Appeal No. S244549

**In The Supreme Court Of The State Of California**

---

**IRMA RAMIREZ, Individually and on behalf of the Estate of Mark Gamar,**
*Plaintiff and Appellant,*

v.

**CITY OF GARDENA,**
*Defendant and Respondent.*



---

After a Decision of the Court of Appeal of the State of California,
Second Appellate District, Division One, Case No. B279873

The Superior Court of the State of California in and for the
County of Los Angeles, Case No. BC609508
The Honorable Yvette M. Palazuelos, Presiding Judge

---

# APPLICATION FOR PERMISSION TO FILE AN *AMICUS CURIAE* BRIEF AND [PROPOSED] BRIEF OF *AMICI CURIAE* CALIFORNIA POLICE CHIEFS ASSOCIATION, CALIFORNIA STATE SHERIFFS' ASSOCIATION AND CALIFORNIA PEACE OFFICERS' ASSOCIATION IN SUPPORT OF RESPONDENT

---

James R. Touchstone (SBN 184584)
Denise Rocawich (SBN 232792)
**JONES & MAYER**
3777 N. Harbor Boulevard
Fullerton, California 92835
Telephone: 714-446-1400
Facsimile: 714-446-1448
Email: jrt@jones-mayer.com; dlr@jones-mayer.com
Attorneys for *Amicus Curiae,* CALIFORNIA POLICE CHIEFS ASSOCIATION, CALIFORNIA STATE SHERIFFS' ASSOCIATION AND CALIFORNIA PEACE OFFICERS' ASSOCIATION

## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

**Page(s)**

**California Cases**

**California Statutes**



**Rules**



**Other Authorities**

## APPLICATION TO FILE *AMICUS CURIAE* BRIEF

TO THE HONORABLE CHIEF JUSTICE:

Pursuant to California Rules of Court, Rule 8.520(f), California Police Chiefs Association ("CPCA"), California State Sheriffs' Association ("CSSA") and California Peace Officers' Association ("CPOA"), (collectively "*Amici*") respectfully request permission to file the attached Brief in support of Respondent, City of Gardena. This application is filed within 30 days after the filing of the reply brief on the merits and is therefore timely pursuant to Rule 8.520(f)(2).

### THE INTEREST OF *AMICUS CURIAE*

CPCA represents virtually all of the more than 400 municipal chiefs of police in California. CPCA seeks to promote and advance the science and art of police administration and crime prevention, by developing and disseminating professional administrative practices for use in the police profession. It also furthers police cooperation and the exchange of information and experience throughout California.

CSSA is a non-profit professional organization that represents each of the 58 California Sheriffs. It was formed to allow the sharing of information and resources between sheriffs and departmental personnel in order to allow for the general improvement of law enforcement throughout the State of California.

CPOA represents more than 12,000 peace officers, of all ranks, throughout the State of California. CPOA provides professional development and training for peace officers, and reviews and comments on legislation and other matters impacting law enforcement.

*Amici* have identified this matter as one of statewide significance in which their expertise may be of assistance to the Court. *Amici* are familiar

with the Briefs filed in this case and do not seek to duplicate any arguments. Rather, *Amici* wish to emphasize the exceptional public importance of the questions presented.

*Amici* agree with Defendant and Respondent, City of Gardena, that Vehicle Code section 17004.7, subdivision (b)(2) does not require that ***every*** officer complied with the City's certification requirement for the agency to qualify for immunity. However, *Amici* request leave to submit this Brief to draw the Court's attention to the practical and operational impact of the Court's decision on law enforcement agencies throughout the State.

The attached Brief offers a broad perspective of *Amici* as to certain issues on appeal. Namely, how construing Vehicle Code section 17004.7, subdivision (b)(2) to deny immunity absent 100% officer compliance with an entity's requirement that officers certify receipt and understanding of a pursuit policy would impose an impractical standard upon entities that would frustrate the statutory scheme by making it nearly impossible for an agency to qualify for Section 17004.7 immunity, thus undermining effective law enforcement in California

## THE NEED FOR FURTHER BRIEFING

*Amici* represent the interests of law enforcement agencies throughout California, and are therefore uniquely situated to present its views and analysis related to this case.

## ABSENCE OF PARTY ASSISTANCE

Pursuant to California Rules of Court, rule 8.520(f)(4), *Amici* confirm that no counsel for a party authored this Brief in whole or in part and that no person other than *Amici*, their members, or their counsel has

made any monetary contributions intended to fund the preparation or submission of this Brief.

## CONCLUSION

*Amici* respectfully request that the Court grant this application for leave to file an *amicus curiae* brief.

DATED: March 22, 2018

Respectfully submitted,
JONES & MAYER

By: /s James R. Touchstone
JAMES R. TOUCHSTONE
DENISE L. ROCAWICH
Attorneys for *Amici Curiae*
California Police Chiefs Association, California State Sheriffs' Association and California Peace Officers' Association

## PROPOSED BRIEF OF *AMICI* CURIAE

## I. INTRODUCTION AND STATEMENT OF THE CASE

This case presents an important issue regarding the requirements a public entity must comply with in order to benefit from the immunity granted by Vehicle Code section 17004.7 against liability arising from police pursuits. Pursuant to Section 17004.7, a public entity is immune from liability for civil damages resulting from a police pursuit provided the entity "adopts and promulgates a written policy on, and provides regular and periodic training on an annual basis for, vehicular pursuits..." Cal. Veh. Code § 17004.7(b)(1).

As discussed at length in the parties' Briefs, there currently exists a direct conflict between the Second and Fourth Appellate Districts regarding interpretation of the word "promulgation" in Section 17004.7(b)(1), which is defined in Section 17004.7(b)(2) as including "a requirement that all peace officers of the public agency certify in writing that they have received, read, and understand the [pursuit] policy". Specifically, the conflict at issue is whether an entity that requires the identified written certification from all its officers is entitled to the vehicle pursuit immunity if less than 100% of those officers have actually executed the written certification.

*Amici* urge that this Court find that Section 17004.7 entity immunity rests upon ***entity compliance*** with the statute – not officer compliance with the entity's mandate. More specifically, *Amici* urge that this Court adopt an interpretation of Vehicle Code section 17004.7(b)(2) that provides pursuit immunity to an agency that requires that all of its officers execute a written certification even if some of the agency's officers do not actually execute the required certification. Such an interpretation accounts for the practicalities of the real world and strikes the delicate balance between reducing the risks of police vehicle pursuits by imposing certain restrictions

on law enforcement employers while still recognizing that some limits to liability are necessary in order to permit law enforcement agencies to carry out the difficult task of ensuring public safety by apprehending offenders.

Construing Section Vehicle Code section 17004.7(b)(2) to deny immunity absent 100% officer compliance with the entity's requirement that officers certify receipt and understanding of a pursuit policy would impose an impractical standard upon law enforcement agencies that would frustrate the statutory scheme by making it nearly impossible for an agency to qualify for Section 17004.7 immunity, thus undermining effective law enforcement in California.

## II. VEHICLE PURSUITS ARE AN IMPORTANT LAW ENFORCEMENT FUNCTION THAT OFFICERS FREQUENTLY MUST ENGAGE IN FOR THE PUBLIC SAFETY

Police officers "are the guardians of the peace and security of the community, and the efficiency of our whole system, designed for the purpose of maintaining law and order, depends upon the extent to which such officers perform their duties...." *Christal v. Police Com. of San Francisco* (1939) 33 Cal. App. 2d 564, 567. Officers are called upon for many situations that arise within the scope of the responsibilities of those sworn duties. The most commonly and legally recognized responsibility borne by police officers is the duty to stop and apprehend offenders who may fight and/or attempt to flee apprehension. Indeed, many criminals are willing to risk their lives and the lives of others to avoid capture. In carrying out this responsibility, officers are duty bound to effect arrests of both passive and violent offenders and quite often find themselves in vehicle pursuits while trying to do so.

In fact, state and local law enforcement agencies conduct an estimated 68,000 vehicle pursuits each year in the United States. U.S. Dep't of Justice, Bureau of Justice Statistics, *Police Vehicle Pursuits, 2012-2013* at p. 1 (May 2017)[1]. In 2016, there were a total of 8,554 police vehicle pursuits in California alone. Cal. Highway Patrol, *Report to the Legislature: Police Pursuits* at p. 2 (May 2017)[2]. In other words, there will be an average of 23 police pursuits in California every single day.

Police pursuits are a dangerous activity, with 25 percent of California pursuits resulting in a collision in 2016. CHP *Report to the Legislature*, supra at p. 2. Included in those collisions, were 762 injury collisions and 24 fatal collisions. *Id.* Clearly, both police officers and the agencies that employ them need to take steps to reduce the risks inherent in motor vehicle pursuits. However, in taking such steps, one cannot lose sight of the importance of pursuits as a law enforcement tool and the need for a realistic immediate proportionate response to apprehend a fleeing suspect who, himself, poses a danger to the public.

In 2016, "law enforcement apprehended fleeing suspects approximately 60.8 percent of the time, resulting in a variety of criminal charges beyond evading arrest." CHP *Report to the Legislature*, supra at p. iv. Although many of those pursuits were initiated upon traffic stops for infractions, "suspects were charged with a serious crime (felony/misdemeanor) in at least 80.6 percent of all apprehensions." *Id.* Prohibiting or severely limiting a police officer's ability to pursue offenders would provide a free license to these serious criminals to escape merely by driving recklessly. In that same vein, knowing officers are unable to give chase would almost certainly increase the number of suspects who are

---

[1] Available at [https://www.bjs.gov/content/pub/pdf/pvp1213.pdf]
[2] Available at [https://www.chp.ca.gov/CommissionerSite/Documents/SB_719_Police_Pursuits.pdf]

willing to chance the possibility of evading capture by fleeing. Moreover, if the crafting of agency pursuit policies is driven by fear of civil liability, those policies will be weighted toward minimizing the risks for which the agencies can be sued (pursuits), while exposing the public to greater risks for which the agency cannot be sued (such as the risks posed by felons and intoxicated drivers who would have otherwise been caught.)

In short, any restrictions on police pursuits or increases of liability exposure for injuries resulting from them must strike a balance and must stop short of preventing police officers and agencies from effectively carrying out their duties to apprehend criminal offenders.

## III. THE LEGISLATIVE HISTORY CLEARLY DEMONSTRATES THAT THE LEGISLATURE DID NOT INTEND TO STRICTLY LIMIT PURSUIT IMMUNITY UNDER SECTION 17004.7

The "key to statutory interpretation is applying the rules of statutory construction in their proper sequence ... as follows: 'we first look to the plain meaning of the statutory language, then to its legislative history and finally to the reasonableness of a proposed construction.'" *MacIsaac v. Waste Management Collection & Recycling, Inc.* (2005) 134 Cal.App.4th 1076, 1082 *quoting Riverview Fire Protection Dist. v. Workers' Comp. Appeals Bd.* (1994) 23 Cal.App.4th 1120, 1126.

It is without question that an agency must adopt a written pursuit policy, provide annual vehicle pursuit training to its officers and require that all its officers certify in writing that they have received, read, and understand the pursuit policy in order to benefit from pursuit immunity under Section 17004.7. However, the interpretation of Section 17004.7(b)(2) espoused by both the court in *Morgan v. Beaumont Police Dep't* (2016) 246 Cal. App. 4th 144, and Plaintiff/Petitioner here, imposes

an additional hurdle to qualifying for pursuit immunity. Specifically, *Morgan* and Plaintiff/Petitioner read the language in Section 17004.7(b)(2), "a requirement that all peace officers of the public agency certify", to deny immunity to a public entity unless the entity 1. Imposes a requirement that all its officers certify review and understanding ***AND*** 2. Ensures total compliance with that requirement.

As an initial matter, *Amici* contend that Plaintiff/Petitioner's interpretation is contrary to the plain language of the statute, which is not only silent as to an entity's duty to ensure total compliance with the certification requirement, but also specifically provides that an officer's failure to sign a certification "shall not be used to impose liability on ...a public entity." Cal. Veh. Code § 17004.7(b)(2). However, even if the language of the statute is ambiguous, the Legislative history is unequivocally not.

Reviewing the Legislative history of Vehicle Code section 17004.7, it is clear that the Legislature not only considered the importance of police pursuits as a tactic, as discussed above, but gave it great weight. It is also clear that the Legislature intended that the provisions of Section 17004.7 act as only a modest limitation on pursuit immunity, rather than a very strict limitation. Finally, the Legislative history evidences an intent that it be the actions of the agency, not a particular officer, which determines whether an agency can benefit from pursuit immunity.

Vehicle Code section 17004.7 was first added in 1987. As noted by the court in *Kishida v. California* (1991) 229 Cal. App. 3d 329, Section 17004.7's "primary purpose is to confer immunity on governmental entities which, before the passage of this bill, enjoyed only limited immunity while its employees, the police officers, were entirely immune by statute. In other words, ***the focus of Vehicle Code section 17004.7 is on the governmental entity, not the actions of the police officers***. *Id.* at 336 [citations omitted]

[emphasis added]. Under the original version of Section 17004.7, the immunity conferred was extremely broad providing immunity to any agency simply for adopting a pursuit policy. *Id.*; s*ee also Nguyen v. City of Westminster* (2002) 103 Cal. App. 4th 1161, 1168-69.

However, it eventually became clear that merely having a pursuit policy on paper does little to nothing to reduce the public safety risks associated with police vehicle pursuits. Indeed, *Amici* agree that the best pursuit policy in the nation is essentially useless if none of the agency's officers know about it or are trained on it. In order to reduce risks, officers must be made aware of those risks, must understand the types of pursuit activities increase those risks, must be educated as to how such risks can be minimized or avoided and must be taught safer techniques and tactics.

In response to these concerns, the Legislature considered several different bills aimed at reducing injuries and deaths resulting from vehicle pursuits, including SB 219, which would have restricted pursuit immunity to cases where the peace officers involved in the pursuit complied with the entity's adopted pursuit policy, SB 1866, which would have restricted immunity to cases where the involved peace officers adhered to a written pursuit policy and which would have set very specific requirements regarding pursuit policies, and SB 718, which would have prevented peace officers from initiating pursuits unless they had reasonable suspicion that a suspect had committed a violent felony – all three of which greatly expanded entity liability and which were "opposed by law enforcement groups". Sen. Com. on Judiciary, Analysis of Sen. Bill 719 (2005-2006 Reg. Sess.).

Instead of severely limiting pursuit immunity though, the Legislature enacted SB 719, codified in the current version of Vehicle Code section 17004.7. Though requiring agencies to actually make an attempt to curb dangerous behavior by their officers by implementing their pursuit policies

via periodic training, SB 719 expressly recognized the need for balance between the dangers associated with vehicle pursuits and the need for effective and practical law enforcement and protection for public entities carrying out those functions. SB 719 expressly rejected the strict limitations on pursuit immunity that would have resulted under the previous proposed bills.

Specifically, the Legislature noted that "SB 719 is the most recent in a series of bills that have attempted to limit the expansive immunity that currently protects public entities from liability when employee peace officers are involved in high speed pursuits that cause injury or death to innocent third parties." The Legislature further described SB 719 as "***a more moderate approach*** to balance the various interests, requiring entities to implement pursuit policies and mandate training of their officers...", a "***negotiated alternative*** to previous proposed solutions" and a "***modest limitation on immunity***". Sen. Com. on Judiciary, Analysis of Sen. Bill 719 (2005-2006 Reg. Sess.) [emphasis added].

The Legislature also noted that SB 719 "would enact the measures ***suggested by law enforcement groups***, attaching immunity when public entities adopt and promulgate appropriate policies and institute sufficient training requirements, ***regardless of officers' behavior in a particular pursuit***." *Id.* [emphasis added]. In fact, the Legislature even went so far as to acknowledge that the balance struck by SB 719 would be "less effective" at reducing injuries and deaths resulting from vehicle pursuits than other "proposed solutions" that would have strictly limited public entity immunity under Section 17004.7. *Id.*

The goals in enacting SB 719 were made equally clear with the Legislature stating that "[t]he objective...is to (a) reduce the risk of police vehicle pursuits by require law enforcement agencies to implement, ***not merely adopt***, vehicle pursuit policies, including enhanced training, if they

wish to receive liability immunity..." Assem. Com. on Appropriations, Analysis of Sen. Bill 719 (2005-2006 Reg. Sess.) [emphasis added]. Additionally that "[t]he purpose of [SB 719] is to require law enforcement agencies to ***promulgate and train on their pursuit policy*** in order to get immunity." Sen. Com. on Pub. Safety, Analysis of Sen. Bill 719 (2005-2006 Reg. Sess.) Finally noting that "[SB 719] provides that the guidelines shall be a resource for each agency executive to use in the creation of a specific pursuit policy that the agency shall adopt and promulgate ***that reflects the needs of the agency,*** the jurisdiction it serves, and the law." *Id.* [emphasis added].

In short, the Legislature was expressly supportive of the needs of law enforcement and clearly did not intend Section 17004.7 to effectively abolish pursuit immunity or to condition pursuit immunity on the actions of a particular officer. Instead, the Legislature merely sought to entice agencies to take action to curb vehicle pursuit risks by educating their officers. The interpretation of Section 17004.7 advanced by the court in *Morgan* and by Plaintiff/Petitioner here would deny immunity to an entity who had taken all appropriate steps to implement a safe pursuit policy and continually educate its officers on its policy if that entity had a single instance of missing paperwork.

Such an interpretation is wholly incongruous with the Legislative history, which plainly provides that the Legislature's intention was to impose only a "modest" limitation on immunity. This incongruity is even more obvious when considered in light of the fact that the Legislature specifically rejected bills would have denied immunity to an entity when an officer failed to comply with the entity's policy during a particular pursuit. Specifically, it makes no sense whatsoever that an entity that has adopted, disseminated and trained on a pursuit policy is immune if one of its officers injures or kills someone, but that same entity is not immune if one of its

officers fails to turn in a signature page.

Indeed, *Amici* wholeheartedly agree with the court's conclusion in *Ramirez v. City of Gardena* (2017) 14 Cal.App.5th 811 that "[c]onditioning an agency's entitlement to immunity on the behavior of particular officers is inconsistent with the approach that the Legislature adopted in amending section 17044.7 to ensure that ***agencies*** took appropriate steps to implement their pursuit policies." *Ramirez*, 14 Cal.App.5th at p. 824 [emphasis added].

## IV. TOTAL OFFICER COMPLIANCE WITH AN ENTITY'S TRAINING CERTIFICATION REQUIREMENT WOULD BE IMPRACTICAL, IF NOT IMPOSSIBLE

Where uncertainty exists as to the meaning of a statute, consideration should be given to the consequences that will flow from a particular interpretation. *Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal. 3d 1379, 1387; *Party City Corp. v. Superior Court* (2008) 169 Cal.App.4th 497, 508. If the clear meaning of the statutory language is not evident after attempting to ascertain its ordinary meaning or its meaning as derived from legislative intent, the court will "apply reason, practicality, and common sense to the language at hand." *Sacks v. City of Oakland* (2010) 190 Cal.App.4th 1070, 1082. If possible, the words of a statute should be interpreted to make them workable, reasonable, practical, in accord with common sense and justice, and to avoid an absurd result. *Id.* Construction that leads to unreasonable or impractical results or anomalous or absurd consequences is to be avoided. *Fields v. Eu* (1976) 18 Cal. 3d 322, 328; *Horwich v. Superior Court* (1999) 21 Cal.4th 272, 280. If a statute is amenable to two alternative interpretations, the one that leads to the more reasonable result will be followed. *Metropolitan Water Dist. v. Adams* (1948) 32 Cal.2d 620, 630-631.

In advocating her interpretation of Section 17004.7, Plaintiff/Petitioner takes the position that it is feasible for an agency to "always anticipate" employment events and also that it is possible for all officers of an agency to be trained and certified simultaneously on the same day. To call Plaintiff/Petitioner's position unrealistic and impractical would be a gross understatement, especially when considered in the context of large California law enforcement agencies.

Defendant/Respondent Gardena Police Department is currently authorized 99 sworn police officers. Gardena Police Department, *History of Gardena Police Department* (Accessed March 21, 2018) [3]. Los Angeles Police Department, by contrast, is over 100 times larger with a total of 10,055 sworn officers as of January 2018.[4] Los Angeles Police Department, *Sworn and Civilian Personnel Report* at p. 1 (January 21, 2018). Similarly, the Los Angeles County Sheriff's Department also employs over 10,000 sworn personnel.[5] County of Los Angeles, *Sheriff's Department* (Accessed March 21, 2018).[6]

To illustrate the impossible and absurd nature of Plaintiff/Petitioner's contentions, assume arguendo that Plaintiff/Petitioner is correct in that all officers of an agency shall be trained on the same day and that an agency's annual pursuit training is set for June 1. First, even assuming that training and certifying 99 officers simultaneously on the same day is logistically within the realm of possibilities, training and certifying 10,000 officers simultaneously on the same day is impractical in the extreme. Second, Section 17004.7 requires "***all peace officers*** of the public agency" be trained and certified as to the pursuit policy, which

---

[3] Available at [http://www.gardenapd.org/history/]
[4] Available at [http://assets.lapdonline.org/assets/pdf/sr91jan18.pdf]
[5] Available at [https://www.lacounty.gov/residents/public-safety/sheriff]
[6] Available at [https://www.lacounty.gov/residents/public-safety/sheriff]

includes the Chief of Police (Cal. Pen. Code §§ 830, 830.1) and all reserve officers (Cal. Pen. Code §§ 830, 830.6, 832.6). Meaning, the particular city or county in question would simply lack a police force altogether on June 1 for whatever time every single member of the department was otherwise occupied in pursuit training.

Third, despite Plaintiff/Petitioner's insistence that proficient tracking and scheduling should permit a department to find a day where each and every member of its force is available for training, it is flatly impossible. On any given day, approximately 4.5 percent of LAPD officers are on leave (e.g. family leave, medical leave, military leave) translating to roughly 450 officers being unavailable on our hypothetical June 1 annual training day. LAPD, *Biased Policing and Mediation Update – 3rd Quarter 2017* at p. 17 FN 20 and p. 21 (November 27, 2017). [7] There simply isn't a magical day where the schedules and various leaves of 10,000 officers coalesce to where each and every one of them is available. And, in some departments, the percentage of officers unavailable due to leave on any given day is even higher. For example, of San Francisco's 1,971 sworn officers approximately 200 are on leave amounting to 10 percent of the force being unavailable. San Francisco Police Department, *SFPD FY 2017-2018 Budget* at p. 4 (Feb. 2017)[8]. Furthermore, an agency cannot simply make an unavailable officer available for purposes of training. For example, if an officer is out on FMLA leave on our hypothetical June 1 training day, his employing agency cannot require him to attend and, indeed, would face civil liability for doing so. *See* 29 C.F.R. §§ 825.220(b) and (d).

---

[7] Available at http://assets.lapdonline.org/assets/pdf/Biased%20Policing%20Rpt%20and%20Tables_Q3.pdf

[8] https://sanfranciscopolice.org/sites/default/files/Documents/PoliceCommission/PoliceCommission020817-SFPDBudgetPresentationFY17-18.pdf

In that same vein, even with exceptional tracking and scheduling, an agency has absolutely no way of anticipating certain employment events as Plaintiff/Petitioner suggests. For example, an agency cannot anticipate that an officer will be in an accident requiring medical leave, or will go into premature labor significantly altering the dates of family leave, or will violate policy to the extent of requiring administrative leave for the undetermined time of "pending investigation". Probably most unpredictable, an agency cannot predict when an officer might be deployed for military service. For example, in 2003, Los Angeles County Sheriff's Department had 365 Department members who were military reservists. LASD, *Year in Review 2003*[9]. After the invasion of Iraq, more than 151 were called to active military duty to serve in Iraq and around the world. *Id.* Plaintiff/Petitioner's insistence that employment events "should always be anticipated" cannot conceivably include acts of war.

The fourth problem with our hypothetical June 1 annual training date is that it would only ensure training and certification of those officers employed (and available) on that date. The agency would not be in compliance with Plaintiff/Petitioner's interpretation of Section 17004.7 as to any officers hired after June 1 and before the next annual training. In a large Department, this number could be significant. In Fiscal Year 2016–17, LAPD hired 566 new officers. LAPD, *President's Message* at p. 1. (Sept. 2017)[10] So even if a pursuit incident occurs only a month after the June 1 training, there might be 47 officers for whom there are no training certifications. Under Plaintiff/Petitioner's interpretation, despite having properly trained and certified approximately 10,000 officers, Los Angeles would not qualify for immunity because of those 47. Indeed, under

---

[9] Available at [https://lasd.org/pdfjs/publications/YIR2003.pdf]
[10] Available at [https://www.lapd.com/sites/default/files/tbl_sep2017_lally.pdf]

Plaintiff/Petitioner's interpretation, Los Angeles would be denied immunity if the City lacks a written certification from only 1 of its 10,055 officers.

Departing from the single training day scenario to one in which agencies offer multiple sessions of the pursuit training throughout the year such as to enable officers who are unavailable for one attend another, does nothing to alleviate the quandary as a pursuit incident would essentially need to occur on the evening of the final session of the year in order for an agency to even possibility produce training certifications for 100% of its force thus enabling it to qualify for immunity. In short, construing Section 17004.7(b)(2) to deny immunity absent 100% officer compliance with the entity's requirement that officers certify receipt and understanding of a pursuit policy would impose a standard upon law enforcement agencies that is nearly, if not entirely, impossible to meet as a practical matter.

## V. CONCLUSION

For all the reasons set forth above, California Police Chiefs Association, California State Sheriffs' Association, and California Peace Officers' Association respectfully urge this Court to adopt the only interpretation of Vehicle Code section 17004.7(b)(2) that most closely follows the plain language of that Section, and that most closely comports with the intent of the Legislature and that does not lead to absurd results.

That is, that Section 17004.7 grants immunity to public entities who adopt written pursuit policies, provide regular and periodic training on an annual basis on their policies and require their officers to certify in writing that they have read, received and understand those policies -- even if one or more officers do not actually execute the required certification.

DATED: March 22, 2018

Respectfully submitted,
JONES & MAYER

By: /s James R. Touchstone
JAMES R. TOUCHSTONE
DENISE L. ROCAWICH
Attorneys for *Amici Curiae*
California Police Chiefs Association, California State Sheriffs' Association and California Peace Officers' Association

## CERTIFICATE OF WORD COUNT

I certify that this brief contains 3784 words, not including tables or this certificate, according to the word count function of the word processing program used to produce this Brief. Therefore, the number of words in the Brief complies with the requirements of California Rules of Court, rule 8.204(c)(l).

DATED: March 22, 2018

Respectfully submitted,
JONES & MAYER

By: /s James R. Touchstone
JAMES R. TOUCHSTONE
DENISE L. ROCAWICH
Attorneys for *Amici Curiae*
California Police Chiefs Association, California State Sheriffs' Association and California Peace Officers' Association

## PROOF OF SERVICE

**STATE OF CALIFORNIA, COUNTY OF ORANGE**

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 3777 North Harbor Boulevard, Fullerton, California 92835.

On March 22, 2018, I served the foregoing documents described as **APPLICATION FOR PERMISSION TO FILE AN *AMICI CURIAE* CALIFORNIA POLICE CHIEFS ASSOCIATION, CALIFORNIA STATE SHERIFFS' ASSOCATION AND CALIFORNIA PEACE OFFICERS' ASSOCIATION IN SUPPORT OF RESPONDENT,** on each interested party listed on the **attached service list.**

__X__(VIA MAIL) I deposited such envelope, with postage thereon fully prepaid, in the mail at La Habra, California. –***As to Selected Parties Only***

I am readily familiar with Jones & Mayer's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid at La Habra, California, in the ordinary course of business. I am aware that on motion of the parties served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

__X__(VIA ELECTRONIC SERVICE) I further declare that I caused a true and correct copy of the foregoing document to be sent via the court's TrueFiling electronic system –***As to Selected Parties Only***

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

Executed on March 22, 2018, at Fullerton, California.

/s/ Rita J. Alger

**SERVICE LIST**

| | |
|---|---|
| Amer Innabi<br>Innabi Law Group Inc<br>2500 East Colorado Blvd.<br>Suite 230<br>Pasadena, CA 91107<br>amer@innabi-lg.com<br>Attorney for Plaintiff and Appellant | Abdalla Jiries Innabi<br>Innabi Law Group, APC<br>107 South Fair Oaks Avenue<br>Suite 208<br>Pasadena, CA 91105<br>abdalla@innabi-lg.com<br>Attorney for Plaintiff and Appellant |
| Ladell Hulet Muhlestein<br>Manning & Kass Ellrod Ramirez Trester LLP<br>801 S Figueroa St 15FL<br>Los Angeles, CA 90017<br>lhm@manningllp.com<br>Attorney for Defendant and Respondent | Anthony Michael Sain<br>Manning & Marder Kass Ellrod Ramirez Trester LLP<br>801 S Figueroa St 15th FL<br>Los Angeles, CA 90017<br>ams@manningllp.com<br>Attorney for Defendant and Respondent |
| Court of Appeal of the State of California<br>Second Appellate District<br>Division One<br>300 South Spring Street<br>Los Angeles, CA 90013-1213<br>(Via U.S. Mail) | Superior Court of California<br>County of Los Angeles<br>Honorable Yvette M. Palazuelos<br>Presiding Judge<br>111 North Hill Street<br>Los Angeles, CA 90012-3014<br>(Via U.S. Mail) |