No. 25-798

IN THE
Supreme Court of the United States

Rick Siegel
Petitioner,

v.

Jude Salazar
Respondent.

On Petition for A Writ of Certiorari to the
Court of Appeal of California,
Second Appellate District, Division Five

MOTION FOR LEAVE TO FILE AMICUS BRIEF FOR PROFESSOR KEVIN JEROME GREENE

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Professor Kevin Jerome Greene respectfully moves for leave to file the accompanying brief as *amicus curiae* in support of Petitioner pursuant to United Stated Supreme Court Rule 37.2(b).

Professor Green had been relying on Petitioner Siegel's understanding from a conversation he had with case manager Pipa Fisher, whereas that since procedural changes in 2023 related to 37.2(b), amici no longer needed to request permission from the parties to submit a amicus brief within 10 days of the 30-day submission period.

Upon learning on January 29, 2026 Petitioner had misunderstood the directive, notice of intent to file this brief was provided to Respondent.

On January 31, 2026, Respondent replied to the notice, not to object, but informing Petitioner that she had submitted to the Court her Waiver of Reply.

On February 2, 2026, Professor Greene filed his amicus brief. On February 18, 2026, Respondent informed the Court of her objection, and accordingly, leave of Court is now required.

Professor Greene is a scholar of intellectual property, entertainment law, and civil rights. His scholarship bears directly on the historical and constitutional issues presented in this case. His perspective will assist the Court in evaluating the statutory, historical, and structural constitutional questions raised by the petition, and

For these reasons, the Court should grant leave to file the accompanying *amicus curiae* brief.

Respectfully submitted,

Michael M. Berger
Counsel for Amicus Curiae Kevin Jerome Greene

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AMICUS CURIAE BRIEF OF PROFESSOR KEVIN JEROME GREENE IN SUPPORT OF PETITIONER

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INTEREST OF THE AMICUS CURIAE

Amicus curiae Kevin Jerome Greene is a graduate of Yale Law School and formerly an associate at Cravath, Swaine & Moore.[1] He is currently the John J. Schumacher Chair Professor at Southwestern Law School in Los Angeles, California.

For almost two decades Professor Greene has dedicated part of his entertainment law course each semester to a study of California's Talent Agencies Act ("TAA", "Act"). For the last five years, his students have benefited from having Petitioner lecture them on his deep knowledge of the legislative and enforcement history of the TAA.

Petitioner has shared many of the same facts and law he presented in the Petition and the lower courts with hundreds of students. While the feedback for his talks, which incorporates general administrative and licensing regulation precepts, the Act's legislative history and statutory construction, the wrongly interpreted precedent, lack of notice, unusual procedures and an in-depth analysis of the disconnect between the law as written and the law as enforced, has been exemplary, it is relevant to note not a single student, who seemingly question everything, has found anything he has presented to be legally unsupportable.

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[1] Pursuant to Rule 37.2(a), notice of intent to file this brief was provided on January 29, 2026, fewer than 10 days before filing. Petitioner has not consented. This brief is submitted with a motion for leave to file under Rule 37.2(b).

Moreover, with almost each semester, the Petitioner has done more research that further cements his arguments there is an unconstitutional diversion between the Act as it has been codified and how it is applied.

Professor Greene, quoting a *Rolling Stone* [2] Magazine article, is "one of the most sought-after scholarly voices on the music industry's longstanding and ongoing racial inequalities," He is most interested in the Court granting review and examining scholarship only the Petitioner has brought to the conversation on the Act: the derivation of the diversion between the TAA's verbiage and enforcement. This is the issue the amicus will concentrate on hereinunder.

As a student and teacher of how minority music artists have been mistreated over the last century, Greene has no natural affinity for the practitioners of personal management.

However, as those apprehensions relate to his belief our laws as written should be applied equally to all, and in the instant matter, there is material rationale for this tribunal to at minimum consider if the Talent Agencies Act is on its face and/or as applied unconstitutional, as a virtual mountain of law hints to the need for this Court to right a longstanding wrong.

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[2] "Compensation, Healing and Closure" by Jonathan Bernstein, Rolling Stone Magazine, March 5, 2022 Edition

SUMMARY OF ARGUMENT

In 1953, the California Labor Commissioner began an enforcement regime which exists to this day: prohibiting anyone but licensed talent agents from procuring employment for artists and voiding the contractual rights of other talent representatives who procure as part of their professional responsibilities, despite the California Legislature never enacting such provisions. Such enforcement is legally unsupportable, and detailed below, the genesis of this enforcement almost certainly was founded in discrimination.

RATIONALE FOR GRANTING CERTIORARI

This petition raises multiple fresh procedural and statutory constitutional questions. Petitioner is not asking this Court to interpret state law; rather, he, and the thousands of talent representatives in California and around the world the document speaks for, seeks to stop California's judiciary from ignoring administrative-agency actions in defiance of state law and due process.

1. The Current Enforcement Is The Last Vestige Of The Hollywood Blacklist

In instances where a statute is interpreted other than how the Legislature intended, one would expect the misenforcement to be "the result of an unintentional assumption the Legislature had codified statutes."

That structure does not present here. This is not an administrative agency gap-filling an ambiguous scheme. Instead, against the Legislature's total silence

related to unlicensed procurement, making it clear finding employment for artists is an unregulated activity, the Labor Commissioner enforces compromising regulation and remedy self-made out of whole cloth.

The petition cites *Cummins v. The Film Consortium,* Cal. Lab. Comm'm. TAC 5-83 (at 7), which speaks about the genesis of this enforcement: "Since 1953, the Labor Commissioner has consistently construed the Act and its predecessors to encompass any unlicensed procurement activity, regardless of the procuring entity's overall activity."

It is important to frame this to its time and provide a historical explanation. 1953 was the height of the House Un-American Activities Committee ("HUAC"), McCarthyism and the Hollywood Blacklist.

As has been proven out, the witch hunts of that time were much more about rooting out Jews than ridding the country of Communists. Consider who the American Communists were – mainly pro-union, anti-financial disparity intellectual and scientific Jews – not Stalinists looking to round up Catholics and Jews.

Their interests were not aligned with real anti-American activities. But as author Sarah Imhoff detailed in "The FBI and Religion: Faith and National Security Before and After 9/11," Anti-Semitism, and the systematic recruitment and display of Jewish collaborators, were very much on HUAC's only half-hidden agenda."[3]

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[3] books.google.com/books?id=qaowDwAAQBAJ&pg=PA126

Attached (Appendix 1) is an excerpt of an amicus brief submitted by the Labor Commissioner in *Radin v. Laurie,* 120 Cal. App.2d 778 (1953), previously submitted by Petitioner in his submissions to the Court of Appeals and California Supreme Court. Quoting:

> "The laws of this state [] require the licensing of employment agents (Sec. 1581), theatrical employment agents (Sec. 1643), and artists managers (Sec. 1651);[4] call for prior submission and approval of their contract forms (Secs. 1644, 1955) and in numerous other and allied provisions establish a clear intent on the part of the legislature to regulate closely activities of such agents and managers.
>
> "Violation of the provisions of the above legislation constitutes a misdemeanor punishable by fine or imprisonment. (Sec. 1648).
>
> "It has long been held in this state where a statute contains a penalty, that penalty is equivalent to an express prohibition, and the contract in violation thereof is void. Refusal by our courts to allow any recovery where licensing was required is but one example of this general rule.
>
> *Smith v. Bach*, 183 Cal. 259;
>
> *Rhode v. Bartholomew*, 94 Cal.App. 2d 272"

From the structure of the Commissioner's brief, he clearly knew the licensing scheme for talent agents was CA Labor Code § 1643-1650 and personal managers regulated by a scheme beginning at § 1650, but intentionally and seemingly nefariously asked the

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[4] In 1953, 'booking agents' were referred to as theatrical employment agents.

Radin Court to impose the penalty delineated in Labor §1648, one that inarguably did not apply to managers.

2. The Genesis Of The Labor Commissioner's Enforcement Was Discrimination

In his lower court briefs, Petitioner asked a proper question: why would the head of the administrative agency charged with ensuring Californians are fairly compensated wrongfully conflate the licensing scheme for personal managers, which did not reserve procurement for licensees, with a different scheme that required procurers to first obtain a license, an action that intentionally, extrajudicially compromised a law-abiding citizen?

He certainly would not have taken such action had his wife been a personal manager. Nor if a child, friend or other relative was a manager. Nor would he have taken such actions if a neighbor or fellow country club member been a manager, but that possibility was remote, as in 1953, many California neighborhoods and clubs were restricted.

Such decisions would only be made about someone thought of as 'lesser than,' which especially in 1953 was a Jew. At the time personal management was an almost exclusively Jewish occupation – and a target of HUAC and blacklisters.[5]

While this may appear to be a historical hiccup, the Commissioner's 1953 interpretation that

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[5] See "Why The Blacklist is a Jewish Story," https://forward.com/culture/film-tv/413485/why-the-hollywood-blacklist-is-a-jewish-story-and-also-a-milwaukee-story/

unlicensed procurers are lawbreakers and lose their right to contract remains the policy today, and why Petitioner is asking this Court to end—rightfully so—as the Legislature never regulated or assigned a remedy to unlicensed procuring.

3. When the Trial Court Affirmed the Labor Commissioner's Decision, it Violated the Supremacy Clause

The Petition articulates how the trial court's one-sentence affirmance of the Labor Commissioner's opinion was a violation of due process, and asks the Court to expand *Loper Bright v. Raimondo,* 603 U.S. 369 (2024) to require state courts to do independent examinations when a federal constitutional claim is presented for adjudication.

Such affirmance would be a welcome corollary to Article VI, Clause 2 of the United States Constitution, the Supremacy Clause. In *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958), this Court ruled that state courts must ensure that state procedures do not bar the assertion of [federal] constitutional rights. The requirement to independently examine the merit of constitutional claims would ensure a fully and fair hearing on those claims.

State court deference of federal constitutional claims to state agency interpretation may also implicate *Henry v. Mississippi*, 379 U.S. 443 (1965), which along with cementing rationale to grant certiorari in this matter—when state procedural rules

are applied to stringently or used to defeat a federal right, the Supreme Court can review the case.

The Court should be skeptical of giving deference to an 'interpretation' that originated not in good-faith statutory construction but in the discriminatory climate of the Hollywood Blacklist.

4. The Clarity of the Law Warrants Summary Reversal or GVR

The TAA gives the administrative agency the authority in CA Labor Code § 1700.29 to, "in accordance with the provisions of Chapter 4 (commencing at Section 11370), Part 1, Division 3, Title 2 of the Government Code, adopt, amend, and repeal such rules as are reasonably necessary for the purpose of enforcing and administering this chapter and as are not inconsistent with this chapter."

By not acknowledging the enforcement is inconsistent with the proper administering of the Act, with no penalty or prohibition related to procurement, it seems clear the administrative agency will continue to act in an extrajudicial, unconstitutional manner until a Court intervenes.

If the Act's enforcement is legally supportable, the tens of thousands of attorneys, sports agents, producers, marketing specialists and personal managers around the world affected by this enforcement would benefit from an explanation, via the granting of certiorari, how notice here is unneeded, as it is in all other jurisprudence.

However, if, as it presents, the enforcement is unsupportable—unconstitutional, extrajudicial, and ultra vires—denying review would be of disservice to all—by allowing the Labor Commissioner to continue acting ultra vires.

This may be a matter that may be most properly adjudicated summarily. No judicial alchemy can turn legislative silence into regulation. No level of briefing, no erudite oral argument, and most important, no 'longstanding interpretation' can conjure statutes into existence. When the Legislature does not enact regulation, the regulation does not exist.

To hold otherwise is to abandon the rule of law for the rule of man.

CONCLUSION

As the issues presented have a national, actually international significance, as California is arguably the capital of the world's entertainment industry, with the questions novel and important, the writ of certiorari deserves to be granted.

Further, unless it can ascertain how there can be lawful regulation and remedy without statutory authority, the Court might consider resolving Petitioner's two-plus-decade journey to right this wrong summarily.

Respectfully Submitted,

For Professor Kevin J. Greene, Amicus Curiae

APPENDIX 1

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ARGUMENT.

I.

A. Complaint May Be Dismissed or an Answer Stricken Where the Action Has No Merit Or Where There Is No Real Defense to the Action.

Sec. 437 (c), Code of Civ. Pro.

Where a plaintiff or a defendant by adept pleading or otherwise appears either to state a cause of action of a good defense, judgment may nevertheless be entered upon affidavits where, in fact, it is shown that the complaint or the defenses are evasive, spurious or meritless. As stated in *Bank of Amer. N.T & S.A. v. Oil Well Supply Co. of Cal.,* 12 Cal. App. 2d 265 at 270:

> "Section 437c is ... doubtless designed to protect the rights of the plaintiff ... from harassing delays that ordinarily accompany evasive, spurious and meritless defenses."

The purpose of summary judgment is to ferret attempts to use formal pleadings as a means to delay recovery of just demands or prolonging prosecution of meritless actions.

Coyne v. Krempels, 36 Cal. 2d 257, 262.

When the facts appearing in the pleadings and affidavits create only an issue of law, the court is bound under the provisions of Section 437 (c), to render a judgment on motion.

Grady v. Easley, 45 Cal. App. 2d 632, 641;

Bank of America, N.T & S.A. v. Casady, Cal. App. 2d 163, 168.

The trial court abused its discretion in ruling on a motion for summary judgment.

Gambord Meat Co. v. Corbari, 109 Cal.App. 2d 161;
Bank of America v Oil Well Supply Co. supra 265.

II.

If Not Licensed as Required by Law, an Artists' Manager, Theatrical Agent, of Employment Agent Cannot Recover Any Moneys Whatsoever for Alleged Services.

The laws of this state [Part 6, Div II, *Labor Code* Deering, 1953], require the licensing of employment agents (Sec. 1581), theatrical employment agents (Sec.1643), and artists' managers (Sec. 1651); call for prior submission and approval of their contract forms (Secs. 1644, 1955); and in numerous other and allied provisions establish a clear intent on the part of the legislature to regulate closely activities of such agents and managers. Violation of the provisions of the above legislation constitutes a misdemeanor punishable by fine or imprisonment (Sec. 1648).

It has long been held in this state that where a statute contains a penalty, that penalty is equivalent to an express prohibition, and a contract in violation thereof is void. Refusal by our courts to allow any recovery by unlicensed persons where licensing was required is but one example of this general rule.

Smith v. Bach, 183 Cal. 259;

Rhode v. Bartholomew, 94 Cal. App. 2d 272;

A perusal of the undisputed facts in the case at bar set forth above readily reveals that the relationship between the parties herein comes within the purview of the private employment agency law, which was clearly designed to curb and control the very abuses which can flow from such a relationship.

II.
Under the Contract Between the Parties Appellant Was An Artists Manager.

The recognition of the artists manager is a necessary outgrowth in the employment agency field came about in 1943, when Sections 1650-1663 of the Labor Code were enacted. Pursuant to those sections the Labor Commissioner licenses and regulates persons acting in this capacity, and it is required that the contract between the artists' manager and the artist be approved by the Labor Commissioner (Labor Code, Sec. 1655).

The primary function of an artists' manager, defined in Labor Code, Section 1650, is to advise or counsel artists in the development or advancement of their professional careers, and is thus distinguishable from a theatrical employment agent or a motion picture employment agent, as defined in 1552 of the Labor Code. The theatrical employment agent and motion picture agent are employment agent whose sole function is to secure employment for a client. For this reason, Labor Code Sections 1633 and 1634

preclude a motion picture or theatrical agency from accepting a fee from a client unless it has a bona fide order for employment and actually obtains employment for the client. It is significant that these two code sections do not apply to artists' managers, being omitted from Labor Code Section 1663, which contains those sections of the private agency law governing artists' managers.

The inapplicability of Sections 1633 and 1634 to artists managers permits this class of employment agency to receive fees for its services, although employment is secured by others for the client and the manager merely assists the client is securing the employment. In other words, the law does not require the artists' manager to procure the employment for the artist; it is sufficient if he aids in this respect, such as in the selection of employment agents to represent the client in the obtaining of employment, as is provided in the contract in the case at bar.

The contract of July 30, 1948, between the parties provides for appellant to perform the functions of an artists' manager contained in Section 1650 of the Labor Code. To allow an unlicensed person, under the guise that he is a business manager, to circumvent the law by providing in the contract that he is not obligated to obtain employment would defeat the very intent of the Legislature to regulate the relationship of artists' manager-client.