinions. Hastings Law J. 1397-1440, 1424, fn.245 (2011) (*Moghadam*°). Of those, >99.9% avoid CSC decision. *Moghadam*°1425, fn.253.

CSC has discarded the entire stare-decisis analysis and quality-control mechanisms for the vast majority of its cases, destroying the stability and evolution of reasoning that stare-decisis provides.

Under CSC's no-stare-decisis rules, this court's directions for stare-decisis analysis cannot be done because the web of cases cannot be considered--or even cited.

The legal conflict between what this court requires for stare decisis, and what CSC disallows, is extreme.

We found no precedent for this situation, where a state Supreme Court adopted procedural court-rules, after losing state-constitutional authority to do so, then relied on stare-decisis review-bans for lower courts, and discretionary petition-denial to prevent any state-level constitutional review of its 6 self-made rules.

By this sleight of hand, CSC used procedural court-rules to elevate itself above the rule of law to adopt unconstitutional-yet-unreviewable rules that gut the stare-decisis foundation of American law.

CSC's actions are shocking-to-the-conscience 14A-§1 violations.

> "{S}ecurity and liberty...demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen". "In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously." *Olmstead v. United States*, 277 U.S. 438, 485 (1928) (Brandeis, J., dissenting) (*Olmstead***).

This case comes to you in an unusual posture--an unpublished state Court of Appeal (CoA) opinion for which CSC denied review.

This repeats the pattern of *Ewing v. California*, 538 U.S. 11, 20 (2003) (*Ewing***), where "California Court of Appeal affirmed in an unpublished opinion...and...Supreme Court of

California denied...petition for review".

This court granted certiorari in *Ewing*** and should do so here.

Given CSC's total blockade of any state-level review of no-stare-decisis rule constitutionality, and its 50+ years of avoiding these constitutional issues, it isn't feasible to bring these issues to you under any other posture.

We litigated those parts of no-stare-decisis rules that were within lower-courts' subject-matter-jurisdiction, and litigated no-stare-decisis rule unconstitutionality at CSC, which denied review-petition.

In this unusual situation, this court should grant the petition, and consider that instead of accepting CSC's upward delegation, this court ask CSC to certify answers to fundamental constitutional questions that CSC has strenuously avoided for over a half-century, while adopting unconstitutional rules that destroy the stare-decisis foundation of American law.

No-stare-decisis rules predictably--and unconstitutionally --delegated power to a Court of Appeal (CoA) to label its opinion "unpublished"--though all appellate opinions are digitally published--without any required statutory criteria, thereby allowing CoA--with a pen-stroke--to grant its erroneous opinion immunity from sister-court quality-controls 100% of the time, and immunity from higher-court quality-controls over 99.9% of the time. *Moghadam*°1425, fn.253.

This case is a excellent example of the problem and solutions.

In this case, corporate attorneys advised the board, then sued the board majority, to relitigate a prior appellate case for the same corporation and its members and privies, with the same determinative law and facts, to argue the losing side of the appellate dispute it had already won.

If ever there was a situation demanding stare-decisis

precedent, it's this one.

Instead courts ignored stare-decisis analysis, and overturned it without ever declaring its precedential power or conducting the required stare-decisis analysis.

These no-stare-decisis rules predictably created a managed-system allowing CoA to relitigate a repeat case without reliance on the precedent case, thereby undermining stability and predictability required for commerce and transactions, stare-decisis' hallmarks and purpose.

Insulated from review, CoA assumed subject-matter-jurisdiction that it never acquired from Complaint-filing.

Our corporate-board attorneys sued us, the board-majority, while current clients, on subjects of their advice, after that majority decided to replace the attorneys. Without a board decision (violating CC&Rs.9.6(a), App.56) to do so, attorneys filed the Complaint claiming to represent the corporation against its board majority, because one director asked them to. The Complaint attempted to enforce a fake "corporate-election contract" that stated on its face that it was executed outside the corporation's authority and permission. The individual who signed the contract as corporate representative was not a director or an authorized signature for the corporation.

Courts lack subject-matter-jurisdiction for this illegal contract on several grounds. POA attempted to enforce this contract though not a contract party,which divests jurisdiction because Plaintiff POA isn't a real party in interest, violating CCP.§367. App.50. Attorneys sued without a board decision to file the case as required by CC&Rs.9.6(a). App.54. Corporate attorneys litigated against their clients without ethics-required written conflicts-of-interest disclosures and clients' written consent waivers to adverse representation, violating RPC.3-310. App.55.

These jurisdiction-divesting facts aren't disputed, just

ignored, safely ensconced behind the castle-thick walls of no-stare-decisis rules blocking judicial quality-controls.

Justices Roberts, Thomas, Alito, and Scalia described our situation, where jurisdiction/standing requirements have "become an utterly manipulable...lawyer's game".

> *SCRAP*** became emblematic not of the looseness of Article III standing requirements, but of how utterly manipulable they are if not taken seriously as a matter of judicial self-restraint. *SCRAP*** made standing seem a lawyer's game, rather than a fundamental limitation ensuring that courts function as courts{.} Ftn.2. *Massachusetts v. EPA,* 549 U.S. 497, 548 (2006), Dissent by Justices Roberts, Thomas, Alito and Scalia. *SCRAP*** is *U.S. v. Students Challenging Regulatory Agency Procedures* 412 U.S. 669 (1973).

This case (*POA^BGGG*[o]) shows how that "game" allowed CoA to assume subject-matter-jurisdiction it never acquired to overturn precedent by exploiting no-stare-decisis rules to not acknowledge the precedent exists.

This case also shows why this court should stop subject-matter-jurisdiction abuse to protect public-policy and judicial-system integrity, "to maintain an ordered society that is also just." *Boddie***375, and require the "fundamental limitation ensuring that courts function as courts".

Opinions Below

California Court of Appeal (CoA), Third Appellate District (3DCA), issued its unpublished opinion (Opinion) on 9/9/24, reprinted in Appendix A. App.1-43.

CoA's unpublished order denying Petition For Rehearing on 9/26/24 is reprinted in Appendix B. App.44.

CSC's unpublished order denying publication is reprinted in Appendix C. App.44.

CSC's unpublished order denying Petition For Review on

12/31/24 is reprinted as Appendix D. App.45.

CoA's unpublished opinion in a related case, *R-Ranch Property Owners' Assn. v. Lemke, et al.*, Siskiyou County Superior Court 48680, CoA C020577 (1996) (*POA^Lemke°*) is reprinted in Appendix H. App.60-75.

Jurisdiction

Appellants' Application To Extend Time To File Petition For Writ Of Certiorari was granted by Justice Kagan, to extend time to May 30, 2025.

This Court thus has jurisdiction under 28 USC §1257(a).

Constitutional, Statutory, Rules Of Professional Conduct, And Corporate Governing-Document Provisions Involved

Appendix E has pertinent constitutional provisions.

Appendix F has pertinent statutes and rules of professional conduct.

Appendix G has pertinent corporate-governing-documents provisions.

Appendix H has the unpublished Opinion in *R-Ranch Property Owners' Assn. v. Lemke, et al.* (1996 filed) Siskiyou County Superior Court 48680, CoA C020577 (*POA^Lemke°*).

Statement Of The Case

A. California Supreme Court (CSC) violated 14A-§1 by elevating itself above the rule of law by adopting no-stare-decisis rules, barring lower-court review--under stare decisis, then declining its own (petitioned) review, thus blockading any review whatsoever of statewide rules governing over 91% of appellate decisions, and affecting every party in every California case.

Initial core issue is not no-stare-decisis rules' unconstitutional content and effects.

It's CSC's setup to blockade any state-level constitutional-review of CSC's no-stare-decisis rules.

CSC's 3-sided blockade violates CSC-set duty that "The courts have...responsibility...{to}...determin{e}...constitutionality..., and...give effect to the will of the electorate which is...paramount." *Gattuso v. Harte-Hanks Shoppers, Inc.* 42 Cal.4th 554, 567(2007) (*Gattuso**567).

B. CSC's no-stare-decisis rules are unconstitutional for lack of authority to adopt them.

1. In 1904, Californians constitutionally required and empowered CSC to make appellate-procedure rules for amendment's new Courts of Appeal (CsoA). App.46. Voters removed that power in 1928, after giving court-rule-making duty and authority to amendment-created Judicial Council of California (JCC). App.27.

Since 1928, CSC has had no authority to adopt any appellate rules.

2. On 11/8/1904, California Constitution (CAC), Art.VI, §4 (CAC-A6§4(1904)), was amended to give CSC duty and power to "make and adopt rules" to "regulate practice" for CSC, CsoA, and court officers. App.46.

> By virtue of the power conferred by the amendment {CAC-A6§4(1904)}, the supreme court <u>now</u> has authority to make rules of practice which have the force of positive law so far as the rights of the parties are concerned{.} *Brooks v. Union Trust & Realty Co.* (1905) 146 Cal.134, 138-139. (*Brooks**138-139). Emphasis added here and throughout.

3. On 11/2/1926, Californians created JCC and provided that JCC "shall...Adopt...rules of practice...for the...courts". Constitution, Art.VI, §1a(6) (CAC-A6§1a6(1926)). App.47.
4. Under current Calif. Const. Art.VI, §6(a) (CAC-A6§6a(2025), CSC maintains partial direct and indirect power for JCC's rule-making authority, by leadership, ap-

pointment-power, voting-power, and persuasive-power. App.48.

CSC Chief Justice is JCC chair and voting member, and appoints all other 14 voting justices and judges (1 additional CSC justice, 3 CoA justices, and 10 Superior Court judges). JCC membership now includes 4 lawyers and 2 legislators--1 from each house.

5. On 11/6/1928, California Constitution, Art.VI, §4 (CAC-A6§4(1928), (App.47) amended CAC-A6§4(1904), (App.46) to delete all wording for CSC's duty and power to adopt appellate-rules, having already transferred it to JCC in 1926 (CAC-A6§1a6(1926), (App.47)).
6. These Amendments show that, for court rule-making power, The People Of California constitutionally gaveth, taketh away, and gaveth to somebody else.

Since 11/6/1928, only JCC has had power to adopt/make/amend practice-and-procedure rules governing appellate courts and officers.

7. In 1973, CSC adopted no-stare-decisis rules, effective 1/1/1974. *Gray v. Kay*, 47 Cal.App.3d 562 (1975) (*Gray^Kay*[a]565). In the 51 years since, CSC has repeatedly restated/renumbered/relettered no-stare-decisis rules. Current no-stare-decisis rules are California Rules Of Court (CRC) Title 8, Div.5, CRC.8.1100-1125. CRC.8.1115 has the no-stare-decisis bar.[1]

C. CSC's subsequently-claimed authority for no-stare-deci-

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1 CRC.8.1115. Citation of opinions{.} (a) Unpublished opinion{.} Except as provided in (b), an opinion of a California Court of Appeal or superior court appellate division that is not certified for publication or ordered published must not be cited or relied on by a court or a party in any other action.

(b) Exceptions{.} An unpublished opinion may be cited or relied on: (1) When the opinion is relevant under the doctrines of law of the case, res judicata, or collateral estoppel; or (2) When the opinion is relevant to a criminal or disciplinary action because it states reasons for a decision affecting the same defendant or respondent in another such action.

sis rules granted no power to bar stare-decisis citation, or to delegate to CsoA, CSC's duty to decide what opinions should be published as bound books.

On 1/1/2007, after several rounds of restatement/renumbering/relettering, CSC adopted CRC.8.1100[2], with no derivative history, which for the first known time asserted CAC-A6§14 (App.48) as legal authority to adopt no-stare-decisis rules.

CRC.8.1100 states that CSC adopted these rules, though published by JCC as court-rules. CRC.8.1100-1125 (Title 8, Div.5) is thus unconstitutional for lack of authority since 1928.

CRC.8.1100 citation of CAC-A6§14 as legal authority for CSC-adopted no-stare-decisis rules fails basic familiar principles guiding interpretation of Constitutional provisions. Additional guiding-principles apply to constitutional provisions as voter-passed laws.

1. "Our fundamental task is to ascertain the Legislature's {drafters'} intent and effectuate the law's purpose." *Stone v. Alameda Health System,* 16 Cal.5th 1040, 1052 (2024) (*Stone**1052); *People v. Prudholme*, 14 Cal.5th 961, 975-976 (2023) (^*Prudholme**975-976).
2. "{T}he court first examines the statute's words...because the statutory language is usually the most reliable indicator of legislative intent." *Gattuso**567.
3. We "giv{e} them {Constitution's words} their ordinary and usual meaning" (*Gattuso**567), "giving the statutory language its plain and commonsense meaning" (*Stone**1052; ^*Prudholme**975).

Since 1850 the Legislature has published Supreme Court opinions.

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2 CRC.8.1100. Authority{.} The rules governing the publication of appellate opinions are adopted by the Supreme Court under section 14 of article VI of the California Constitution and published in the California Rules of Court at the direction of the Judicial Council.

In 1849, as evidenced by 175 years of practice since, the "ordinary and usual meaning" of "publish" was to bind opinions into hardback books to sell and distribute to law libraries and lawyers. This confirms the "plain and commonsense meaning" of "publish".

4. "The plain meaning of the words controls unless the words are ambiguous." *Green v. State of California,* 42 Cal.4th 254, 260 (2007) (*Green**260). "If the language is clear, its plain meaning controls." *Stone**1052.

Here, the plain words are clear. There's no step 2 to resolve ambiguity.

Legislature must arrange for publication, CSC must decide what cases are published.

5. CSC "...views them {Constitution's words} in their statutory context" (*Gattuso**567), and "examine{s} that language in the context of the entire statutory framework to discern its scope and purpose and to harmonize the various parts of the enactment." *Kaanaana v. Barrett Business Services, Inc.,* 11 Cal.5th 158,168 (2021) (*Kaanaana**168).

Context here is dissemination of appellate opinions. The word "publish" here predated and thus excludes "digital publication" or "electronic publication".

Nothing in the word "publish" as meant when written, had any meaning or context to give CSC power to write court rules, delegate their constitutional-duty to decide what is published, or adopt/amend no-stare-decisis rules barring citation to opinions not in the bound-books. It's simply not there.

6. "We must examine the language, structure, and history of the particular statute[s] before us. ...Although interpretive maxims may aid in that analysis, the fundamental question is always one of legislative intent." *Stone**1054. "The wider historical circumstances of a law's enactment may assist in ascertaining legislative intent, supplying

context for otherwise ambiguous language." (*Busker v. Wabtec Corp.* 11 Cal.5th 1147, 1157-1158 (2021) *Busker**1157-1158). ^*Prudholme**975-976.

Context and history here shows the requirement to publish opinions was accountability and transparency needed to achieve statehood.

The original Constitution added accessibility--free to anyone to publish.

7. "Because the statutory language, context, and history provide "positive indicia" of a legislative intent..., resort to interpretive maxims is unnecessary". *Stone**1054.
8. "We conclude that textual analysis, which is the best indicator of the intended meaning of a constitutional provision, does not support" CRC.8.1100-asserted CAC-A6§14 as legal authority to adopt court rules or delegate power to CsoA to decide what opinions should be published in hardback books.

"To declare such a right would "violate the cardinal rule that 'The Constitution is to be interpreted by the language in which it is written, and courts are no{t}...at liberty to add provisions to what is therein declared in definite language.'" *Delaney v. S.C.,* 50 Cal.3d 785, 799 (1990), (*Delaney**799, quoting *People v. Campbell,*138 Cal. 11, 15 (1902) (^*Campbell**15.)" *Powers v. City of Richmond,*10 Cal.4th 85, 93 (1995) (*Powers**93).

CSC asserting that "publish" includes power to create court rules, bar citation to unpublished opinions, and delegate to CsoA Supreme Court's constitutional duty to decide what opinions are published violates CSC's cardinal rules of Constitution construction. "{C}ourts are no{t}...at liberty to add provisions to what is therein declared in definite language." *Powers**93.

9. "If the language is clear, courts must generally follow its plain meaning unless a literal interpretation would result

in absurd consequences the Legislature did not intend." ^*Prudholme**975-976. "If there is no ambiguity, we presume the Legislature meant what it said and the plain meaning of the statute governs." *People v. Henderson,* 14 Cal.5th 34, 51 (2022) (^*Henderson**51).

Beyond basic interpretation principles, a special set applies to voter-enacted laws. The following sections provide that additional construction.

10. "The courts have...responsibility...{to}...determin{e}...constitutionality..., and...give effect to the will of the electorate which is...paramount." {*Gattuso**567}. *Shaw v. People ex rel. John Chiang, State Controller,* 175 Cal.App.4th 577, rvw.dny., overturned in part on unrelated matter (2009) (*Shaw*[a]604-605).

Voters' will in the 1928 Amendment was to remove CSC rule-making power granted in the 1904 Amendment, having already given rule-making duty-and-power to JCC.

That will is paramount.

Voters' will in 1849-on was for the Legislature to publish Supreme Court opinions. It has no language, context, or history that deciding what opinions to publish somehow carried power to make general rules regarding publishing, bar citation, or delegate to CsoA CSC's Constitutional duty to decide what opinions are published.

11. "In interpreting the meaning of {a} constitutional provision", our paramount task is to ascertain the intent of the voters who enacted... {it}...so that our construction best effectuates the purpose of the law. (*Gattuso**567). *Professional Engineers in Cal. Government v. Kempton* 40 Cal.4th 1016, 1037 (2007) (*PFIG**1037).
12. Interpreting CAC-A6§14 as granting CSC rule-making power violates CCP.§1858 requirement that courts can't ignore what there or insert what isn't. App.50.

We cannot ignore plain statutory language. *Honeywell*

v. Workers' Comp. Appeals Bd. (2005) 35 Cal. 4th 24, 33 (*Honeywell**33).

We will not add to a statute a distinction that has been omitted. ({CCP.§1858}.[3] *People v. Davis,* 166 Cal.App.3d 760, 766 (1985) (^*Davis*^a766).

13. Interpreting CAC-A6§14 as granting CSC rule-making power also fails contextual analysis, because The People's 1904 Amendment to CAC-A6§4 empowered CSC to "make and adopt rules", then removed that wording and power in CAC-A6§4(1928).
    a. Trying to interpret "publish" to somehow grant rule-making power would do exactly what construction cannot do--annul The People's CAC-A6§4(1928) Amendment, which is paramount.[4]
    b. CSC's reliance on CAC-A6§14 as rule-making power is unconstitutional because such a construction would annul 1928 Amendment removing that power, and "give it back".
    c. The cardinal rule of Constitutional interpretation is to

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3 **CCP.§1858 (1872).** In construction of a statute...,...the Judge is to ascertain what is in terms or substance contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions, such a construction is, if possible, to be adopted as will give effect to all.

4 "{C}onstitutional provisions adopted by the voters "must be construed liberally in favor of the people's right to exercise the reserved powers of initiative and referendum. The initiative and referendum are not rights `granted the people, but...power[s] reserved by them. Declaring it "the duty of the courts to jealously guard this right of the people" [citation], the courts have described the initiative and referendum as articulating "one of the most precious rights of our democratic process" [citation]. "[I]t has long been our judicial policy to apply a liberal construction to this power wherever it is challenged in order that the right not be improperly annulled. ..."' [Citations.]" {*Rossi v. Brown*, 9 Cal.4th 688, 694-695 (1995) {*Rossi**694-695}.) In fact, "[t]he people's reserved power of initiative is greater than the power of the legislative body." ({*Rossi**715-716}.)" *Shaw*^a596.

interpret the language without adding provisions that effectively--or actually, as here--annul The People's decisions.

d. CAC-A6§14 words are clear that CSC is to decide what opinions Legislature will publish. CAC-A6§14 includes no delegation authority, and no adopt-court-rules authority.

e. Thus the no-stare-decisis rule that CsoA is to decide what opinions will be published is an improper, unconstitutional delegation of power that annuls the Constitution's plain words.

D. CSC's no-stare-decisis rules are unconstitutional by their content.

1. No-stare-decisis rules violate 14A-§1 because they delegated to CsoA the power to decide if their opinions are to be published. CAC-A6§14 contains no such text or content, and bluntly requires CSC to decide what the legislature will publish.

Chief Justice denied Defendants' request to publish the opinion on grounds that CoA had decided it should be designated "unpublished".

This factually shows CSC's delegation of decision authority.

2. No-stare-decisis rules do not specify their purpose so determining drafters' intent requires considering context.

In 1972, Seligson and Warnlof wrote an influential article proposing no-stare-decisis rules. *Seligson & Warnlof*, "The Use Of Unreported Cases In California", Hastings Law Journal, Vol.24, Issue 1, Atc.3, pg.37-54 (1972) (*Seligson*°).

In 1973, CSC adopted the proposed no-stare-decisis rules, effective 1/1/1974.

Seligson°45-46 specified 3 primary reasons for the rules, later adopted.

First, appellate-decision volume meant taxpayers would

spend millions to maintain law libraries (*StateBar*°372) and the average lawyer couldn't afford the books (*StateBar*°372), yet most cases would have no precedent value (*StateBar*°371-372).

Second, courts and lawyers would waste endless hours searching useless volumes for relevant precedent. *StateBar*°372.

> **Civ.§3510.** When the reason of a rule ceases, so should the rule itself.

These 2 reasons no longer exist.

First, by Supreme Court decision, all appellate opinions are published online when issued, and available without cost.

Second, searches are computerized through databases, so time needed is minimal even for thorough searches.

That leaves only *Seligson*°51's third reason, to allow CSC to prevent poorly-reasoned opinions from becoming "precedent without having to render its own opinion".

Seligson°53 argued that stare-decisis preservation required no-stare-decisis rules, and recommended that CSC adopt them.

CSC did so.

Seligson°53 recommended exceptions to allow parties to the prior case to cite it under res judicata/collateral estoppel.

CSC did so.

Seligson°53 recommended exceptions for disciplinary procedures.

CSC did so.

The remaining third reason is to prevent stare-decisis precedent for poorly-reasoned opinions.

This is the unconstitutional damage done by no-stare-decisis--to allow and thus encourage--poorly-reasoned opinions to issue without any stare-decisis quality-controls.

E. CSC's no-stare-decisis rules are unconstitutional by their effects, knowingly creating an unjust system where CoA can decide opinions based on wildly-false facts and misrepresented/ignored law, as here, and grant itself immunity by declaring opinion "unpublished" to evade stare-decisis quality-controls.

To show no-stare-decisis rules' effect, we include a small sample of grievous factual and legal errors that CoA used in its opinion, to assume subject-matter-jurisdiction, ignore glaring ethics violations, and avoid stare-decisis analysis.

Defendants' rehearing-petition detailed Opinion's many fact-and-law misrepresentations.

In this case, corporation's attorneys gain power (corporate takeover) and money (attorney fees) by Complaint-filing for illegal-contract enforcement.

No truth-and-justice court can find this contract legal. Holding it illegal forces the remedy for parties to be reset to their status on the day the no-subject-matter-jurisdiction Complaint was filed. This court should do so.

1. Truth and justice begins with truth. With stare-decisis quality-controls gutted, CoA falsified facts and law to affirm.

Without a board decision to file any case, attorneys sued the board majority, claiming they had been "recalled". At evidentiary hearing, attorneys produced a "corporate contract" signed by member Hal Glover, falsely claiming to be POA's corporate representative, and Lisa Schwartz, owner of The Ballot Box, an election-services provider, to conduct a corporate "recall" election. Opinion ignored contract illegality--Glover wasn't an authorized corporate representative.

Opinion correctly held the election-services contract was signed by Hal Glover (Opi.2, App.3). Opinion (Opi.27, App.31) stated contract was negotiated outside the corporation's authority and permission.

Then inexplicably, Opinion omitted the dispositive fact that Glover signed a corporate contract as corporate representative without authorization, which rendered the contract illegal and unenforceable. CoA didn't decide its lack of subject-matter-jurisdiction to litigate the Complaint.

Opinion-readers wouldn't even know this dispositive truth because Opinion hid this dispositive fact.

Opinion didn't hold contract legal. Instead, Opinion suppressed contention and dispositive facts showing it was illegal and treated it as enforceable.

2. Opinion also hid contentions that contract was illegal for illegal object. No individual can sign a contract to hold his own corporate election. Statute (Corp.§300) and governing-documents (Bylaws.§7.1) require corporate business conducted by its board. Opinion ignored the contention and controlling law, and held that Defendants had been "recalled".

> **Corp.§300(a).** Subject to the provisions of this division and any limitations in the articles relating to action required to be approved by the shareholders (Section 153) or by the outstanding shares (Section 152), or by a less than majority vote of a class or series of preferred shares (Section 402.5), the business and affairs of the corporation shall be managed and all corporate powers shall be exercised by or under the direction of the board.

The *Lewis&Queen**-caseline (*Lewis & Queen v. N. M. Ball Sons*, 48 Cal.2d 141 (1957) (*Lewis&Queen**); *Tiedje v. Aluminum Taper Milling Co.*, 46 Cal.2d 450, 454 (1956) (*Tiedje**454) ("the parties will be left where the court found them") requires that when a party sues to enforce an illegal contract, whenever that illegality becomes known, at any step of the process, it divests subject-matter-jurisdiction, and requires a special remedy.

Parties must be returned to their positions as of Complaint-filing date, so no party can abuse the judicial system to gain advantage.

3. This wasn't oversight. At oral argument, with all 3 justices present, Bullock iterated that even if there had been a legal election--and there wasn't--Bylaws.§7.3 established that directors' 2-year terms of office extended until their successors were "elected and qualified". Since that hadn't happened, Bylaws.§7.3 required Defendants to "stay at their post" and conduct corporate business. This ensured continuity, since a 4-director quorum was required to make decisions.

Opinion readers would have no idea that Bylaws.§7.3 even existed because the opinion didn't mention it.

This isn't an unbiased judiciary applying written law to record facts.

This is a very different process that's only possible behind no-stare-decisis castle-walls.

Defendants' rehearing-petition detailed Opinion's many fact-and-law misrepresentations, and was denied, even to correct facts.

In this case, corporation's attorneys gained power (corporate takeover) and money (attorney fees) by Complaint-filing for illegal-contract enforcement.

No truth-and-justice court can find this contract legal. Holding it illegal forces the remedy for parties to be reset to Day-1 status for no-subject-matter-jurisdiction. This court should do so.

4. Courts lacked subject-matter-jurisdiction because contract-enforcement Complaint was filed by contract non-party POA. CCP.§367 requires that "Every action must be prosecuted in the name of the real party in interest, except as otherwise provided by statute."

5. Without citing supporting law, Opinion attempted to use POA's Request For Voluntary Dismissal to hold it couldn't consider Day 1 subject-matter-jurisdiction because the complaint was dismissed. That claim is factually and legally wrong on several grounds.

Record showed that POA's "Voluntary Dismissal" was ministerially rejected on 10/11/17. Opinion held it was accepted.

6. Record showed Defendants contended CCP.§581(b)(1) (Opi.30-31, App.35) disallowed POA's "Voluntary Dismissal" by failing statutory requirements.

a. Voluntary dismissal isn't available after a witness is sworn, as here. Witnesses were sworn and gave testimony in open court years before the claimed Request For Voluntary Dismissal (RVD).

b. Voluntary dismissal isn't available after defendants filed cross-complaints, as here, or make contrary claims in any of several forms. CCP.§581.

c. Opinion(13:9-11)(App.14) misrepresented case-law by misquoting *Egley v. S.C.*, 6 Cal.App.3d 476 (1970) (*Egley*[a]479-480) as holding "the clerk's duty to enter the dismissal is ministerial", prejudicially omitting its dispositive qualifying phrase "if the statutory conditions are met".

Opinion-readers would have no idea that statutory criteria weren't met because Opinion again suppressed dispositive facts and multiple laws briefed that prevented dismissal.

> The clerk's duty to make the entry in the clerk's register is ministerial...if the statutory conditions are met{.} *Egley*[a]479, citing CCP.§581(b)(1).

By misstating case-law, CoA avoided the law--CCP.§581(b)(1).

7. Opinion (13:7-8) falsified record fact-and-law: "Appellants contend this is error but cite no authority suggesting this forms any basis for reversal".

As Petition For Rehearing, pg.12-14 documented, Bullock's Opening Brief (BOB3), pg.49 (BOB3:49) show the Opinion claim was false.

> Misstatement...ignored dispositive...BOB3:49,...citing record, statute, and case law holding...RVD must be rejected if made after the start of evidentiary hearing, as here.
>
> {O}n 3/23/12 (10AA2838- 2862), POA-requested evidentiary hearing began, which is a trial within the meaning of CCP.§581. *Gray*[a]167, 173. ... POA has no right for voluntary dismissal. CCP.§581(a)(6). 9AA2424:23-28. 9AA2428:15-20. BOB3:49.
>
> > {C}ourts have defined..."trial" in {CCP.§581}...to encompass certain pretrial proceedings{.}...The thread running through all these cases seems to be...fairness: Once the parties commence putting forth the facts of their case before some sort of fact finder..., it is unfair--and perhaps a mockery of the system--to allow...plaintiff to dismiss his complaint and refile. *Gray*[a]173. ...

As BOB3:49 briefed, POA lost any voluntary-dismissal right when the first witness was sworn, and was patently unfair, and a miscarriage of justice.

> 10. Opinion erroneously ignored BOB3:49-cited *Tamraz*[a]1747 {*In re Marriage Of Tamraz*, 24 Cal.App.4th 1740, 1747, rhg.dny., rvw.dny. (1994)) (*Tamraz*[a])} and *Mercantile*[a]351 {*In re Mercantile Guaranty Co.*, 263 Cal.App.2d 346, 351 (1968) (*Mercantile*[a]351)}, which interpreted CCP.§581(i)) to disallow voluntary-dismissal after a cross-complaint was filed seeking affirmative relief, as here.
>
> > {T}he sine qua non of preventing voluntary dismissal has remained the opposing party's claim for affirmative relief regardless of the form that claim may

take. Affirmative relief for {CCP.§581} is "the allegation of new matter which in effect amounts to a counter-attack." *Tamraz*[a]1747.

{C}ases cited by State (citations)...illustrat{e}...the law that...plaintiff may not dismiss an action where...defendant has requested relief...,...seek{s}...affirmative relief...{,} contains affirmative allegations or...affirmative matter entitling the pleader to relief. *Mercantile*[a]351.

7. We opposed the never-served "voluntary dismissal" as disallowed here, a violation of CCP.§581 and case law (*Tamraz*[a]1747. *Mercantile*[a]351), and a gross miscarriage of justice. 9AA2427:12-15. BOB3:49.

POA lost its right to voluntary dismissal when Goguen and Bullock filed cross-complaints seeking affirmative relief, as BOB3:49 briefed, which Opinion ignored.

8. Even if there were a statutory-allowed voluntary dismissal--and there wasn't--that doesn't remove the need to assess subject-matter-jurisdiction. If a court lacked subject-matter-jurisdiction on Day 1, all subsequent Complaint decisions are void. Using a false statute-blocked "voluntary dismissal" shows the "utterly-manipulable ...lawyer's game" to assume jurisdiction without authority.

F. No-stare-decisis rules unconstitutionally barred stare-decisis invocation of the original case that this case repeated.

This case is a repeat case of a prior case where POA sued its members/privies under the same determinative law and facts.

The original case (*POA^Lemke*[o]) opinion was unpublished. App.H. Currently, all unpublished appellate opinions are published online and in legal databases. *POA^Lemke*[o] was filed when only selected unpublished opinions were digitally-

published.

California Homeowners' and Property Owners' Associations are governed by the Davis-Stirling Common Interest Development Act, Civ.§1350-1378 (Davis-Stirling). After this case's accrual dates, Civ.§1350-1378 was repealed/restated/renumbered as Civ.§4000 *et seq*. Under *Aetna Casualty & Surety Co. v. Industrial Accidents Commission,* 30 Cal.2d 388, 391-392 (1947) (*Aetna**391-392) and *Evangelatos v. S.C.* 44 Cal.3d 1188, 1205-1206(1988) (*Evangelatos*1205-1206)*, Davis-Stirling (2012) controls here, not Civ.§4000 *et seq*.

At Trial Court, Defendants raised the stare-decisis issue, and were barred by CRC.8.1115 from asserting stare decisis because it isn't a CRC.8.1115(b) exception to the citation-ban.

Defendants contended that CRC.8.1115(b)'s res-judicata/collateral-estoppel exceptions applied.

Trial Court denied any citation to *POA^Lemke*° on grounds that it was unpublished, refusing to consider res-judicata/collateral-estoppel exceptions.

G. Opinion's error-pattern shows the unconstitutional results of no-stare-decisis rules, and attempts to avoid stare-decisis effects.

1. Opinion (App.A) rejected citation under res-judicata/collateral-estoppel exceptions, on false-fact grounds that *POA^Lemke*° citation to Davis-Stirling provisions occurred because "The CC&Rs make express reference to" Davis-Stirling's Civ.§1354. *POA^Lemke*° CC&Rs were enacted in 1971, 14 years before Davis-Stirling even existed.

It was thus logically and chronologically impossible for those CC&Rs to cite Civ.§1354.

Having no basis to reject res-judicata/collateral-estoppel

exceptions, CoA concocted a wildly-false fact, not in the record and impossible in reality, and used it to deny res-judicata/collateral-estoppel and ignore stare-decisis.

Our timely Petition For Rehearing to correct this and many other false facts was denied. App.B.

2. Opinion (20:2-4) (App.21) misrepresented that "the *Lemke* opinion did not explain the basis for this court's implicit conclusion this statute applied."

POA^Lemke opinion did explain the court's explicit "conclusion that this statute applied".

POA^Lemke showed that Davis-Stirling governed R-Ranch by quoting the controlling DRE Report, to which deference must be considered. DRE concluded that CC&Rs allowed camping, which satisfies the separate-interest analysis for "temporary exclusive occupancy" under *Cal-Am Corp. v. Dept. of Real Estate*, 104 Cal.App.3d 453 (1980) (*Cal-Am*[a])--not "ownership" or "possession" of land, neither of which is required for a separate-interest.

POA^Lemke explained that the resolution in dispute allowed camping for 210 days, then away overnight for 30 days, then again 210 days. That is the separate-interest explanation, under the law, which Opinion ignored.

POA^Lemke applied the equitable-servitudes analysis required by *Nahrstedt v. Lakeside Village Condominium Assn.,* 8 Cal.4th 361 (1994) (*Nahrstedt**) for R-Ranch CC&Rs. This further explained and documented its conclusions that deed restrictions were equitable servitudes under Davis-Stirling Act Civ.§1354 and *Nahrstedt**.

Opinion more than adequately explained its explicit conclusions. BOB3:60-68.

3. Opinion attempted to avoid an explicit stare-decisis-confirming conclusion by calling it an "implicit conclusion".

In *POA^Lemke*°, both sides agreed that CC&Rs were equitable-servitudes.

The dispute was whether CC&Rs were equitable-servitudes under Davis-Stirling Civ.§1354.

POA^Lemke° opinion resolved that core dispute explicitly, holding the following.

> {T}he CC&Rs are enforceable as equitable servitudes (Civ.§1354)[.] ... The CC&Rs were clearly enforceable as equitable servitudes. ... (See *Nahrstedt v. Lakeside Village Condominium Assn.* (1994) 8 Cal.4th 361, 378; Civ.§1354(a).) Accordingly, the judgment enforcing the Resolution must be affirmed{.} App.74.

Civ.§1354 only applies to common interest developments, so this explicit holding that CC&Rs are equitable-servitudes under Civ.§1354 shows that CoA concluded that Davis-Stirling applied. There is no alternative interpretation.

Unable to reject this reasoning, Opinion ignored it, so Opinion-readers would have no idea this explicit conclusion was even existed.

4. For over a decade, Defendants have pointed to these explicit conclusions, and the statute and *Nahrstedt** caselaw they invoked, to show that R-Ranch CID status was conclusively determined in *POA^Lemke°*. No party or court has ever disputed this passage's interpretation. Its conclusions are clear and specific, just ignored.

Instead, Opinion (19:21-23) (App.21) caricatured our contention as "Appellants' argument is based on that opinion's later rejection of the notion that a resolution could not be enforced as an equitable servitude."

Our contention had nothing to do with that caricature. *POA^Lemke°* opinion clarified that the CC&Rs were Civ.§1354 equitable-servitudes--as declarations, though a board resolution to enforce that declaration was not. This distinction was irrelevant to our contention, which is that the court explicitly--not implicitly--held that R-Ranch CC&Rs were Davis-Stirling equitable-servitudes, which re-

solved the dispute over CID status.

Our contention was based on Opinion's holding that R-Ranch CC&Rs were equitable servitudes under Civ.§1354 and *Nahrstedt** and *POA^Lemke*°'s Section V and VII (App.72-74), which applied *Nahrstedt**'s required equitable-servitude analysis for R-Ranch CC&Rs, and its "Accordingly" conclusion, *inter alia*. BOB3:60-68.

5. Instead of acknowledging the legal impact of explicit conclusions, Opinion stated "That opinion, however, avoids answering whether R-Ranch is a common interest development."

It's impossible to hold that CC&Rs are equitable servitudes under Davis-Stirling Civ.§1354 without answering the CID question.

Davis-Stirling Civ.§1354 (App.52-53) only applies to CIDs.

POA^Lemke° opinion didn't avoid the issue at all. It found R-Ranch CC&Rs were equitable servitudes under Davis-Stirling Civ.§1354, which requires that R-Ranch is a CID, and resolved the parties' specific dispute.

6. Opinion misrepresented *POA^Lemke*° by ignoring CSC's just-released landmark decision in *Nahrstedt**, which only interpreted Civ.§1354 and only applies to CIDs under Davis-Stirling. BOB3:60-68.

POA^Lemke°'s entire Section V and VII (App.72-74), applied the *Nahrstedt**-required equitable-servitudes analysis. None of that analysis is even allowed without the conclusion that R-Ranch is a Davis-Stirling CID. The entire *Nahrstedt** opinion only addressed Davis-Stirling CIDs.

7. POA won *POA^Lemke*° by placing in the record the Department Of Real Estate (DRE) "Final Subdivision Public Report", binding on all R-Ranch Owners. That report concluded that R-Ranch is a Davis-Stirling CID. Defendants placed that same dispositive Report in the record here, along with 5 more DRE reports, issued as regular up-

dates, with the same conclusions. DRE, the state agency responsible to determine CID status of every California subdivision, has issued 6 Final Public Reports for R-Ranch. Each concluded, using only the governing-documents, that R-Ranch is a Davis-Stirling CID.

8. Instead of deferring to DRE's binding decisions, or providing substantial reasons why DRE was wrong 6 times, Opinion (App.21) twisted the Report upside down, extracting one sentence to claim the opposite of its conclusions. "It also set forth facts that would preclude that possibility (CID status), stating that "no owner has the exclusive right of ownership or possession of any portion of R-Ranch.""

Opinion's sentence avoided the Civ.§1352(a)-required analysis of 'separate interest" and didn't even mention "separate interest" that statute application required, or the controlling case.

DRE's Final Report conducted the Civ.§1352(a)-required analysis of "separate interest", and explicitly, repeatedly concluded that R-Ranch is a Davis-Stirling CID, and that R-Ranch Owners have Davis-Stirling rights and responsibilities.

If CoA had done the required Civ.§1352(a) analysis, it would have concluded the same as DRE. R-Ranch is a Davis-Stirling CID.

Under Civ.§1352(a) (App.52-53), CID owners don't need an exclusive right to own/posses part of the ranch.

As DRE won in *Cal-Am*[a], the case that decided this issue, a separate interest only requires a right to temporary, exclusive occupancy, not exclusive ownership/possession of a land parcel.

As *POA^Lemke*[o]'s DRE quotes showed--and Opinion ignored, Owners' right to RV-camping on R-Ranch is the separate interest required by Civ.§1352(a).

R-Ranch Owners own fee-simple deeds to all 5,019 acres, with the separate-interest right to temporary, exclusive occupancy of campsites for their RVs, campers, tents, etc. BOB3:60-68. They have this right for 210 consecutive days, then they must be off the ranch overnight for 30 days, then back for 210 more.

As DRE's report showed, the right to RV-camping is a separate interest under the law.

Opinion substituted a false-political-narrative for the statutory-required separate-interest analysis and facts. Opinion's quoted sentence about land ownership is irrelevant to separate-interest analysis, DRE's 6 conclusions, the *Cal-Am*[a] analysis, and the statutory-required Civ.§1352(a) analysis.

H. Separately from *POA^Lemke*[o], Bylaws.§7.1 bluntly established for R-Ranch "Subject to the provisions of the...Davis-Stirling Common Interest Development Act,...the business...of the Association shall be vested in...the..board of Directors".

The plain words were a general invocation of the entire Act, and omitted nothing in the Act.

Opi.17 (App.18) quoted Bylaws.§7.1, then held "That is not an adoption for all purposes. ...Nowhere do any of the governing documents provide that all of the Act shall govern their construction or apply to the Owners' Association."

As throughout the Opinion, there was only a false narrative--no statutory construction of the words, just an unsupported conclusory statement. Opinion had no explanation of what purposes that blunt sentence omitted from the act. There were none. Generating that conclusory statement would require adding words, violating construction rule to not insert what isn't there. CCP.§1858.

As occurred throughout, Opinion replaced required statutory construction with unsupported conclusory statements

and false-narrative not grounded in text.

I. This error pattern continued with *R-Ranch POA v. Goguen*, which Goguen won in final judgment on all counts by proving Davis-Stirling Act governed R-Ranch and that POA had violated his Davis-Stirling rights.

> R-Ranch is "organized as a common interest development and subject to the provisions of the Davis-Stirling Act. As such, it must comply with the provisions of... {Civ.§1366.1}," which prohibited an association from imposing or collecting a fee that exceeded the amounts necessary to defray the costs for which it is levied.

Opi.20 (App.22) quoting final judgment, while only calling it an arbitration.

1. Defendants showed the full record, including the parties arguments showing the issue was actually litigated and satisfied all res-judicata/collateral-estoppel criteria.
2. Opinion again ignored the record, using an unsupported conclusory sentence holding that "On this limited record, it is not clear the arbitrator's statements regarding R-Ranch being a common interest development were based on an issue that was actually litigated." They weren't just 'arbitrator statements". They were final conclusions of law by a Superior Court judge.
3. Opinion converted the judge's final-judgment legal conclusions into "arbitrator's statements", and ignored the record showing the issue was actually litigated.
4. Again legal analysis was replaced by no-construction narrative that ignored dispositive facts, while disparaging Defendants' detailed factual record and careful construction.
5. Opi.21 (App.23) further stated that "The record does not suggest that the arbitration proceeding allowed members with contradictory views to adequately adjudicate this issue."

Defendants' showed criteria were satisfied. Opinion generated a new criterion, not part of res-judicata/collateral-estoppel law, to avoid the blunt final-judgment holding that "R-Ranch is "organized as a common interest development and subject to the provisions of the Davis-Stirling Act.""

Even if that new criterion was law--and it's not, record shows the case was litigated in open court. Any "members with contrary views" could have moved to intervene. Intervention option satisfied this new "unpublished" law criterion.

Reasons To Grant Petition

A. This case is an ideal vehicle to resolve profoundly important issues on multiple levels.

1. California Supreme Court (CSC) should not be allowed to offend 14A-§1 to unconstitutionally create no-stare-decisis court-rules that bar stare-decisis citation to over 91% of appellate opinions without any required criteria (on "should"s"), block sister-court review 100% of the time--under stare decisis, block higher-court review over 99.9% of the time (*Moghadam*°1425,fn.253), then deny its own (petitioned) review of rule unconstitutionality.

CSC's 3-way blockade nullified judicially-critical stare-decisis quality-controls.

CSC elevated itself above the rule of law with unconstitutional no-stare-decisis rules that no California court can--or will--review.

2. There are no obstacles to this court's review. Questions presented are outcome-determinative. Material facts are undisputed. Record is thorough, with extensive record citations to page. Relevant state constitutional history is thoroughly documented in the record before CSC. There are no jurisdictional impediments to this court's review.

Importantly, no-stare-decisis rules' unconstitutionality is

undisputed by any of 6 Respondents involving 4 separate law firms.

3. Further, remedy remains vital and timely. Under California contract law (*Lewis&Queen**147-148; *Tiedje**454), when a party sues to enforce an illegal contract, CSC requires that the parties be returned to their position as of Complaint-filing date, so no party can every gain power (corporate takeover here) and money (attorneys' fees) advantage by abusing the judicial system.

Thus, "the parties will be left where the court found them" on 1/31/12.

B. Stare decisis is the most fundamental judicial concept in American jurisprudence. It must be protected so its quality-controls operate to protect judicial integrity, social and corporate stability, protect well-established property rights, allow commerce and transactions under predictable laws, and instill public confidence in America's judicial system.

> Stare decisis--in English, the idea that today's Court should stand by yesterday's decisions--is "a foundation stone of the rule of law." *Michigan v. Bay Mills Indian Community*, 572 U.S. 782, 798 (2014) {*BayMills***798}. *Kimble***455.

The issue here isn't a decision to publish or not publish in bound-volumes for law libraries. The issue is CSC's attempt to misuse that narrow duty to gut stare-decisis.

C. No state Supreme Court should be allowed to elevate itself above the rule of law by adopting unconstitutional rules, barring review by all other state courts, then denying its own review--thereby blocking any review of undisputed unconstitutionality and forcing any review to be by this court. This court should grant petition to prevent this extraordinary situation from recurring.

Given CSC's half-century of avoiding major constitutional

issues in its no-stare-decisis rules, this court should grant review and consider asking CSC to certify answers to key questions below.

D. As CoA's Opinion error-pattern examples (there are many more) demonstrates, CSC's no-stare-decisis rules are being used to create an injustice system, protected from review by no-stare-decisis rules' castle-thick walls. CoA can concoct wildly-false facts, misquote and misrepresent the law, create new law criteria for res-judicata/collateral estoppel, caricature dispositive contentions, ignore statutory criteria for voluntary dismissal, and most fundamentally, ignore lack of subject-matter-jurisdiction to adjudicate a case where corporate attorneys sued their board-majority clients after the majority voted to replace the attorneys.

By not acknowledging the stare-decisis effect of the precedent case, unpublished Opinion creates unacknowledged conflict because "another unpublished decision cuts in the opposite direction". *Reyes Mata v. Lynch*, 576 U.S. 143, 149-150, fn.3 (2015).

As in *Plumley v. Austin*, 574 U.S. 1127, 1131-1132 (2015), Dissent by Thomas, Scalia, "It is hard to imagine a reason that the Court of Appeals would not have published this opinion except to avoid creating binding law". "The...decision warrants review. ...It announces a rule that is at odds with the decisions of this Court and Courts of Appeals. ... {W}e should have granted the petition for a writ of certiorari."

E. This case represents a fundamental question of federal due-process law left open by this Court's *Boddie***375-378 and its forebears/progeny (*Boddie***-caseline).

1. *Boddie***375-378 held that 14A-§1 barred a court from exercising its monopoly power over dispute-resolution outside society-defined boundaries, to ensure judicial-system

integrity for social stability and justice to each individual.

*Boddie***-caseline left open the question of how a court should accomplish its independent-jurisdiction fact-finding task, especially when jurisdiction facts and law are unclear or disputed.

Our Petitions and Motion to CSC advanced such a corrective procedure, so "courts function as courts" and exercise constitutional restraint over use of their monopoly dispute-resolution power.

2. This case is an ideal opportunity to explain how this court's *Boddie*** must be implemented to be procedurally effective when subject-matter-jurisdiction is questioned. Without that specificity, CoA simply ignored its 14A-§1 *Boddie*** duties, and assumed--without discussion--Complaint subject-matter-jurisdiction it never acquired.

California courts exploited this court's lack of procedural specificity by ignoring it or claiming a party did not meet their burden of proof, when parties have no such burden. Parties cannot confer subject-matter-jurisdiction by consent, waiver, forfeiture, or by any action or inaction. Subject-matter-jurisdiction is a court duty, not a party's motion.

3. CSC has repeatedly adopted the *Boddie***-caseline, which overlays CSC's parallel caseline of *Abelleira v. Dist. Court of Appeal*, 17 Cal.2d 280 (1941). That caseline established that whenever fundamental jurisdiction (California's label for subject-matter-jurisdiction and personal-jurisdiction combined) is questioned at any stage of proceedings, the court must, on its own motion, review its fundamental jurisdiction to act, and not take judicial action until it completes that review.
4. A third caseline, *Lewis&Queen** repeatedly held that when a party sues to enforce an illegal contract, as here, and that illegality is discovered anywhere in the proceedings, the court must stop, conduct its own fact-finding in-

vestigation, and if illegal, return parties to Complaint-filing date positions.

5. Our extreme case shows why this court must stop subject -matter-jurisdiction abuse to protect judicial-system integrity and "to maintain an ordered society that is also just." *Boddie***375.
6. Petitioners are democratically-elected corporate directors whose corporate-attorneys violated ethics, advised then sued their board-majority clients (RPC.3-310(B), App.54) on the subjects of the advice (RPC.3-200, App.54), because one outvoted director asked them to, without ethics-required attorneys' written disclosures (RPC.3-310(A), App.54) of undisclosed-conflicts-of -interest and adverse-representation (RPC.3-310(C), App.55)--and clients' written consent-waivers (RPC.3-310(E), App.55), to enforce an undisputedly illegal-contract (RPC.3-200(B)(C), App.54), secretly signed as a "corporate contract" by an individual with no corporate authority to do so, to hold his own vigilante corporate "recall" election without the corporation's foreknowledge or involvement, violating well-established ethics laws (above) and corporate governing-documents for democratic elections.

Even with thorough record facts, extensive briefing on ethics-rule violations, CoA did not address these jurisdiction-divesting issues.

7. CSC's unconstitutional blockade denies 14A-§1 due process under stare-decisis to ensure decisions apply written law to record facts, and allow CoA to assume subject-matter-jurisdiction is doesn't have to reach wrongful conclusions, thereby ignoring *Boddie***375-378 restrictions on courts' monopoly power.
8. The problem is worse than number and scope of Opinion errors.

The core problem is CSC granting itself immunity from

state-court constitutional review by a 3-way blockage protecting unconstitutional rules allowing CsoA to grant themselves immunity from stare-decisis quality-controls by labeling its published decisions "unpublished".

F. To understand the need for review, this court can consider, given thousands of rules adopted by JCC in the last 99 years, why would CSC make an exception for only 6 rules, CRC.8.1100-1125, governing publication and no-stare-decisis citation to opinions declared "unpublished".

1. In its 99-year history, JCC has adopted/amended thousands of rules and sub-rules, currently organized into 10 Titles. JCC is chaired by CSC's Chief Justice, who appoints all member justices and judges.
2. If these 6 rules are proper, why didn't CSC use its leadership, appointment-power, voting-power, and persuasive-power to convince JCC's justices, judges, lawyers, and legislators to adopt them?

The answer--unsurprisingly--is stare decisis. JCC rule constitutionality can be reviewed by Superior Courts and Courts of Appeal (CsoA). JCC is a separate body, with no hierarchical-review-suppression over Superior Courts and CsoA.

Any Superior Court judge can declare a JCC-adopted rule unconstitutional.

CSC rule-adoption activates stare-decisis, barring lower-court review.

This shows voters' wisdom in 1926, in transferring appellate-rule power from CSC to JCC, thus allowing for Superior Court/CoA constitutional review of any court rule to decide child custody, will probates, criminal procedures, murder-suspect rights, court-rule procedural rights, etc.

By excepting only 6 rules from the thousands that JCC has adopted, CSC has knowingly built an unconstitutional

castle around its own rules to prevent review in any California court of no-stare-decisis rules gutting the foundation of Western Civilization law.

With stare-decisis quality-controls barred by the castle blockade, CsoA are free to declare knowingly-faulty opinions "unpublished", as here, and thereby avoid review.

This includes opinions openly conflicting with prior statutes and case-law as here, and thus keep stare-decisis quality-control mechanisms from operating.

G. Review should be granted to restore stare-decisis quality-control mechanisms and and the judicial integrity they provide. By writing new law and declaring its faulty opinion "unpublished", CoA prevented the self-correcting mechanisms upon which stare-decisis relies.

> {P}art of "judicial humility," *post*, at 450, 471 (opinion of Kagan, J.,), is admitting and in certain cases correcting our own mistakes, especially when those mistakes are serious, see *post*, at 423-424 (opinion of Gorsuch, J.). *Loper***411.

H. Review should be granted to establish stare decisis stability.

That stability is especially critical in situations like this where families owning 1 of R-Ranch's 2,500 shares with daily access to 5,019 acres through shared ownership that relies on Davis-Stirling rights and responsibilities established for decades. Appellate courts describe Davis-Stirling as property owners' Bill of Rights, so loss of those rights is immensely disruptive for thousands of people.

> {S}tare decisis carries enhanced force when a decision...interprets a statute. ... {W}e have often recognized that in just those contexts-"cases involving property and contract rights"-considerations favoring stare decisis are "at their acme." [Citations.] That is because parties are especially likely to rely on such precedents

when ordering their affairs. *Kimble***456-457.

By denying stare-decisis analysis for precedent that secured Davis-Stirling rights, Opinion improperly avoided that analysis.

CSC's no-stare-decisis rules prevent stability analysis and weighting from even being considered, which violates 14A-§1 due-process rights.

I. Petition should be granted because this unique role highlights critical differences between role of stare decisis analysis and res-judicata/collateral-estoppel analysis.

POA^Lemke° held that R-Ranch declarations are equitable servitudes under Davis-Stirling Act's Civ.§1354, which only governs Common Interest Developments (CIDs).

CSC's landmark *Nahrstedt** overturned 3 CoA decisions to hold that declarations must be interpreted under strict application of equitable-servitudes to ensure CID stability critical to property owners and CID viability.

POA^Lemke° held that *Nahrstedt** governs R-Ranch

Given stare-decisis, subsequent courts are bound to those conclusions, unless a later court find substantial reasons to overturn that precedent.

Substantial reasons to overturn precedent require a detailed analysis of the precedent court's reasoning, which CoA declined to do.

Stare-decisis analysis requires study of the web of post-precedent decisions to decide workability, erosion of principles, etc.

J. This court should grant petition and ask CSC to certify answers to key questions it has avoided for over a half-century.

1. Given the 1928 Constitutional Amendment withdrawing authority for CSC to adopt rules governing California courts, is CRC.8.1100-8.1125 unconstitutional for lack of authority to adopt?

2. Did CSC have constitutional authority to unilaterally adopt appellate rules CRC.8.1100-1125, governing all California courts and parties, outside the constitutionally-mandated Judicial Council Of California (JCC) process?
3. Do CRC.8.1115(a) and CRC.8.1115(b) (no-stare-decisis rules) violate California's Due Process Clause in California Constitution, Art.I, §7 (CAC-A1§7)[5] by violating the stare-decisis basis of American law?
4. Given that CSC has barred all other California courts from reviewing CSC decisions, did denial of Appellants' Petition-For-Review to CSC here constitute denial of Appellants' statutory rights (CCP.§904.1(a)[6], etc.) to initial appeal for issues that can only be raised at CSC.
5. Under CAC-A1§7's Due-Process-Clause rights to an impartial judiciary, may CSC review the constitutionality of its own rules?

Conclusion

Due process does not allow a state Supreme Court to elevate itself above the rule of law by adopting a court rule.

Petition should be granted.

Date: 5/30/25

Respectfully Submitted,

James Goguen
in propria persona

Art Bullock
in propria persona

5 **Art.I,§7(CAC-A1§7).** Due process; Equal protection; Privileges and immunities{.} (a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws{.}

6 **CCP.§904.1.** Judgments and orders that may be appealed{.}

(a) An appeal, other than in a limited civil case, is to the court of appeal. An appeal, other than in a limited civil case, may be taken from any of the following: (1) From a judgment, except an interlocutory judgment, other than as provided in paragraphs (8), (9), and (11), or a judgment of contempt that is made final and conclusive by Section 1222.