NO. S222996
Appellate No. B249253

IN THE SUPREME COURT OF CALIFORNIA

MARK LAFFITTE, *et al.*,

Plaintiffs and Respondents,

vs.

ROBERT HALF INTERNATIONAL, INC., *et al.*,

Defendants and Respondents,

DAVID BRENNAN,

Plaintiff and Appellant.

After a Decision of the Court of Appeal, Second Appellate District, Div. Seven, No. B249253;
Los Angeles Superior Court, Stanley Mosk Courthouse, Case No. BC 321317
[related to BC 455499 and BC 377930], Hon. Mary H. Strobel, Judge

REPLY TO ANSWER TO PETITION FOR REVIEW

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INTRODUCTION

Petitioner, Plaintiff Class Member/Objector and Appellant David Brennan, has petitioned this Court to rule on the conflict surrounding the instructions this Court provided to lower courts in its seminal decision, *Serrano v. Priest* (*Serrano III*), 20 Cal.3d 25 [141 Cal.Rptr. 315] (Oct. 4, 1977).

Petitioner's position is that the published decision, *Laffitte v. Robert Half Int'l, Inc., et al.; David Brennan, Appellant,* No. B249253, 2014 Cal.App. LEXIS 1059 (2d App. Dist., Div. 7, Oct. 29, 2014) (hereinafter the "*Laffitte* decision"), has added to the conflict already existing concerning this Court's mandate in *Serrano III* regarding the judicial calculation of reasonable attorneys' fees. Class Counsel for Respondents argue that (1) there is no conflict among appellate courts about the meaning of *Serrano III*, and (2) the *Laffitte* decision is consistent with *Serrano III* and other courts of appeal decisions that Class Counsel deem relevant.

Before explaining why Class Counsel's analysis is incorrect, an introduction to this issue is important because it may explain why they misunderstand what the current California jurisprudence is regarding judicial awards of reasonable attorneys' fees.

When trial courts are asked by plaintiffs' lawyers to award a reasonable attorneys' fee, they must satisfy two conditions:

The court must determine whether, under the law, the attorneys are entitled to a fee award.

Once the court has established entitlement, it must calculate the fee in accordance with methods approved by this Court.

In other words, the first question is, are the attorneys entitled to an award of fees? The second question is, if so, how does a court calculate the amount of the award?

On the issue of an attorney's eligibility to an award of a reasonable attorney's fee, California law recognizes three exceptions to what has been called the American rule – which is that each side bears his or her own attorney's fees. The exceptions are the equitable or common fund doctrine, the substantial benefit doctrine (a derivative of the common fund doctrine), and the private attorney general theory (codified in California at CCP § 1021.5). (See *Mandel v. Hodges*, 54 Cal.App.3d 596, 619-21 [127 Cal.Rptr. 244] (1st App. Dist., Div. 4, Jan. 21, 1976).)

DISCUSSION

It is Petitioner's position that with respect to each of the doctrinal exceptions, including the common fund doctrine, this Court ruled in *Serrano III*:

> Fundamental to its [the trial court's] determination – and properly so – was a careful compilation of the time spent and reasonable hourly compensation of each attorney ... involved in the presentation of the case.
> ....
> "The starting point of every fee award ... must be a calculation of the attorney's services in terms of the time he has expended on the case. Anchoring the analysis to this concept is the only way of approaching the problem that can claim objectivity, a claim which is obviously vital to the prestige of the bar and the courts."

Serrano III, supra, 20 Cal.3d at 48 and 49 n.23, respectively, *citing City of Detroit v. Grinnell,* 495 F.2d 448, 470 (2d Cir. Mar. 13, 1974 (emphasis added).

Class Counsel's argument is that the above-quoted language in *Serrano III* only applies when the court awards reasonable attorneys' fees under the private attorney general exception:

> Thus, the Court made its statement concerning the "starting point" for fee awards in the context of analyzing the amount of the award ***pursuant to the private attorney general theory.***

(Class Plaintiffs and Respondent's Answer to Petition for Review ("APR") at 20), and that the instruction does not apply to fees calculated under the common fund doctrine. In other words, they argue that since the *Laffitte* award was requested under the common fund doctrine, *Serrano III's* "fundamental to....", "the starting point....", and "anchoring the...." do not apply.

In their Answer to the Petition for Review, Class Counsel also claim that none of the cases relied upon by Petitioner demonstrate that there is a conflict among various appellate courts. They argue that the cases cited in the Petition are not relevant because either none of the cases involve a court determination that a common fund was created, or they claim that the cases are otherwise inapposite or *dicta*.

I.

SERRANO III'S INSTRUCTIONS ARE NOT LIMITED TO AWARDS UNDER THE PRIVATE ATTORNEY GENERAL THEORY

A. This is Why Class Counsel Are Wrong.

1. The language in *Serrano*:

> "The starting point of every fee award ... must be a calculation of the attorney's services in terms of the time he has expended on the case."
>
> (*Serrano III, supra,* 20 Cal.3d at 49 n.23 (emphasis added)),

says "every fee award." The language is all inclusive. It does not carve out fees awarded under the common fund doctrine. Class Counsel contend that "every" nonetheless applies only to fees awarded under the private attorney general theory. Petitioner believes that, as numerous appellate courts have held, *Serrano III* applies to all three doctrinal exceptions to the American Rule.

2. No court has ever held, and Class Counsel cite to no legal support for their contention (APR at 20) that *Serrano's* "fundamental to....", "the starting point....", and "anchoring the...." instructions apply only to the private attorney general theory. They simply state it without any jurisprudential support.

3. Class Counsel present pages and pages of argument and case citations (APR 9-12) that are irrelevant to the question raised in Objector's Petition for Review. The issue is not about the entitlement

to an award of reasonable attorneys' fees, but rather, under the common fund doctrine in light of *Serrano's* instruction, how is the fee to be calculated by the court once entitlement has been determined.

4. Perhaps the most important fact demonstrating that Class Counsel's argument is baseless is that the *Serrano III* decision relies upon two federal cases, *City of Detroit v. Grinnell Corp., et al., supra,* (an antitrust class action), and *Lindy Bros. Builders, Inc. of Phila. v. American Radiator & Standard Sanitary Corp., et al.*, 487 F.2d 161 (3d Cir. Oct. 31, 1973), which indeed award reasonable attorneys' fees under the common fund doctrine. In each, the court ruled that the fee to be awarded from a settlement fund (15% of the $10 million settlement recovery was awarded by the district court in *Grinnell*) must be calculated under the lodestar method, and in each case, the appellate court decision specifically rejected the percentage-of-the-recovery method[1]:

> Because we feel that this fee was excessive and displayed too much reliance upon the contingent fee syndrome....
>
> ....
>
> [T]he District Court's *de facto* reliance on the contingent fee approach, an approach which, they submit, is impermissible in this type of case.

(*Grinnell, supra,* 495 F.2d at 468),

---

[1] Class Counsel state in their Answer to the Petition for Review that "no California appellate court has ever held that a fee award based on a percentage of the fund is inappropriate in a true common fund case." (APR at 1.) But, the most important point is that the Supreme Court in *Serrano III* did just that, relying on federal case law.

as a basis to calculate the amount of the fee to be paid from a common fund. If the *Serrano III* court meant to apply the "starting point," "fundamental to," and "anchoring" language only to fees sought under the private attorney general exception, it would not have selected two equitable/common fund cases to support an argument that the *Serrano III* instructions only apply to fees sought under the private attorney general theory.[2] Class Counsel ignore these cases in their Answer.

Moreover, the language of *Serrano III*:

> "[O]nce it is recognized that the court's role in equity is to provide just compensation for the attorney...."
>
> (*Serrano III, supra,* 20 Cal.3d at 49 n.23, *citing Grinnell, supra,* 495 F.2d at 470),

further undermines their argument. This court specifically explains that the starting point language applies when the court is applying equitable rules, which the common fund doctrine clearly employs.

5. The distinction that Class Counsel are attempting to make, saying that in private attorneys' general cases the starting point must be the lodestar but that with regard to the common fund exception the percentage amount is permissible, makes no sense. *Serrano III's* instruction is based upon public policy grounds.

---

[2] The fact that *Serrano III* is not itself a common fund case is not significant. In stating "in every case" and citing to federal common fund cases, *Serrano III* clearly meant to include fees awarded from common funds.

(a) Objectivity.

> "Anchoring the analysis to this concept is the only way of approaching the problem that can claim objectivity...."

Serrano III, 20 Cal.3d at 49 n.23 (citation omitted; emphasis added).

(b) Prestige of the courts and respect for attorneys.

> "[O]bjectivity, a claim which is obviously vital to the prestige of the bar and the courts."

Serrano III, 20 Cal.3d at 49 n.23 (citation omitted; emphasis added).

Class Counsel fail to explain why these rationales would not apply to the common fund and substantial benefits doctrine as well. Since there is no reason why these rationales would not also apply to the common fund doctrine and substantial benefit doctrine, it makes no sense to limit *Serrano III* to private attorneys' general cases, and *Serrano III* did not do so. It did just the opposite!

6. Two recent federal court decisions support Petitioner's argument regarding the conflicting views of the meaning of *Serrano III*.

> Indeed, some post-*Serrano III* appellate opinions have questioned the continued availability of the percentage of fund method. *See e.g. Dunk v. Ford Motor Co., 48 Cal. App. 4th 1794, 1809, 56 Cal. Rptr. 2d 483 (1996)* ("The award of attorney fees based on a percentage of a 'common fund' recovery is of questionable validity in California.").

In re Apple iPhone/iPod Warranty Litig., No. C 10-1610 RS, 2014 U.S. Dist. LEXIS 52050 (N.D. Cal., San Francisco Div., Apr. 14, 2014), at *6.

> In opposing the fee request, Facebook insists that applicable California law requires that the fee award be calculated through the lodestar approach, and *not* as a percentage of the recovery.

Fraley v. Facebook, Inc., No. C 11-1726 RS, 2013 U.S. Dist. LEXIS 124023 (N.D. Cal., San Francisco Div., Aug. 26, 2013), at *5.

Class Counsel ignore these cases in their Answer.

B. The Cases Identified by Petitioner Are All Relevant to Appellate Court Interpretations of *Serrano III.*

Each of the cases that Class Counsel say supports their interpretation that there is no conflict in courts of appeal decisions in fact supports Petitioner's argument that such a conflict exists. Class Counsel's Answer to the Petition for Review does not discuss any of the points raised in the Petition as to why the cases relied on in *Laffitte* are incorrect.

(a) *Dunk v. Ford Motor Co., et al.*, 48 Cal.App.4th 1794 [56 Cal.Rptr.2d 483] (4th App. Dist. Aug. 30, 1996), says on this point regarding *Serrano III*:

> Later cases have cast doubt on the use of the percentage method to determine attorney fees in California class actions.
> ....
> The award of attorney fees based on a percentage of a "common fund" recovery is of questionable validity in California....

(*Id.,* 48 Cal.App.4th at 1809), citing *The People ex rel. Department of Transportation v. Yuki, et al.*, 31 Cal.App.4th 1754 [37 Cal.Rptr.2d 616] (6th App. Dist. Jan. 6, 1995), and *Salton Bay Marina, Inc., et al. v. Imperial Irrigation Dist.*, 172 Cal.App.3d 914 [218 Cal.Rptr. 839] (4th App. Dist. Sept. 30, 1985).

In *Dunk,* the distinction the court identified was whether or not the litigation was a class action "in California class actions," not whether or not the fee was being sought under the private attorney general doctrine. As Class Counsel acknowledge, *Laffitte* is a class action. *Dunk* made no distinction between common fund, substantial benefit, and private attorney general theory. *Dunk* directly addresses the issue of fee awards using the percentage-of-the-fund approach because plaintiffs' counsel sought fees under the common fund exception.

> $1 million attorney fees ... were only a tiny percentage of the potential settlement value of over $26 million. This argument suffers from two flaws: (1) The award of attorney fees based on a percentage of a "common fund" recovery is of questionable validity in California, and (2) even if it is valid, the true value of the fund must be easily calculated.

(*Dunk, supra,* 48 Cal.App.4th at 1809 (emphasis added).)

Class Counsel claim *Dunk* did not involve a common fund; however, plaintiffs' counsel sought fees initially under common fund principles, and the court ruled on that request.

Interestingly enough, and another argument supporting the necessity of this Court to clarify these issues, is the reference in *Dunk* to *Serrano III*:

> In *Serrano v. Priest* (1977) 20 Cal.3d 25 [141 Cal.Rptr. 315, 569 P.2d 1030], the Supreme Court acknowledged the use of a percentage method in common fund cases, but concluded there was no evidence the parties intended the attorney fees would be paid out of any common fund that had been created, so the doctrine was inapplicable. *Id.* at pp. 37-38.)

(*Dunk, supra,* 48 Cal.App.4th at 1809.) Neither pages 37 nor 38 of *Serrano III* discusses the calculation of a reasonable attorneys' fee. Rather, the discussion on those pages concerns entitlement to fees, not how the amount of the fee should be determined. Percentage-of-the-fund and lodestar/multiplier approaches are not mentioned. *Dunk* does not support Class Counsel's interpretation of *Serrano III* because *Dunk* specifically holds that it is the class action distinction that is important, rather than the private attorney general distinction.

(b) *Lealao v. Beneficial California, Inc.,* 82 Cal. App. 4th 19 [97 Cal. Rptr. 2d 797] (1st App. Dist. July 10, 2000).

Class Counsel argue that *Lealao* was not a common fund fee award (APR at 13), and that plaintiffs' counsel in *Lealao* could not recover fees under the common fund doctrine because they had not created a common fund. But in *Lealao*, plaintiffs' attorneys sought a fee award under common fund principles. The *Lealao* court denied that request for two reasons: the first being that courts are not permitted to award fees based on a pure percentage, and, second, that no common fund had been created.

Lealao does state:

> "Percentage fees have traditionally been allowed in ... common fund cases."

(APR at 12) arguably because *Serrano III* was a seminal decision that changed what had been "traditionally" done. Supporting this interpretation, the *Lealao* court included the following observation:

> Prior to 1977, when the California Supreme Court decided Serrano III, supra, 20 Cal.3d 25, California courts could award a percentage fee in a common fund case.

Lealao, supra, 82 Cal. App. 4th at 27.

Lealao confronts the issue of the common fund doctrine because the attorneys seeking fees initially asked that the fee be awarded according to common fund principles. The court had to address that issue:

> The plaintiffs' counsel moved for reasonable attorney fees, resting not on statute but on the inherent equitable powers of the court. In support of their claim they relied on three theories: the common fund, substantial benefit, and private attorney general exceptions to the general rule disfavoring fees.
> (at 38; footnote omitted; emphasis added)

> Though the court affirmed the award of fees under the private attorney general theory (later codified in *Code Civ. Proc., § 1021.5*), it affirmed the denial of fees on either the common fund or substantial benefit theories.
> (at 38)

> The reason the fee analysis must be "anchored" to the time spent on the case and a reasonable hourly

> rate, the court declared, is that "'this concept is the only way of approaching the problem that can claim objectivity, a claim which is obviously vital to the prestige of the bar and the courts.'" [*Serrano III, supra,* 20 Cal. 3d at p. 48, fn. 23.] This statement, which arguably renders it questionable whether a pure percentage fee can be awarded even in a conventional common fund case (see *Dunk v. Ford Motor Co., supra, 48 Cal. App. 4th at p. 1809*), certainly precludes such an award in a case such as this.
> (at 39; emphasis added)
>
> [T]he California Supreme Court has rejected pure percentage fees....
> (at 36)

Lealao, supra, 82 Cal.App.4th at 38, 39, and 36.

The statement in Class Counsel's Answer to the Petition for Review, "Despite its primacy, the lodestar method is not necessarily utilized in common fund cases" (APR at 14, *citing Lealao* at 27) appears to be an inarticulate reference: (a) because the entire paragraph deals with entitlement to fees, not with the calculation of a reasonable attorneys' fee, and (b) because *Lealao* supports *Serrano III's* holding regarding the primacy of the lodestar approach (common fund or not). ("The reason the fee analysis must be 'anchored' to the time spent on the case...." (*Lealao* at 39).)

Contrary to *Laffitte*, *Lealao* supports *Serrano III* in that the lodestar approach must be the primary focus of a trial court's award of reasonable attorneys' fees after that basic calculation:

> [A] trial court has discretion to adjust the basic lodestar through the application of a positive or

> negative multiplier where necessary to ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace in comparable litigation.

Lealao, supra, 82 Cal.App.4th at 49-50 (emphasis added).

Lealao disputes *Jutkowitz v. Bourns, Inc., et al.*, 118 Cal.App.3d 102 [173 Cal.Rptr. 248] (2d App. Dist. Apr. 16, 1981), therefore clearly contradicting Class Counsel's argument that there is no contradiction in appellate court decisions on *Serrano III's* instructions.

> The trial court here appears to have agreed with respondent that *Jutkowitz* and *Dunk*, which relied upon *Serrano III,* barred any adjustment of the lodestar by evaluating the fee award as a percentage of the class recovery. We do not share this view of the cases. The fees disapproved in *Jutkowitz* and *Dunk* could not be squared with *Serrano III* because they were anchored in a percentage of the recovery rather than a lodestar.[3]

Lealao, supra, 82 Cal. App. 4th at 44-45 (emphasis added).

(c) *Jutkowitz v. Bourns, Inc., et al.*, 118 Cal.App.3d 102 [173 Cal.Rptr. 248 (2d App. Dist., Div. 2, Apr. 16, 1981).

Class Counsel argue that this is not a common fund case, and claim that *Jutkowitz* only rejected contingent fee principles where no common fund exists.

---

[3] Class Counsel's claim that *Laffitte* "presents no conflict with other California authorities regarding the common fund theory" (APR at 2) is simply incorrect.

This is an incorrect characterization of *Jutkowitz*. Counsel in *Jutkowitz* sought fees initially under a number of theories, including common fund principles. (*Jutkowitz*, 118 Cal.App.3d at 109 ("Proceeding now from plaintiff's claim for equitable compensation from the shareholders...." at 111).) In rejecting that claim, the *Jutkowitz* court explained why the fee request was being denied.

> Significantly, in none of the "common fund" cases, whether class actions or nonclass actions ... is there any suggestion that *the size of the fund controls the determination of what is adequate compensation.*
>
> It appears to us that plaintiff's argument is an attempt to engraft a "contingent fee" concept on to the equitable common fund doctrine.
>
> In our opinion, the clear thrust of the holding in *Serrano, supra,* and the cases upon which that holding relied, is a rejection of any "contingent fee" principle in cases involving equitable compensation for lawyers in class actions or other types of representative suits.

Jutkowitz v. Bourns, Inc., et al., 118 Cal.App.3d 102, 110 [173 Cal.Rptr. 248 (2d App. Dist., Div. 2, Apr. 16, 1981).

(d) *Consumer Privacy Cases*, 175 Cal.App.4th 545, 556-57 [96 Cal.Rptr.3d 127] (1st App. Dist., Div. 5, June 30, 2009).

Consumer Privacy Cases, cited by Class Counsel (see APR, p. iii), supports Petitioner's position that:

> """[T]he primary method for establishing the amount of 'reasonable' attorney fees is the lodestar method...."""

(*Consumer Privacy Cases, supra,* 175 Cal.App.4th at 556 (citations omitted).)

As explained in Objector's Petition for Review (at pages 23-24), the language "irrespective of the method of calculation" is a misunderstanding of *Chavez's* references to method.

(e) *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43 [75 Cal.Rptr.3d 413] (1st App. Dist., Div. 1, Apr. 21, 2008).

Chavez does contain the quote:

> "Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery."

Id. at 66 n.11.

As mentioned in Objector's Petition for Review (at page 26), *Chavez* supports the primacy of the lodestar approach, and the reference to these empirical studies is based on federal fee jurisprudence (although the federal reference was left out of the *Laffitte* decision "[Citation]"; see Petition at 26):

> "Empirical studies show ... fee awards in class actions average around one-third of the recovery." (*Shaw v. Toshiba America Information Systems, Inc. (E.D.Tex. 2000) 91 F. Supp. 2d 942, 972.*)

Chavez v. Netflix, supra, 162 Cal.App.4th at 66 n.11 (emphasis added).

(f) *Apple Computer, Inc. v. The Superior Court of Los Angeles County, et al.*, 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818] (2d App. Dist. Feb. 17, 2005).

> ("[A]ttorneys' fees awarded under the common fund doctrine are based on a 'percentage-of-the-benefit analysis....")

Id. at 1270; APR at 12.

As referenced in the Petition for Review (at page 24), *Apple Computer* did not award a reasonable attorneys' fee at all. Thusly, the quote in *Apple Computer* can only be described as an impossible use of language.

> And although attorney fees awarded under the common fund doctrine are based on a "percentage-of-the-benefit" analysis, while those under a fee-shifting statute are determined using the lodestar method...."

Apple Computer, supra, at 1270, *citing to Brytus v. Spang & Co.*, 203 F.3d 238, 247 (3d Cir. Feb. 7, 2000).

This observation in *Apple Computer* is simply wrong. However, it must be noted that *Apple* does not involve the actual awarding of a reasonable attorneys' fee. Rather, it discusses fee awards generally in the context of a wholly different issue: whether an employee of a plaintiffs' class action law firm can act as a representative plaintiff.

(g) *Wershba v. Apple Computer*, 91 Cal.App.4th 224 [110 Cal.Rptr.2d 145] (6th App. Dist. July 31, 2001).

Wershba is based on post-*Serrano III* federal fee jurisprudence. *Serrano III* is not mentioned.

> Courts recognize two methods for calculating attorney fees in civil class actions: the lodestar/multiplier method and the percentage of recovery method. (*Zucker v. Occidental Petroleum Corp.* (C.D. Cal. 1997) 968 F.Supp. 1396, 1400.)

Id. at 254; APR at 5.

(h) *Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Market, Inc.*, 127 Cal.App.4th 387 (2d App. Dist., Div. 7, Mar. 7, 2005).

Petitioner believes that the language in *Consumer Cause* supports his interpretation of *Serrano III* and the primacy of the lodestar approach.

The *Consumer Cause* court states:

> An award of fees under the equitable common fund doctrine is "'analogous to an action in quantum meruit: The individual seeking compensation has, by his actions, benefited another and seeks payment for the value of the service performed.'" (*Serrano v. Unruh, supra,*, 32 Cal.3d at p. 628.)

(*Consumer Cause, supra,* 127 Cal.App.4th at 397.)

In confirming the common fund doctrine's connection to *quantum meruit* recovery:

> Amount of recovery being only the <u>reasonable value of the services rendered</u> regardless of any agreement as to value.

(BLACK'S LAW DICTIONARY (4th ed. 1971), definition of *quantum meruit*) (emphasis added),

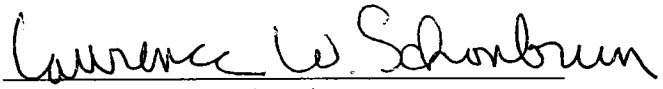
the case confirms that it is the lodestar approach, i.e., the value of the services rendered, that forms the basis for equitable principles under the common fund doctrine.

CONCLUSION

There is a conflict among this state's appellate courts about the instruction that this Court's *Serrano III* decision imposes on a court's award of reasonable attorneys' fees. The *Laffitte* decision adds to this conflict, and it is important that this Court resolve that conflict.

Dated: January 22, 2015.

Respectfully submitted,



Lawrence W. Schonbrun
Attorney for Plaintiff-Appellant and
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CERTIFICATE OF COMPLIANCE

Counsel of Record hereby certifies that pursuant to Rule 8.504(d)(1) of the California Rules of Court, the attached Reply to Answer to Petition for Review contains 3,918 words of proportionally spaced Times New Roman 14-point type as recorded by the word count of the Microsoft Office 2007 word processing system, and is in compliance with the type-volume limitations permitted by the rules of court. Counsel relies on the word count of the computer program used to prepare this Petition.

Dated: January 22, 2015

Lawrence W. Schonbrun

Lawrence W. Schonbrun
Attorney for Plaintiff-Appellant
and Petitioner David Brennan

CERTIFICATE OF SERVICE

I declare that:

I am over the age of 18 years and not party to the within action. I am employed in the law firm of Lawrence W. Schonbrun, whose business address is 86 Eucalyptus Road, Berkeley, California 94705, County of Alameda.

On January 22, 2015, I caused to be served a copy of the following document:

REPLY TO ANSWER TO PETITION FOR REVIEW

__x__ by mail on the below-named parties in said action, in accordance with CCP § 1013, by placing a true and accurate copy thereof in a sealed envelope, with postage thereon fully prepaid, and depositing the same in the United States Mail in Berkeley, California, to the addresses set forth below:

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

Executed on January 22, 2015, at Berkeley, California.

Sandra Norris