No. D083831

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA FOURTH APPELLATE DISTRICT, DIVISION ONE

TINA PARSONAGE,
Plaintiff-Appellant,

v.

WAL-MART ASSOCIATES, INC., WAL-MART STORES, INC., and WALMART, INC.
Defendants-Respondents.

Superior Court for the County of San Diego
Case No. 37-2021-00041299-CL-OE-CTL
Hon. Carolyn Caietti

BRIEF OF AMICI CURIAE UC BERKELEY CENTER FOR CONSUMER LAW & ECONOMIC JUSTICE AND PUBLIC JUSTICE, IN SUPPORT OF PLAINTIFF-APPELLANT

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INTEREST OF AMICI CURIAE

Amici curiae are nonprofit organizations that represent and advocate for economic justice on behalf of consumers, workers, and vulnerable populations in California. In their advocacy, amici regularly seek to enforce statutory rights created by the California Legislature and intended for vindication in California courts, including those rights conferred by the Investigative Consumer Reporting Agencies Act (ICRAA) (Civ. Code, § 1786 *et seq*.). Amici appear in this proceeding to provide a broader and more in-depth historical analysis of the standing inquiry in California state court, as opposed to federal court, than is contained in the parties' briefs. Amici have appeared in a number of recent cases in California in which industry defendants have attempted to import federal standing requirements, overtly or *sub silentio*, into California state courts. (See, e.g., *Chai v. Velocity Investments, LLC* (2025) 108 Cal.App.5th 1030 [holding that no California constitutional or statutory provision, including the Fair Debt Buying Practices Act itself (Civ. Code, § 1788.50 *et seq.*), imposes an injury-in-fact requirement]; *Kashanian v. National Enterprise Systems, Inc.* (2025) (A171046, app. pending.).)

Amici write to emphasize the importance of state courts retaining broad general jurisdiction over cognizable legal claims, in light of both the dual structure of the American judicial system and the notably stringent

requirements of Article III standing in federal court. As a result of judicial decisions over the past several decades, those federal requirements now impose a burden on plaintiffs to establish a concrete and particularized injury in fact, a standard that has made it increasingly difficult for consumers, workers, and other vulnerable individuals to enforce their rights in federal court. To make state courts equally unavailable would both breach the constitutional compact on which this nation rests and do a grave injustice to potential litigants across California.

INTRODUCTION AND SUMMARY OF ARGUMENT

It is a cornerstone of the American judicial system that state courts, unlike their federal counterparts, have general jurisdiction to hear lawsuits of all kinds, without the requirement of a "case or controversy" or a constitutional grant of subject-matter authority. Without that broad authority, people whose rights have been violated under state or federal statute might have no forum in which to vindicate their claims. That sort of judicial vacuum is something the Founders (of both the Union and California) consciously sought to avoid.

The imposition of a general heightened injury-in-fact standard in California courts, similar to that required in federal courts, would therefore directly undermine the dual architecture of this nation's judicial system. No provision of the California Constitution limits standing to those who are injured in a way other than that set forth in the relevant statute. No broadly

applicable provision of the California Code imposes any such requirement either. As courts of general jurisdiction, California's superior courts may properly exercise authority over any dispute unless a statute specifically prohibits it.[1] That standard differs from the federal courts, which must adhere to the standing requirement imposed by Article III of the United States Constitution. Federal district courts may hear only "cases" and "controversies" (U.S. Const., art. III, § 2), a limitation that the U.S Supreme Court has interpreted to require a concrete and particularized injury in fact. (See, e.g., *Lujan v. Defenders of Wildlife* (1992) 504 U.S. 555, 560.) Federal courts may, in addition, hear only the specified types of cases affirmatively set forth in the U.S. Constitution and federal statute. (*Ins. Corp. of Ireland v. Compagnie des Bauxites de Guinee* (1982) 456 U.S. 694, 701-702; *Turner v. Bank of North Am.* (1799) 4 U.S. 8, 10 [4 Dall. 8].)

The California Constitution imposes no similar "case and controversy" restriction on the jurisdiction of California courts. (*Weatherford v. City of San Rafael* (2017) 2 Cal.5th 1241, 1247-1248; see Cal. Const., art. VI, § 10 [extending the state judicial power to all "causes"].) Neither the California charter nor the U.S. Constitution limits state court plaintiffs to those who have suffered an injury in fact.

[1] 13 Wright & Miller, Federal Practice & Procedure (3d ed. 2023) Courts of Limited Jurisdiction § 3522 (hereafter "Wright & Miller").

No statutory or other background minimum standing requirement constrains California litigants either. The decision in *Limon v. Circle K Stores Inc.* (2022) 84 Cal.App.5th 671 represents an aberration from a bedrock principle of California jurisdictional law. Contrary to the conclusion in *Limon*, its companion *Muha v. Experian Information Solutions* (2024) 106 Cal.App.5th 199, and the outlying string of decisions they rely on, the beneficial interest test contained in Code of Civil Procedure sections 1085 and 1086 does not apply broadly to all statutes; it is limited to the writ of mandate proceeding for which the Legislature devised it.

Instead, all that California requires is that plaintiffs plead a valid cause of action and evince a sufficient interest in the outcome. (*Kim v. Reins Internat. Cal., Inc.* (2020) 9 Cal.5th 73, 83; *Parker v. Bowron* (1953) 40 Cal.2d 344, 351.) It is true that "California statutes generally require that plaintiffs have suffered some injury." (*Guracar v. Student Loan Solutions, LLC* (2025) 111 Cal.App.5th 330 [332 Cal.Rptr.3d 742, 751]; (*Angelucci v. Century Supper Club* (2007) 41 Cal.4th 160, 175 ["In general terms, in order to have standing, the plaintiff must be able to allege injury—that is, some 'invasion of the plaintiffs' legally protected interests."].) It is equally true that "the Legislature may authorize consumers and others whose rights have been violated to recover statutory damages or penalties absent the concrete harm required in federal court by Article III; indeed, when the

Legislature provides for statutory damages or penalties, it often permits individuals who have suffered no concrete harm to seek such relief." (*Guracar*, *supra*, 111 Cal.App.5th 330 [332 Cal.Rptr.3d 742], at p. 751 [citing cases].)

Walmart concedes, as it must, that standing in California courts is determined by the individual statute involved rather than a general constitutional or legislative requirement for injury in fact. (Resp. Br. at pp. 21-25; see *Modern Barber Colleges v. Cal. Employment Stabilization Com.* (1948) 31 Cal.2d 720, 726-727.) But Walmart then attempts to insert precisely such a heightened standard through the back door, arguing that the default measure of standing is indeed injury in fact, with the legislature able to vary that downward only in "rare cases." (Resp. Br. at p. 24.) Walmart has it precisely backwards. The structure, history and text of the California Constitution and the California Code establish that the lenient standing of a court of general jurisdiction, not something akin to a case or controversy in a court of limited jurisdiction, is the baseline standard in California – and that it is only in unusual cases that the legislative branch will increase that standard. (See *Chai v. Velocity Investments* (2025) 108 Cal.App.5th 1030, 1043; *Guracar, supra,* 111 Cal.App.5th 330 [332 Cal.Rptr.3d 742], at p.751.) In other words, California's Legislature possesses the plenary "power to grant litigants access to the state's own

courts to vindicate rights the Legislature conferred." (*Chai*, *supra*, 108 Cal. App.5th at p. 1043.)

Applying the principles of California standing law to the present case is straightforward. Tina Parsonage meets the minimal constitutional and general statutory standards for bringing a claim: she has a personal stake and sufficient interest in the outcome of this case. The Legislature has imposed no further standing requirements on plaintiffs seeking redress under the Investigative Consumer Reporting Agencies Act (ICRAA) (Civ. Code, § 1786 *et seq*.). Ms. Parsonage did not receive the disclosures required by the Legislature in the Act. Under California law, therefore, Ms. Parsonage has standing to pursue her claims.

Amici offer no comment on the merits of Ms. Parsonage's claims, or on the redress, if any, to which she may be entitled. At this juncture, her standing to bring a claim is the only question at issue, and that is a standard that she has met.

The judgment of the superior court should be reversed.

ARGUMENT

Establishing standing to pursue claims in California courts is not an onerous task. All that California requires is that plaintiffs plead a valid cause of action (*Parker*, *supra*, 40 Cal.2d at p. 351 ["The right to relief . . . goes to the existence of a cause of action"]), and evince a "sufficient interest" in "actual controversies." (*Kim*, *supra*, 9 Cal.5th at p. 83.) Those

are the minimal factors that a party must demonstrate to seek relief. (See *Weatherford*, *supra*, 2 Cal.5th at pp. 1248 [explaining that the California Supreme Court's standing jurisprudence "reflects a sensitivity to broader prudential and separation of powers considerations elucidating how and when parties should be entitled to seek relief under particular statutes"].) The "actual controversies" required here bear little resemblance to the "controversy" required by the U.S. Supreme Court under Article III. (See *Grosset v. Wenaas* (2008) 42 Cal.4th 1100, 1117, fn. 13 [holding that, with respect to the U.S. Constitution's case and controversy requirement, "[t]here is no similar requirement in our state Constitution"].)

Because there is no baseline injury-in-fact requirement, standing to pursue claims in California is provided by the Legislature in each statute and may be discerned from the statutory text. (*Chai*, *supra*, 108 Cal.App.5th at p. 1037.) The Legislature imposed no concrete injury requirement in the ICRAA. Ms. Parsonage therefore has standing to pursue her claims in superior court.

I. THERE IS NO IRREDUCIBLE MINIMUM STANDING REQUIREMENT IN CALIFORNIA STATE COURT.

The injury-in-fact requirement imposed by the "case or controversy" requirement of Article III of the United States Constitution has no application to plaintiffs in California state courts. (See, e.g., *Grosset*, *supra*, 42 Cal.4th at p. 1117 & fn. 13 ["article III of the federal Constitution does

not apply in state courts"]; *Bilafer v. Bilafer* (2008) 161 Cal.App.4th 363, 370.) U.S. Supreme Court precedent confirms this uncontroversial position. (*ASARCO Inc. v. Kadish* (1989) 490 U.S. 605, 617 ["[T]he constraints of Article III do not apply to state courts"]; *N.Y. State Club Assn., Inc. v. City of New York* (1988) 487 U.S. 1, 8, fn. 2 ["the special limitations that Article III of the Constitution imposes on the jurisdiction of the federal courts are not binding on the state courts"]; accord *TransUnion LLC v. Ramirez* (2021) 594 U.S. 413, 459, fn. 9 (dis. opn. of Thomas, J.) ["The Court does not prohibit Congress from creating statutory rights for consumers; it simply holds that federal courts lack jurisdiction to hear some of these cases…. [T]he Court has thus ensured that state courts will exercise exclusive jurisdiction over these sorts of class actions."].)

The well-established low bar for standing in state court helps satisfy a foundational purpose of the American dual judicial system: to ensure that there exists a forum to hear and adjudicate all manner of disputes and to provide remedies to redress legal harms.[2] When federal courts, bound by the strictures of Article III's case and controversy requirement, cannot

[2] See Hershkoff, *State Courts and the "Passive Virtues": Rethinking the Judicial Function* (2001) 114 Harv. L.Rev. 1833, 1940 (positing that "state courts, because of their differing institutional and normative position, should not conform their rules of access to those that have developed under Article III. Instead, state systems should take an independent and pragmatic approach to judicial authority in order to facilitate and support their integral and vibrant role in state governance").

entertain claims that may lack an injury in fact but that seek to address otherwise cognizable harms, state courts are the only available forum for those harms to be redressed.[3] Walmart's back-door attempt to establish a baseline injury-in-fact standard by shifting the lenient default "interest" standard to a heightened "actual injury" standard stands in direct contrast to the nature of California tribunals as courts of general jurisdiction whose doors are open to those who have suffered an injury as determined by the Legislature.

A. As Courts of General Jurisdiction, California State Courts Do Not Require An Injury In Fact To Establish Standing.

California courts are courts of general jurisdiction—that is, fora in which all civil disputes may be heard. Plaintiffs in superior court face no overarching jurisdictional standing requirement to pursue their claims.

The California Constitution, which sets the outer bounds of the power of the state judiciary (*Cal. Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4th 231, 252; *Harrington v. Super. Ct.* (1924) 194 Cal.185, 188), does not impose any significant limitations on the jurisdiction of California courts to hear disputes. Under article VI, section 10, California's superior courts are authorized to exercise "original jurisdiction in all . . .

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

causes." (See *Ex Parte Shaw* (1953) 115 Cal.App.2d 753, 755 [holding that, pursuant to section 10, "the superior courts are courts of general jurisdiction"].) A "cause" in this context refers to "every matter that could be decided" by the judicial power. (*In re Wells* (1917) 174 Cal. 467, 472-473; see *In re Stevens* (1925) 197 Cal. 408, 413-414 [similarly defining "cause" for purposes of appellate jurisdiction].) This provision thus embodies "the state Constitution's broad conferral of jurisdiction." (*Donaldson v. Nat. Marine, Inc.* (2005) 35 Cal.4th 503, 512, citing n33; see also *Wells2*, *supra*, 174 Cal. at pp. 472-473 [stating that "cause" in section 10 confers a "broad meaning" with an "all-embracing application"].) [4] The general jurisdiction of California courts, which derives from the California Constitution, cannot be altered by the Legislature. (*Matosantos*, *supra*, 53 Cal.4th at p. 252 ["Where the judicial power of courts, either original or appellate, is fixed by constitutional provisions, the legislature cannot either limit or extend that jurisdiction," quoting *Chinn v. Super. Ct.* (1909) 156 Cal. 478, 480].)[5]

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

[5] The Legislature, of course, "does retain the power to regulate matters of judicial procedure"; however, that power may not be wielded to intrude on the general jurisdiction of the judiciary. (*Matosantos*, *supra*, 53 Cal.4th at pp. 252-253 [explaining that courts "avoid such constitutional conflicts

No threshold "injury-in-fact" standard, like that set by the federal Constitution's Article III case or controversy requirement (see, e.g., *Lujan*, *supra*, 504 U.S. at p. 560), cabins the California Constitution's broad grant of jurisdiction. (*Weatherford*, *supra*, 2 Cal.5th at pp. 1247-1248 [observing that the California Constitution contains no such "case or controversy requirement imposing an independent jurisdictional limitation"].)

The difference in federal and California standing doctrine reflects the difference between courts of limited jurisdiction and general jurisdiction. Because the courts of California are courts of general jurisdiction, they play a fundamentally different role than the courts of limited jurisdiction that make up the federal judiciary.[6] This "result properly follows from the allocation of authority in the federal system." (*ASARCO*, *supra*, 490 U.S. at p. 617 [explaining that a case in Arizona state court that would have been dismissed in federal court for lack of Article III standing could proceed because the "state judiciary here chose a different path, as was their right, and took no account of federal standing rules"].)

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whenever possible by construing legislative enactments strictly against the impairment of constitutional jurisdiction"].)

[6] See Williams, The Law of American State Constitutions (2009) pp. 298-299 ("State courts occupy different institutional positions and perform different judicial functions from their federal counterparts"); Hershkoff, *supra* note 2, at p. 1886 (noting that "commentators have recognized that significant institutional differences distinguish many state courts from federal courts").

State courts of general jurisdiction—California courts among them—are able to adjudicate virtually all disputes that come before them.[7] Their power is "expansive."[8] (See *Saurman v. Peter's Landing Property Owner, LLC* (2024) 103 Cal.App.5th 1148, 1163 [taking stock of California's "broad approach to the issue of standing, routinely allowing personally interested litigants access to state courtrooms in a wide variety of legal contexts"].) Given their broad grant of jurisdiction, the presumption is that California courts have the authority to adjudicate any matter that comes before them. (See *Galpin v. Page* (1873) 85 U.S. 350, 365-366 ["a superior court of general jurisdiction, proceeding with the general scope of its powers . . . is presumed to have jurisdiction to give the judgments it renders until the contrary appears" and evaluating a matter that originated in the California courts]; Wright & Miller, *supra*, § 3522 ("Most state courts are courts of

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[7] See, e.g., Wright & Miller, *supra*, § 3522; Gardner, *The Failed Discourse of State Constitutionalism* (1992) 90 Mich. L. Rev. 761, 808-809 ("Unlike the federal courts, which are courts of limited jurisdiction, state courts may be courts of general jurisdiction"); California Courts, *Jurisdiction and Venue: Where to File a Case*, https://perma.cc/GHW8-AZ8X (defining "General Jurisdiction, which means that a court has the ability to hear and decide a wide range of cases. Unless a law or constitutional provision denies them jurisdiction, courts of general jurisdiction can handle any kind of case. *The California superior courts are general jurisdiction courts*," emphasis added).

[8] Hershkoff, *supra* note 2, at p. 1887 ("State power . . . is plenary and inherent, and the theory of state judicial power is correspondingly expansive"); see also 20 Am.Jur.2d (2024) Courts, § 66 ("State courts are invested with general jurisdiction that provides expansive authority to resolve myriad controversies brought before them").

general jurisdiction, and the presumption is that they have subject matter jurisdiction over any controversy unless a showing is made to the contrary."].)

By contrast, "it is a fundamental precept that federal courts are courts of limited jurisdiction." (*Owen Equipment & Erection Co. v. Kroger* (1978) 437 U.S. 365, 374; *Turner*, *supra*, 4 U.S. at p. 10).[9] The outer bounds of federal courts' authority are specified by the U.S. Constitution and Congress. (*Kokkonen v. Guardian Life Ins. Co. of America* (1994) 511 U.S. 375, 377.) Federal standing principles emanate from "a single basic idea—the idea of separation of powers" and the notion that "federal courts 'exercise their proper function in a limited and separated government.'" (*Ramirez*, *supra*, 594 U.S. at pp. 422-423, quoting Roberts, *Article III Limits on Statutory Standing* (1993) 42 Duke L.J. 1219, 1224). The concerns "rooted in the constitutionally limited subject matter of jurisdiction of those courts" have no bearing on the general jurisdiction of state courts. (*The Rossdale Group, LLC v. Walton* (2017) 12 Cal.App.5th 936, 944, emphasis omitted; see *Kwikset Corp. v. Super. Ct.* (2011) 51 Cal.4th 310, 322, fn. 5 ["There are sound reasons to be cautious in

[9] Accord Wright & Miller, *supra*, § 3522 ("It is a principle of first importance that the federal courts are tribunals of limited subject matter jurisdiction. . . . [They] cannot be courts of general jurisdiction"); 17A Moore's Federal Practice (2025) Civil, § 120.02 ("By and large, federal courts are *not* courts of general jurisdiction," emphasis in original).

borrowing federal standing concepts, born of perceived constitutional necessity, and extending them to state court actions where no similar concerns apply"].) The relative leniency of standing requirements in state courts, including California courts, compared to those in federal courts reflects these different grants of jurisdiction. (*Jasmine Networks, Inc. v. Super. Ct.* (2009) 180 Cal.App.4th 980, 990.)[10]

That no case-or-controversy limitation governs the California judiciary has been evident since statehood. Neither California's first constitution in 1849 nor its subsequent charter in 1879, which is still in effect, has significantly limited the general jurisdiction of the California courts. The original 1849 Constitution conferred general jurisdiction on state trial courts in all matters as long as the amount in controversy exceeded $200. (Cal. Const. of 1849, art. VI, § 6; see *Cohen v. Barrett* (1855) 5 Cal. 195, 210 [noting the state trial courts' "common law or chancery powers as courts of general jurisdiction"].)[11] The 1879 California

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[10] See Williams, *supra* note 6, at p. 298-299 [finding that barriers to standing are "usually lower at the state level"]; Doggett, *supra* note 4, at p. 875 ("many commentators have suggested that the lack of case and controversy language in state constitutions should be read to suggest a broader scope of the judicial power in state courts"); Gardner, *supra* note 7, at p. 809, fn. 202 ("Many states have far more relaxed rules of standing than federal courts due to the unrestricted jurisdiction of state courts").

[11] See also Blume, *California Courts in Historical Perspective* (1970) 22 Hastings L.J. 121, 128-130 (examining the debates at the 1848 Constitutional Convention over the amount-in-controversy jurisdictional prerequisite). The drafters modeled article VI largely on similar provisions in the Iowa Constitution, which also broadly extended trial courts' original

Constitution, which controls today, retains that same broad jurisdictional grant to state courts in article VI, section 10.[12] Notably, the historical record contains no evidence that the delegates to either of California's constitutional conventions referenced or considered adopting the jurisdictional limits of the federal case and controversy regime.[13] Moreover, the state Constitution has been amended over 500 times,[14] and at no point has the Legislature or the voters of California adopted a constitutional provision imposing an injury in fact or other restriction on standing.

The California Constitution provides for broad jurisdiction in California's courts and does not impose a heightened standing requirement.

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jurisdiction to "all civil and criminal matters . . . in such manner as shall be prescribed by law." (Iowa Const. of 1846, art. VI, § 4.)

[12] See 3 Willis & Stockton, Debates and Proceedings, California Constitutional Convention 1878-1879, 1521-1522 (recounting a public address in which delegates explained their intention for state superior courts to retain the broad grant of jurisdiction established in the original state constitution).

[13] For an examination of the 1849 Constitution, see Saunders, *California Legal History: The California Constitution of 1849* (1998) 90 Law Library J. 447, 457-458; Burlingame, *The Contribution of Iowa to the Formation of the State Government of California in 1849* (1932) 20 Iowa J. Hist. & Pol. 182, 209-212, 215. The constitutions of Iowa and New York, which were considered by the drafters of the California Constitution's drafters, did not contribute to article VI, section 6 of that document. (See Burlingame at p. 215.) For the record of the 1879 Constitution, see 3 Willis & Stockton, *supra* note 12, at pp. 1514-1515; Blume, *supra* note 11, at pp. 165-169 (discussing the jurisdiction of the superior courts).

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

B. The California Legislature Has Also Never Imposed A Broadly Applicable Injury-In-Fact Standard For Cases In California Courts.

Just as the California Constitution provides no heightened requirements for standing, so too the Legislature has never established a heightened default standard for those who seek access to the State's courts. To the contrary, the legislative branch has repeatedly made plain that the "interest" required as a baseline for standing in superior court is minimal. (See *Kim*, *supra*, 9 Cal.5th at p. 83 [a standing requirement is designed primarily to ensure parties will "press their case with vigor"], quoting *Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 439]; *Kim*, *supra*, 9 Cal. 5th at p. 83 ["When, as here, a cause of action is based on statute, standing rests on the provision's language, its underlying purpose, and the legislative intent"].)

Walmart nonetheless contends that heightened standing represents the default level required in California courts. For this remarkable contention—a funhouse mirror image that inverts actual California standing jurisprudence—Walmart relies primarily on two recent court of appeal decisions that rest on very shaky ground: *Limon*, *supra*, 84 Cal.App.5th at p. 704, and *Muha*, *supra*, 106 Cal.App.5th at p. 208. Those cases held, without addressing the constitutional or legislative record, or the extensive jurisprudence to the contrary, that the specific approach to standing that the legislature devised for writs of mandate brought under sections 1085 and

1086 of the Civil Code broadly governs standing in California courts. But there was no proper basis for *Limon*, followed by *Muha*, to adopt that approach. Those cases were incorrectly decided; there is, accordingly, no reason for this Court to follow them.

1. The Beneficial Interest Requirement is Limited to Writs of Mandate and Analogous Equitable Actions.

The beneficial interest standard stems from, and is limited to, cases involving writs of mandate and similar causes of action. The standard itself, properly construed, is simply an example of the Legislature creating a bespoke statutory standing requirement—in that instance, for parties seeking a writ of mandate to compel public agencies or officials to perform their official duties. (Code Civ. Proc., § 1086; *Carsten v. Psychology Examining Com.* (1980) 27 Cal.3d 793, 796-797; see also *infra*, Section II.) There is no indication in the text or history of sections 1085 and 1086 of the Code of Civil Procedure that this highly particularized standard somehow applies generally to standing in all matters (or all "public interest" matters) brought in the California courts.

The provision that specified writs of mandate may be brought only by "the party beneficially interested" in the outcome (Code Civ. Proc., § 1086) is intimately tied, and limited, to the "extraordinary remedy" that this cause of action affords. (*Wenzler v. Mun. Ct. for Pasadena Jud. Dist.* (1965) 235 Cal.App.2d 128, 131-133.) The singularity of the writ of

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

Consistent with the Legislature's intent to impose a greater burden on individuals seeking the writ, the California Supreme Court has long construed the statutory "beneficially interested" standard to constitute a heightened standing requirement for writs brought under section 1085 and its predecessors: a "special interest to be served or some particular right to be preserved or protected." (*Carsten*, *supra*, 27 Cal.3d at pp. 796-797; see *Linden v. Bd. of Supervisors of Alameda County* (1872) 45 Cal. 6, 7 [stating that the interest of the party seeking the writ "must be of a nature which is distinguishable from that of the mass of the community"].) And, as

discussed below, this narrowly applied standard has been interpreted to be "equivalent to the federal injury in fact test" under Article III. (*Associated Builders & Contractors, Inc. v. S.F. Airports Com.* (1999) 21 Cal.4th 352, 361-362.)

But this heightened requirement cannot be uncoupled from the extraordinary equitable nature of the remedy itself: to ensure justice where no other plain, speedy and adequate remedy is available. (Code Civ. Proc., § 1086.) It is for this purpose—and only this purpose—that the California Supreme Court has examined whether parties are "beneficially interested" in the outcome for the purposes of standing where they are seeking writs of mandate (see, e.g., *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 170 [finding that association had "the direct, substantial sort of beneficial interest" necessary to seek a writ of mandate in a California Environmental Quality Act challenge]), or when they pursue analogous equitable actions against government authorities (see, e.g., *San Diegans for Open Government v. Public Facilities Financial Authority of City of San Diego* (2019) 8 Cal.5th 733, 739 [considering statutory standing to challenge public contracts involving financial conflicts of interest under Gov. Code, § 1090]).[15]

[15] The only other place in which the "beneficial interest" test applies is in the unrelated context of real property and trust law, from which the principle of a beneficial interest derives. (See, e.g., *Yvanova v. New*

Applying the beneficial interest requirement across all causes of action, not just writs of mandate and similar provisions for equitable relief—as the courts in *Limon* and later *Muha* did—would not only diminish the animating principles behind section 1085. It would also import a statutory requirement that the Legislature intended for one particular cause of action into a host of other causes, almost all of which already afford a sufficient remedy. (See *Carsten*, *supra*, 27 Cal.3d at pp. 796-797 [expressing the "controlling *statutory* requirements for standing for mandate," emphasis added].) There is no evidence in the text or history of the statute that the Legislature intended the beneficial interest standard to apply to the full panoply of cases brought in superior court, particularly cases like this one brought under statutes providing for damages—the quintessential ordinary remedy. (Civ. Code, § 1788.30.)[16]

2. The Cases on Which Walmart Relies Provide No Grounds for the General Application of Heightened Standing Requirements in California Courts.

The contrary assertion put forward by Walmart (see Resp. Br. at pp. 21-25) relies on a limited string of intertwined cases that all trace back to a common misinterpretation of the beneficial interest standard. Neither

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Century Mortgage Co. (2016) 62 Cal.4th 919, 927 [involving a beneficial interest in a deed of trust to challenge a nonjudicial foreclosure].)

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

Limon nor *Muha*—nor Walmart here—contends with the limitations inherent in the beneficial interest standard, the role of California's superior courts as tribunals of general jurisdiction, the lack of a textual basis for an injury-in-fact requirement in the California Constitution or the California Code, or any other of the bases for doubting the existence of a default heightened standing requirement in California's courts.

Instead, those cases rest entirely on a string of decisions, stemming from writ of mandate actions, that has come unmoored from its defined and limited origins. The cases cited in *Limon*, for example, derive originally from decisions relying, properly, on the statutory exception to lenient standing contained in sections 1085 and 1086. In the first of these cases, in 1980, the California Supreme Court held that the plaintiff lacked a beneficial interest "within the meaning of the statute" to seek a writ of mandate against an administrative occupational board. (*Carsten*, *supra*, 27 Cal.3d at pp. 796-797 [requiring a "special interest" or "particular right" that is "over and above the interest held in common with the public at large"].) In 1999—nearly two decades later—the Court briefly revisited the *Carsten* standard, equating it, without detailed analysis, to the requirements of Article III standing. (See *Associated Builders*, *supra*, 21 Cal.4th at p. 362.) In both of these decisions, the high court evaluated the beneficial interest test in the context of section 1085 writ of mandate cases only; it said nothing about standing for other causes of action.

Two years later, however, the court of appeal applied the language of *Carsten* and *Associated Builders* in a way that would eventually give rise to what would become the small, peculiar line of decisions relied on by *Limon* and *Muha*—and Walmart here. (See *Holmes v. California National Guard* (2001) 90 Cal.App.4th 297, 315-316.) Although it is not clear that *Holmes* was a section 1085 action, the case at least involved analogous circumstances: the plaintiffs brought an action against public officials seeking equitable relief, and apparently as a result the court looked to the standing analyses in section 1085 cases. (*Id.* at p. 318 [noting lawsuit involved a challenge, addressed to the state and state officials, by military veterans to the state law consequences of their discharge under the federal armed forces' "Don't Ask, Don't Tell" policy].) Further, because the court in *Holmes* ultimately held that plaintiffs had standing under the heightened standard, there was less need to examine whether there would also be standing under a less stringent standard.

Since the *Holmes* decision, a number of other appellate courts have cited the language of that opinion and of *Carsten* in passing, but (like *Holmes* itself) without examining standing doctrine. It was not until *Limon* that a California appellate court in this line undertook to analyze the general California law of standing. And though the analysis that *Limon* performed does not support even its conclusion that "[t]here are a number of California cases that indicate the 'beneficial interest' requirement applies

generally to questions of standing" (*Limon*, *supra*, 84 Cal.App.4th at p. 699), the court's collection of these outlying cases serves to illustrate just how little weight they provide for a conclusion that the beneficial interest test—or anything else like Article III standing—applies generally in California courts.

Several of the decisions cited by *Limon* are simply writ of mandate cases, and therefore fall within the statutory scope of section 1086.[17] Other cited decisions are, like *Holmes*, suits in equity analogous to writ of mandate cases. And since these courts similarly found standing even under the heightened standard, there was little reason to considered whether a lower standard should properly apply.[18]

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

[18] See, e.g., *Teal v. Super. Ct.* (2014) 60 Cal.4th 595, 599-600 (petition to recall sentence, which quotes *Holmes*); *Dominguez v. Bonta* (2022) 87 Cal.App.5th 389, 413 (injunctive relief case that quotes, without analysis, *Teal* and *Associated Builders*); *City of Palm Springs v. Luna Crest, Inc.* (2016) 245 Cal.App.4th 879, 883 (injunctive relief case that cites *County of San Diego v. San Diego NORML* (2008) 165 Cal.App.4th 798, 814, which itself cites *Carsten* and *Holmes*); *Sipple v. City of Hayward* (2014) 225 Cal.App.4th 349, 358-359 (case seeking tax refunds that cites *Iglesia Evangelica Latina, Inc. v. Southern Pacific Latin Am. Dist. of the Assemblies of God* (2009) 173 Cal.App.4th 420, 445, which also cites, without analysis, *Carsten* and *Holmes*); *TracFone Wireless, Inc. v. County of L.A.* (2008) 163 Cal.App.4th 1359, 1364 (another tax refund case that cites *CashCall, Inc. v. Super. Ct.* (2008) 159 Cal.App.4th 273, 286, which quotes *Holmes*).

Finally, *Limon* cites several cases that were not brought under sections 1085 and 1086 and are not analogous to writ of mandate cases, but that make the naked claim—without analysis—that "[t]o have standing, a party must be beneficially interested in the controversy." (*Limon*, *supra*, 84 Cal.App.5th at p. 699.)[19] Not a single one of these decisions provides any additional support for that contention, any analysis of standing doctrine, or even so much as a mention of the century and more of precedent explaining that heightened standing requirements do not apply generally in California state court.[20]

The court in *Muha v. Experian Information Solutions*, also relied on by Walmart (e.g., Resp. Br. at p. 28) further compounded the errors of *Limon*. (See *Muha*, *supra*, 106 Cal.App.5th at pp. 207-209.) The decision in *Muha*, like the cases that preceded it, relied on cases that involve equitable

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[19] See, e.g., *DFEH v. M&N Financing Corp.* (2021) 69 Cal.App.5th 434, 443-444 (citing *Boorstein v. CBS Interactive, Inc.* (2013) 222 Cal.App.4th 456, 466, which cites *Carsten* and *Holmes*); *MTC Financial Inc. v. Cal. Dept. of Tax & Fee Administration* (2019) 41 Cal.App.5th 742, 747 (citing *Palm Springs*, *supra*, 245 Cal.App.4th at p. 883 and *Mendoza v. JPMorgan Chase Bank, N.A.* (2016) 6 Cal.App.5th 802, 810, which cites *Saterbank v. JPMorgan Chase Bank, N.A* (2016) 245 Cal.App.4th 808, 813-814, which in turn cites, once again, *Holmes*. A final case cited in *Limon* at pages 696-697, *Schoshinski v. City of Los Angeles* (2017) 9 Cal.App.5th 780, 791, analyzes mootness, not standing.

[20] See, e.g., *Perry v. Brown* (2011) 52 Cal. 4th 1116, 1138) ("[N]ot every interest that state law recognizes as conferring standing on an individual or entity to institute or to defend a particular kind of lawsuit in state court will be sufficient to establish that the individual or entity has a particularized interest to bring or defend an analogous lawsuit in federal court.").

remedies tracing back to *Holmes* and *Carsten*. (*Ibid.*, citing *Teal*, *supra*, 60 Cal.4th at p. 599, and *Boorstein*, *supra*, 222 Cal.App.4th at p. 472.) Those cases describe the beneficial interest; they do *not* establish that plaintiffs must establish an injury in fact "as a general rule . . . to sue in California state court." (*Muha, supra,* 106 Cal.App.5th at p. 208.)[21]

Ultimately this curious string of cases, including *Limon* and *Muha* themselves, is unconvincing. None of the decisions addresses the constitutional and statutory history of standing in California courts and the bright line of separation from Article III standing that the California Supreme Court has uniformly drawn, or the role of the legislative branch as the arbiter of standing in California. (See Reply Br. at section I.)

That *Limon* and *Muha* involved federal causes of action does not change the analysis. "State courts . . . are not bound by the limitations of a case or controversy or other federal rules of justiciability *even when they address issues of federal law*." (*Ramirez*, *supra*, 594 U.S. at p. 459, fn. 9 (dis. opn. of Thomas, J.), quoting *ASARCO*, *supra*, 490 U.S. at p. 617, emphasis added.) The "axiom" that state courts can exercise concurrent jurisdiction over federal claims—absent an express prohibition to the contrary—dates to the Founding. (See *Tafflin v. Levitt* (1990) 493 U.S. 455,

[21] That "[f]ederal law is in accord" (*Muha*, 106 Cal.App.5th at p. 209) is irrelevant for the reasons discussed *supra*, in Section I.A.

458; *Claflin v. Houseman* (1876) 93 U.S. 130, 138-142.)[22] Because standing is a question of jurisdiction (*Loeber v. Lakeside Joint School Dist.* (2024) 103 Cal.App.5th 552, 570), whether a plaintiff can bring a federal claim in state court "is a question of state law rather than federal law." (*Saurman*, *supra*, 103 Cal.App.5th at pp. 1165-1166 [finding standing to bring Americans with Disabilities Act claim in California courts].) Requiring plaintiffs to satisfy a heightened federal standard to proceed in state court for federal claims would undermine this keystone principle of federalism.

What the cases cited in *Limon* and *Muha* do confirm is that the legislature determines standing in California, and that in some limited instances heightened standing may be appropriate. The beneficial interest test is simply a specific example of standing created by statute for a particular purpose and remedy, in this instance to vindicate particular rights where no other relief is possible. While the test has sometimes been applied to closely analogous causes of action, it makes little sense—and contravenes the California Constitution's grant of general jurisdiction to the state courts—to apply a test designed for a specific and extraordinary

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

purpose to cases wholly outside that context. The cases that have done so, like *Limon* and *Muha*, can and should be recognized as outliers and disapproved.

C. Similar Attempts Across The Nation To Shoehorn Federal Standing Requirements Into State Court Have Been Consistently Rejected.

Walmart's bid to establish a default heightened standing requirement in California state court echoes current industry efforts across the United States. Perhaps unsurprisingly, similar attempts in other states to compel the adoption of an Article III framework have met with little success.

State supreme courts have not been receptive to the idea that the federal, limited-jurisdiction standing requirement should be grafted wholesale onto general-jurisdiction state courts. The Tennessee Supreme Court, for example, ruled recently that a plaintiff exercising a statutory or common law claim need not allege an injury in fact. (*Case v. Wilmington Trust, N.A.* (Tenn. 2024) 703 S.W.3d 274.) The court held that the Tennessee constitution's provisions establishing the judiciary and creating the separation of powers did not create any background standing requirement akin to that derived in federal courts from the Article III case and controversy requirement. (*Id.* at p. 286 ["our state constitution is not coincident with the United States Constitution in its constraint on judicial power"].)

The North Carolina Supreme Court has similarly held that standing in that state's courts does not require an injury in fact. "[W]hen the legislature exercises its power to create a cause of action under a statute, even where a plaintiff has no factual injury and the action is solely in the public interest, the plaintiff has standing to vindicate the legal right so long as he is in the class of persons on whom the statute confers a cause of action." (*Committee to Elect Dan Forest v. Employees Political Action Committee* (N.C. 2021) 376 N.C. 558, 600.)

Courts of last resort are currently reviewing the same question in Illinois, Ohio, and Wisconsin. In each of those matters, the intermediate appellate courts have ruled that violation of an individual's statutorily-created rights under a state or federal statute can confer standing in those states' courts even absent an Article-III-style injury in fact. (See *Fausett v. Walgreen Co.* (Ill. Ct. App. 2024) 256 N.E.3d 1087 [allowing standing in state court for a willful violation of the federal Fair and Accurate Credit Transactions Act even without actual injury]; *Gudex v. Franklin Collection Service, Inc.* (Wis. Ct. App. 2024) 18 N.W.3d 441 [bestowing standing under Wisconsin law for violation of the Fair Debt Collection Practices Act and Wisconsin Consumer Act]; *Voss v. Quicken Loans, LLC* (Ohio Ct. App., Jan. 5, 2024, No. C-230065, 2024 WL 66762, at pp. *4-5 [permitting standing under Ohio law for violation of state mortgage recording statute].)

D. Importing An Injury-In-Fact Requirement Into California Courts Would Vitiate Access To Justice.

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

Depriving litigants of a forum in California courts, when they are simultaneously foreclosed from bringing their case in federal court, would mean that parties would have *no* forum in which to bring suit. Especially because the U.S. Supreme Court has in recent years narrowed access to federal judicial relief for lack of Article III standing, litigants now increasingly must file or refile their matters in state court.[23] If those same litigants have to satisfy a stringent constitutional standing prerequisite in

[23] See Carter, *Bringing Federal Consumer Claims in State Court: A 50-State Analysis of Standing Rules* (Mar. 27, 2022) Nat. Consumer Law Center, <https://perma.cc/U5WY-MG2D> (as of June 23, 2025) (recommending that filing consumer cases alleging intangible injuries in state court is an "attractive alternative" after *Ramirez*); <https://perma.cc/AZ84-7JWF>; Frankel, *State Court Will Be Next Frontier For Consumer Class Actions Under Federal Law* (June 28, 2021) Reuters, https://tinyurl.com/mw2h88mp (as of June 23, 2025) (anticipating such a trend).

state court as well, they would likely have no access at all to a judicial resolution of their claims.[24]

Moreover, grafting an Article III standing requirement onto state court jurisdiction would undermine the many California statutory protections enacted by the Legislature with private enforcement regimes. The provision of statutory damages can serve a crucial purpose, preventing and responding to harms that can be hard to trace and quantify. For example, dozens of California statutes expressly prohibit privacy or notice-type injuries—the types of intangible injury that largely do not satisfy Article III standing after *Spokeo* and *Ramirez*—and allow consumers and workers to bring private lawsuits in court to remedy those harms.[25] Certain

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

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

civil rights statutes with private rights of action are also crafted with particular standing requirements based on actual or perceived infringements on statutory rights. (See, e.g., *Angelucci, supra,* 41 Cal.4th at pp. 175-176 [examining standing under the Unruh Civil Rights Act]; *Urhausen v. Longs Drugs Stores Cal., Inc.* (2007) 155 Cal.App.4th 254, 265-266 [standing under the Disabled Persons Act].) The Legislature created private enforcement regimes like these out of concern that crucial statutory protections go underenforced. (See, e.g., *Kwikset*, *supra*, 51 Cal.4th at p. 330 [recognizing "the significant role . . . private consumer enforcement plays for many categories of unfair business practices" and finding standing to challenge label misrepresentations under the UCL].)[26] There is "no reason why this state's Legislature cannot create a statutory right, deem a violation of that right an injury sufficient to confer standing—independent of actual damages—and provide a modest monetary award as a remedy . . . for those motivated to pursue it." (*Chai*, *supra*, 108 Cal.App.5th at p. 1040; see also *Guracar*, *supra*, 111 Cal.App.5th 330 [332 Cal.Rptr.3d 742], at p.

Vehicle Sales and Finance Act); Lab. Code, § 226, subds. (a), (e) (requirement for employers to furnish itemized wage statements and authorizing employees to seek damages due to a knowing and intentional failure to comply); *id.* §§ 1401, 1404 (notice requirements for employees before mass layoffs under the WARN Act.)

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

751 ["The California Legislature is . . . free to grant standing to sue in California courts absent concrete harm"].).

Adoption of an injury-in-fact requirement in California courts would undermine private enforcement of statutory protections for Californians in their own state courts.[27] It would create a bizarre scenario in which hundreds if not thousands of statutes, duly enacted by the California Legislature, are left largely unenforced. And this sea-change would have occurred not because of any action by the Legislature, which has historically determined the standing requirements for each statute (see *infra*, Section II), but because the judiciary had determined that a century and a half of constitutional interpretation and balance among the branches of government was simply wrong.

It is difficult to imagine the courts of California broadly countenancing that result and its pernicious impact on access to justice. (See *Saurman*, *supra*, 103 Cal.App.5th at p. 1163 [noting that courts "give[] due weight to the interests of individual justice, along with the public interest, always bearing in mind that throughout our law we have been

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

sweepingly rejecting procedural frustrations in favor of just and expeditious determinations on the ultimate merits"].) Yet that is precisely the outcome that Walmart's argument, if widely adopted, would achieve.

II. ONCE A CAUSE OF ACTION IS IDENTIFIED, CALIFORNIA PLAINTIFFS NEED ONLY POINT TO A SUFFICIENT INTEREST IN THE MATTER TO ESTABLISH STANDING.

The Legislature's ability to determine standing for each statute is unconstrained by the state constitution or any overarching statute. If there is a universal requirement, stemming from the nature of judicial proceedings, it is simply that a plaintiff have a sufficient interest in the case to ensure that the case is pursued.

That quantum of interest does not, to put it mildly, impose the same standing requirements as the far more stringent injury-in-fact standard. A "sufficient interest" merely ensures that the parties will "press their case with vigor." (*Common Cause*, *supra*, 49 Cal.3d at pp. 439-440; see also *Harman v. City & County of S.F.* (1972) 7 Cal.3d 150, 159 [explaining that "[a] party enjoys standing to bring his complaint into court if his stake in the resolution of that complaint assumes the proportions necessary to ensure that he will vigorously present his case"].) While the requirement of an "actual controversy" may sometimes be "difficult to define and hard to apply" (*Cal. Water & Telephone Co. v. L.A. County* (1967) 253 Cal.App.2d 16, 22), a broad consensus of the courts of appeal has held that the

controversy must simply be "substantial," or that the party would be "benefited or harmed" by the outcome. (*In re Marriage of Marshall* (2018) 23 Cal.App.5th 477, 485, quoting *City of Santa Monica v. Stewart* (2005) 126 Cal.App.4th 43, 59; accord *Blumhorst v. Jewish Family Services of L.A.* (2005) 126 Cal.App.4th 993, 1000-1001.)

The closely related general statutory requirement that "every action must be prosecuted in the name of the real party in interest, except as otherwise provided by statute" (Code Civ. Proc., § 367) serves simply to reinforce the necessity of a sufficient interest. (See *Zolly v. City of Oakland* (2022) 13 Cal.5th 780, 789. The "real party in interest" is simply "'any person or entity whose interest will be directly affected by the proceeding' including anyone with 'a direct interest in the result.'" (*Ibid*., quoting *Connerly v. State Personnel Bd*. (2006) 37 Cal.4th 1169, 1178.) In other words, the real party in interest is the individual or entity with "the right to sue under the substantive law." (*River's Side at Washington Square Homeowners Assn. v. Super. Ct.* (2023) 88 Cal.App.5th 1209, 1225.)

The statute does not interpose any additional standards, including those imposed by Article III. (*Jasmine*, *supra*, 180 Cal.App.4th at p. 991.) Section 367 assures that the plaintiffs have an actual controversy, and that a suit is brought in the name of the entity that has the right to sue under the

substantive law invoked.[28] "This provision is not the equivalent of, and provides no occasion to import, federal-style 'standing' requirements . . . . [S]ection 367 simply requires that the action be maintained in the name of the person who has the right to sue under the substantive law." (*Jasmine* at p. 991; *Matrixx Initiatives, Inc. v. Doe* (2006) 138 Cal.App.4th 872, 877-878 [distinguishing these prudential concerns from the injury in fact requirement derived from Article III].)[29]

III. BECAUSE THE ICRAA DOES NOT REQUIRE AN INJURY IN FACT, PARSONAGE HAS STANDING TO BRING HER CASE IN CALIFORNIA COURTS.

The ICRAA permits consumers and employees whose statutory rights have been violated to sue for relief under the Act. No injury in fact is required. Tina Parsonage has thus met the standing requirement to proceed with her lawsuit.

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

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

A. The Legislature Conferred Broad Standing On Consumers And Employees To Enforce The Protections Of The ICRAA.

The text and stated purpose of the ICRAA demonstrate the Legislature's intent not to impose any particular limitations on standing — least of all a concrete injury-in-fact requirement. The Legislature—which Walmart concedes has the power to do so (Resp. Br. at p. 21)—enacted in the ICRAA a broadly available, deterrence-oriented statute to ensure that businesses do not engage in privacy-invading practices, even when those practices do not cause harm that would qualify as an injury in fact.

The Legislature's decision makes sense. Although significant economic, reputational, and emotional harm can result from insufficient disclosures and improper informational practices, those harms can be difficult to measure or quantify. To read the Act's private right of action provision as limited only to parties who can allege a separate concrete injury, as Walmart proposes, could result in widespread increases in negligent or even abusive practices—because businesses would enjoy de facto immunity for not maintaining adequate documentation practices and not providing proper notice to consumers. Requiring a showing of concrete injury in California courts could, contrary to the Legislature's intent, render the ICRAA largely unenforceable.

B. Parsonage Has Standing Under The ICRAA To Bring Her Claims In A California Court.

Tina Parsonage satisfies the minimal statutory standing requirements set forth by the Legislature in the ICRAA. That is all that is at issue in this appeal—not the nature or measure of the relief, if any, to which she is entitled. She alleges that she did not receive the disclosures required by Section 1786.16 of the Civil Code. (See Appellant's Opening Brief at pp. 14-16.) Those allegations are sufficient to establish her standing to bring this case.

Because the courts of California are courts of general jurisdiction, and because the Legislature has set forth the conduct that constitutes a violation of the Investigative Consumer Reporting Agencies Act, without any concomitant requirement for an injury in fact or beneficial interest, Tina Parsonage is able—because she has brought her case in California state court—to do something too often unavailable to people in her position: she is able to access justice.

CONCLUSION

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

Dated: June 24, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the typeface and volume limitations set forth in California Rules of Court, rule 8.204(c)(1). The brief has been prepared in 13-point Times New Roman font. The word count is 9,188 words based on the word count of the program used to prepare the brief.

Dated: June 24, 2025

By: /s/ *Seth E. Mermin*
Seth E. Mermin

CERTIFICATE OF SERVICE

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

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

APPLICATION TO FILE BRIEF AND BRIEF OF AMICI CURIAE UC BERKELEY CENTER FOR CONSUMER LAW AND ECONOMIC JUSTICE, AND PUBLIC JUSTICE, IN SUPPORT OF PLAINTIFF-APPELLANT

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

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I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on June 24, 2025, in Berkeley, CA.

By: /s/ *Seth E. Mermin*
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