No. A171046

IN THE COURT OF APPEAL OF
THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT, DIVISION THREE

JIMMY KASHANIAN,
Plaintiff-Appellant,

v.

NATIONAL ENTERPRISE SYSTEMS, INC.,
Defendant-Respondent.

Superior Court for the County of Lake,
Case No. CV-416920
Hon. Michael Lunas

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

SETH E. MERMIN (SBN: 189194)
DAVID S. NAHMIAS (SBN: 324097)
JORDAN HEFCART
UC Berkeley Center for
Consumer Law & Economic Justice
305 Berkeley Law
Berkeley, CA 94720-7200
tmermin@law.berkeley.edu
dnahmias@law.berkeley.edu
(510) 643-3519
Counsel for Amici Curiae

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

OTHER AUTHORITIES

Cal. Dept. of Finance, Enrolled Bill Report, S.B. 237 (1977-1978 Reg. Sess.) 59, 60

California Courts, *Jurisdiction and Venue: Where to File a Case*, https://perma.cc/GHW8-AZ8X 24

Carrillo et al., *California Constitutional Law: Direct Democracy* (2019) 92 S.Cal. L.Rev. 557 28

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 July 15, 2024) 44

Chemerinsky, *What's Standing After* TransUnion LLC v. Ramirez (2021) 96 N.Y.U. L.Rev. Online 269 47

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 ..... 22, 26

Fed. Trade Com., *Repairing A Broken System: Protecting Consumers in Debt Collection Litigation and Arbitration* (2010) <https://perma.cc/FDX4-ZJF2> 60

The Federalist No. 82 40

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 15, 2025) 44

Gardner, *The Failed Discourse of State Constitutionalism* (1992) 90 Mich. L.Rev. 761 ..... 24, 26

Gilles, *The Private Attorney General in a Time of Hyper-Polarized Politics* (2023) 65 Ariz. L.Rev. 337 47

Hershkoff, *State Courts and the "Passive Virtues": Rethinking the Judicial Function* (2001) 114 Harv. L.Rev. 1833 ..... 21, 23, 24

Iowa Const. of 1846, art. VI, § 4 27

17A Moore's Federal Practice (2025) 25

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 Rosenthal Fair Debt Collection Practices Act, Civ. Code, § 1788 *et seq.* *Amici* appear in this proceeding to provide a 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* also submitted a brief in support of the appellants in *Chai v. Velocity Investments* (2025) 108 Cal.App.5th 1030, which held that the related Fair Debt Buying Practices Act, Civ. Code, § 1788.50 *et seq.*, does not impose an injury in fact requirement.

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 courts. 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 courts. 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 federalist system that state courts have general jurisdiction to hear any lawsuit that meets the standing requirements of the statute under which it is brought. The imposition of a heightened injury-in-fact standard in California courts, similar to that required in federal courts, would contravene the very essence of the dual judicial system envisioned by the Founders.

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

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

injury in fact. (See, e.g., *Lujan v. Defenders of Wildlife* (1992) 504 U.S. 555, 560.) Federal courts may 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"].) Crucially, neither the U.S. nor the California Constitution limits state court plaintiffs to those who have suffered an injury in fact.

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 handful of decisions they rely on, the beneficial interest test contained in Code of Civil Procedure section 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* (May 20, 2025, No. H051407) 111 Cal.App.5th 330 [2025 WL 1450706, at *4]; *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 plaintiff's 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 [2025 WL 1450706, at p. *4] [citing cases].)

Given the lack of constitutional or general statutory limitations on standing in California courts, it is the specific statute under which a case is brought that determines whether potential plaintiffs may avail themselves of the protections of that law. (See *Modern Barber Colleges v. Cal. Employment Stabilization Com.* (1948) 31 Cal.2d 720, 726-727.) In other words, "California's Legislature has the power to grant litigants access to the state's own courts to vindicate rights the Legislature conferred." (*Chai v. Velocity Investments* (2025) 108 Cal.App.5th 1030, 1043.)

Applying the principles of California standing law to the present case is straightforward. Jimmy Kashanian meets the minimal constitutional and general statutory standards for bringing a claim: he 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 Rosenthal Fair Debt Collection Practices Act. (Civ. Code, § 1788 *et seq*.) Mr. Kashanian did not receive the consumer collection notice as required by the Legislature in the Rosenthal Act and related debt collection disclosure statutes. Under California law, therefore, Mr. Kashanian has standing to prosecute his claims.

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; see also *Turner v. Victoria* (2023) 15 Cal.5th 99, 111 ["At its core, standing concerns a specific party's interest in the outcome of a lawsuit"].) Those are the minimal factors that a party must demonstrate to seek relief in California's courts. (See *Weatherford*, *supra*, 2 Cal.5th at p. 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 Rosenthal Act. Mr. Kashanian therefore has standing to pursue his claims in superior court.

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

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"].)

While National Enterprise Systems, Inc. ("NES") purports to concede this proposition (Resp. Br. at p. 21), it nevertheless tries to impose an Article III-like injury-in-fact standard as the general standing rule in California courts. NES relies in this effort on the decisions in *Limon* and *Muha*, both of which root their standing analysis in a chain of authority that terminates in a single historical misapplication of the "beneficial interest" requirement for seeking a writ of mandate (Code Civ. Proc., § 1086). Properly construed, the beneficial interest requirement is simply a standard for a particular cause of action; it does not create a general rule for standing across California statutes or alter the rule that standing is determined by the relevant cause of action.

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 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]

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, forums 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,

---

[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.").

[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.")

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 . . . 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 Cal. Const., art. VI, § 10; see also *Wells*, *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

[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").

provisions, the legislature cannot either limit or extend that jurisdiction," quoting *Chinn v. Super. Ct.* (1909) 156 Cal. 478, 480].)[5]

No threshold "injury in fact" standard, like that set by the federal Constitution's Article III case and 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

---

[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 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").

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"].) 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.

---

[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.").

(See *Galpin v. Page* (1873) 85 U.S. 350, 365-366 [“a superior court of general jurisdiction, proceeding within 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 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 Am.* (1994) 511 U.S. 375, 377.) Federal standard 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.)

[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).

The concerns "rooted in the constitutionally limited subject matter 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 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 their different grants of jurisdiction. (*Jasmine Networks, Inc. v. Super. Ct.* (2009) 180 Cal.App.4th 980, 990.)[10]

That no case and 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

[10] See Williams, *supra* note 6, at pp. 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").

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 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,

---

[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 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).

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 any heightened standing requirement.

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

NES concedes—or appears to concede—that Article III standing does not apply in California courts. (Resp. Br. at p. 21.) But what NES gives with one hand it takes away with the other: without addressing the constitutional or statutory record in California, NES conjures a rule that plaintiffs in so-called "public interest" cases must satisfy a baseline standing inquiry, the "beneficial interest test," to proceed. Perhaps unsurprisingly, NES characterizes that test as "equivalent to the federal injury in fact test." (*Id.* at pp. 19-22, internal quotation marks omitted.) To reach that conclusion, NES relies on two court of appeal decisions—*Limon*, *supra*, 84 Cal.App.5th at p. 700, and *Muha*, *supra*, 106 Cal.App.5th at p. 208—which held (also without addressing the constitutional or legislative record) that the approach to standing for section 1085 writs of

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

mandate broadly governs standing in California courts. But there was no proper basis for *Limon*, followed by *Muha*, to adopt that approach; and, despite NES's claims, there is no basis for this Court to do so either.

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]; *People ex rel. Dept. of Conservation v. County of El Dorado* (2005) 36 Cal.4th 971, 988-989 [holding that agency director had a beneficial interest sufficient to seek a writ challenging surface mining reclamation plans]), or when they pursue analogous equitable actions against government authorities. (See *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]; *Teal v. Super. Ct.* (2014) 60 Cal.4th 595, 599-600 [finding standing to file a petition for recall of sentence under Pen. Code,

§ 1170.126, subd. (b)]; *Dix v. Super. Ct.* (1991) 53 Cal.3d 442, 450-454 [stating that the beneficial interest test applies under the extraordinary writ of prohibition, Code Civ. Proc., § 1102].)[15]

Applying the beneficial interest requirement across all causes of action, not just writs of mandate and similar provisions for equitable relief—as NES proposes and 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]

---

[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 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.

In certain circumstances even the writ's beneficial interest requirement can itself be relaxed. (See, e.g., *Environmental Protection Information Center v. Cal. Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 479-481.) That exception proves the rule: it confounds logic to argue that some background concrete harm requirement deriving from the writ of mandate's statutory procedures exists in *all* cases when those requirements do not apply even in all writ proceedings. Specifically, section 1085's broad public interest standing exception does not require any showing of concrete injury to sue for a writ of mandamus, and neither the Legislature nor the California Supreme Court has ever required it. (See, e.g., *Environmental Protection Information Center*, *supra*, 44 Cal.4th at 479-480 [holding that labor union had public interest standing to challenge industrial logging plan because "a public right and a public duty were at stake"]; *Green v. Obledo* (1981) 29 Cal.3d 126, 144-145 [finding that public benefits recipients had public interest standing to challenge regulation affecting benefits calculations].) In such instances, a party's interest for standing purposes is simply "as a citizen in having the laws executed and the duty in question enforced." (*Bd. of Social Welfare v. County of L.A.* (1945) 27 Cal.2d 98, 100-101.)

California courts regularly permit public interest plaintiffs to seek a writ of mandate even when they cannot meet the beneficial interest test of Code of Civil Procedure section 1086. (See, e.g., *Weiss v. City of Los*

Angeles (2016) 2 Cal.App.5th 194, 205-206 [affirming public interest standing for an individual challenging a city's hiring of third-party contractor to conduct the initial review of parking tickets because "ensuring that the City follows the proper procedure for processing and collecting parking tickets is a matter of public right," internal brackets omitted]; *Hector F. v. El Centro Elementary School Dist.* (2014) 227 Cal.App.4th 331, 341 [finding student's father had public interest standing to enforce anti-discrimination and harassment laws under the Education Code against school district]; *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 915-916 [holding nonprofit corporation had public interest standing to bring CEQA challenge "even if neither Rialto Citizens nor any of its members have a direct and substantial beneficial interest in the issuance of the writ"].) In these cases, a concrete injury in fact was not required even for parties seeking a writ of mandate under section 1085. It is therefore clearly not required, *sub silentio*, for the vast sweep of non-writ cases in California courts.[17]

[17] NES mischaracterizes the public interest exception as an exception to standing *in toto*. (Resp. Br. at p. 21.) To the contrary, the exception deals specifically with writs sought under section 1085.

2. The Precedents On Which NES Relies Provide No Grounds For The General Application Of Heightened Standing Requirements In California Courts.

The contrary assertion put forward by NES (see Resp. Br. at pp. 22-23) relies on a limited string of intertwined cases that all trace back to a common misinterpretation of the beneficial interest standard. Neither *Limon* nor *Muha*—nor NES 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 background heightened standing requirement in California's courts.

Instead, those cases, like NES's argument, rest entirely on a string of cases stemming from writ of mandate cases that has on occasion 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 section 1086. In the first of these, 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*, *Muha*, and now NES. (See *Holmes v. Cal. Nat. Guard* (2001) 90 Cal.App.4th 297, 315-316.) Although *Holmes* may not have been a section 1085 case, it involved analogous circumstances. Plaintiffs brought an action against public officials seeking equitable relief; the court seems to have looked to the standing analyses in similar section 1085 cases for that reason. (*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.[18] 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.5th at p. 699, emphasis omitted), 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.[19] Other cited decisions are, like *Holmes*, suits in equity largely analogous to writ of mandate cases; while technically and textually they are not subject to heightened standing requirements, there are arguably similar policy reasons for applying the same standard as in section 1086. And since these courts

---

[18] As such, NES's assertion that the beneficial interest "standard has become the applicable standard outside of the mandamus context" (Resp. Br. at p. 19, fn. 7) ignores the shaky foundation upon which those cases' conclusions rest.

[19] 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 S.F.* (2004) 116 Cal.App.4th 6, 14-15; App. Br., *Coral*, *supra*, 2003 WL 23153309, at p. *2.

similarly found standing even under the heightened standard, there was little reason to considered whether a lower standard should properly apply.[20] NES commits a similar error here (Resp. Br. at p. 18) by using this Court's decision in *Department of Consumer Affairs v. Superior Court* (2016) 245 Cal.App.4th 256, to argue that the beneficial interest inquiry is a threshold standing rule in all (or all public interest) cases: that decision, which sought declaratory relief, quoted directly from *Holmes*. (*Id.* at pp. 261-262.)

Finally, *Limon* cites a few cases that were not brought under Section 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.)[21] Not a single one of these decisions provides any additional

---

[20] See, e.g., *Teal*, *supra*, 60 Cal.4th at pp. 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*).

[21] 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

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.[22]

The court in *Muha v. Experian Information Solutions* 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 precede it, relies on decisions that involve equitable 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; see *supra*, fns. 20-21.) 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* at p. 208.)[23]

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 itself 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.

[22] 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.").

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

Ultimately this curious string of cases, including *Limon* and *Muha* themselves, is unconvincing. None of the decisions address 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 (see *supra*, Section I.A), or the role of the legislative branch as the arbiter of standing in California (see *infra*, Section II).

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, 458; *Claflin v. Houseman* (1876) 93 U.S. 130, 138-142.)[24] 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

[24] 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").

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—without sufficient analysis—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 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.

NES's attempt to expand the writ of mandate's beneficial interest standard into a broad-based standing requirement echoes similar efforts

across the United States to read a heightened injury-in-fact requirement into state courts. 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." (*Com. to Elect Dan Forest v. Employees Political Action Com.* (N.C. 2021) 376 N.C. 558, 608.)

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 statutory 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 *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 Undercut The Legislature's Express Intent And 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"].)[25]

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.[26] If those same litigants have to satisfy a stringent constitutional standing prerequisite in *state* court as well, they would likely have no access at all to a judicial resolution of their claims.[27]

---

[25] As Justice William Brennan explained, "State courts that rest their decisions wholly or even partly on state law need not apply federal principles of standing and justiciability that deny litigants access to the courts." (Brennan, *State Constitutions and the Protection of Individual Rights* (1977) 90 Harv. L.R. 489, 501.)

[26] 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 July 15, 2024) (recommending that filing consumer cases alleging intangible injuries in state court is an "attractive alternative" after *Ramirez*); 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 15, 2025) (anticipating such a trend).

[27] 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.

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.[28] Certain civil rights statutes with private rights of action are also crafted with

[28] 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 Reese-Levering Motor 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.)

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].)[29] 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 [2025 WL 1450706, at p. *4] ["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

[29] 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.").

their own state courts.[30] 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 III), 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 sweepingly rejecting procedural frustrations in favor of just and expeditious determinations on the ultimate merits," internal quotation marks omitted].) Yet that is precisely the outcome that NES's argument, if widely adopted, would achieve.

---

[30] 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).

II. STANDING IN CALIFORNIA COURTS IS DETERMINED BY STATUTE.

There are no significant constitutional limitations to standing in California courts. The sole requirements are the existence of a cause of action (*Parker*, *supra*, Cal.2d 344 at p. 351), and a sufficient interest in an actual controversy. (*Kim*, *supra*, 9 Cal.5th at p. 83; Civ. Code, § 367.) When the Legislature creates a cause of action—as it did when it enacted the Rosenthal Act—it determines who may bring a claim under the law. Whether standing remains at the default lenient level or is made more stringent for a given statute is therefore a *legislative* determination.

A. The Legislature Possesses Plenary Power To Create A Cause Of Action And To Establish Standing To Bring Suit.

It is emphatically the province of the California legislature (and voters)[31] to determine who has standing to bring suit under a particular statute. When the Legislature (or the electorate) creates a statutory cause of action, it creates a "party's right to make a legal claim" for a violation of the statute, and thus confers standing to seek relief in court. (*Dent v. Wolf* (2017) 15 Cal.App.5th 230, 233-234; see also *Librers v. Black* (2005) 129 Cal.App.4th 114, 124 [defining standing to sue as a "partys [*sic*] right to

[31] See Cal. Const., art. IV, § 1 ("The legislative power of this State is vested in the California Legislature . . . but the people reserve to themselves the powers of initiative and referendum.").

make a legal claim or seek judicial enforcement," quoting Black's Law Dict. (8th ed. 2004) p. 1442, col. 1].)

The Legislature retains "plenary" power to enact laws (*Matosantos*, *supra*, 53 Cal.4th at p. 254), including those that create statutory harms and remedies, and to determine how those laws may be exercised. (*Modern Barber*, *supra*, 31 Cal.2d at p. 726.) The Legislature "may create new rights or provide that rights which have previously existed shall no longer arise, and it has full power to regulate and circumscribe the methods and means of enjoying those rights." (*Ibid*.) Courts cannot impose any further showing under the statute. "Notwithstanding th[e] constitutional grant of jurisdiction" to superior courts, "the Legislature has complete power over the rights involved" in civil actions due to its authority to "create or abolish particular causes of action." (*Ib*. at p. 727.)

This rule contrasts with that of federal courts. Congress may define a cause of action by statute and a right to seek redress of a statutory violation, but Article III's case and controversy requirement compels federal courts to further scrutinize the harm resulting from that violation for injury in fact. (*Ramirez*, *supra*, 594 U.S. at pp. 426-428 ["[U]nder Article III, an injury in law is not an injury in fact."].) In California, however, in the absence of a statutory mandate, state courts are under no such obligation, and possess no such authority.

Legislative intent—ascertained through the statute's text, purpose, context, and legislative history—is the source of standards establishing standing for a given statute. (*Adolph v. Uber Technologies, Inc*. (2023) 14 Cal.5th 1104, 1120.) "Where . . . a cause of action is based on a state statute, standing is a matter of statutory interpretation." (*Ibid*.; see also *Turner*, *supra*, 15 Cal.5th at pp. 114-123 [finding broad standing to bring action for breach of charitable trust under the Nonprofit Corporation Law by analyzing the statutory text, legislative history, and purpose]; *In re Tobacco II Cases* (2009) 46 Cal.4th 298, 319 [evaluating proposition's language and ballot materials to determine standing for absent class members in Unfair Competition Law (UCL) class actions].) Obligating parties to establish a concrete injury in fact in addition to a statutory harm runs counter to the intent of the Legislature in enacting statutory causes of action. (See *White v. Square, Inc.* (2019) 7 Cal.5th 1019, 1024.) "Standing rules for statutes must be viewed in light of the intent of the Legislature and the purpose of the enactment." (*Ibid*.)

B. The Array of Different Statutory Standing Requirements In California Evinces The Legislature's Predominant Role In Determining Standing In California.

The fact that the Legislature and electorate can relax or tighten standing requirements for specific laws makes plain the legislative branch's singular role in defining standing. (See, e.g., Civ. Code, § 17204 [setting forth standing requirement to bring a UCL action]; Lab. Code, § 2699,

subd. (a) [defining standing under the Private Attorneys General Act].) The various standing requirements for public interest statutes are emblematic of the Legislature's role.

The Legislature can and has expanded standing in California state court in ways that would not be possible in federal court. For example, taxpayer standing, which authorizes actions by a private person against the officers of a local government to restrain the unlawful expenditure of public funds (Code Civ. Proc., § 526, subd. (a)) confers a special cause of action that necessitates "no showing of special damage to the particular taxpayer." (*White v. Davis* (1975) 13 Cal.3d 757, 764-765 [contrasting the statutory standing requirement with "restrictive federal doctrine" that required a "specific harm"].) In light of the statute's broad mandate, the California Supreme Court has repeatedly rejected attempts to limit taxpayer standing through imposition of an injury prerequisite. (See, e.g., *Weatherford, supra*, 2 Cal.5th at pp. 1249-1251 [ruling that the text of section 526a does not require plaintiffs to have paid property tax to have taxpayer standing]; *Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1086 [holding that taxpayers had standing to challenge the constitutionality of the city's anti-camping ordinance without alleging they had been cited under the ordinance or were homeless].) By contrast, taxpayer standing is not available in federal courts because it "does not give rise to the kind of redressable 'personal injury' required for Article III standing." (*Hein v. Freedom From Religion*

Foundation, Inc. (2007) 551 U.S. 587, 599; see *id.* at p. 602 [noting only one "narrow exception" to challenge government expenditures that violate the Establishment clause].)

Court-defined standing doctrine akin to that imposed by Article III would frustrate the goals of the Legislature to create a broad cause of action that empowers taxpayers to keep government accountable. (See *Thompson v. Spitzer* (2023) 90 Cal.App.5th 436, 454-455 ["[N]othing in the text of the statute requires a plaintiff to identify a person harmed by the program to maintain taxpayer standing, nor are we aware of any case law to this effect. We refuse to adopt such a requirement, as it would interfere with the goals of taxpayer standing."].)

The adoption of certain provisions *restricting* standing also makes plain that it is generally statutes and initiatives, not any other source of law, that confer (and limit) standing in California. For example, prior to 2004, private plaintiffs could file suit under the Unfair Competition Law even if they "had not been injured by the business act or practice at issue." (*Cal. Med. Assn. v. Aetna Health of Cal., Inc.* (2023) 14 Cal.5th 1075, 1086.) In 2004, however, California voters enacted Proposition 64, which "curtailed the universe of those who may enforce" the UCL to just "a person who has suffered injury in fact and has lost money or property as a result of the unfair competition." (*Kwikset*, *supra*, 51 Cal.4th at pp. 320-322; see Bus. & Prof. Code, § 17204, as amended.) The measure was intended to restrict

"the UCL's generous standing provision." (*Tobacco II Cases, supra,* 46 Cal.4th at p. 324.)

That a concrete injury in fact is now required under the UCL confirms that no such background standing requirement previously existed under the law; rather, it took a voter initiative to establish an injury-in-fact mandate. The example of the UCL also makes clear that the electorate, like the Legislature, can craft bespoke standing requirements for each statute: post-Proposition 64 standing under the UCL, for example, does not include the traceability or redressability elements of the Article III standing inquiry, but in other ways is even more restrictive in that it specifically requires the "loss of money or property." (*Cal. Med. Assn., supra,* 14 Cal.5th at pp. 1087-1088.)

Similarly, until recently, the Private Attorneys General Act (PAGA) conferred "fairly broad" standing for an "aggrieved employee" to bring an action against their employer on behalf of the Labor Commissioner for workplace violations. (*Adolph, supra,* 14 Cal.5th at pp. 1121-1122; see Lab. Code, § 2699, subd. (a).) The Legislature provided that any person "employed by the alleged violator" who experienced "one or more of the alleged violations" had a cause of action to bring a PAGA suit, "including a plaintiff who has suffered no actual injury." (*Kim, supra,* 9 Cal.5th at pp. 83-84, 86 [explaining that "[t]he state can deputize anyone it likes to pursue its claim," interpreting original statute].) The plain text of the law

and its legislative history demonstrated that the Legislature sought to avoid "restrict[ing] PAGA standing to plaintiffs with some 'redressable injury.'" (*Id*. at pp. 84, 90-91 ["The Legislature defined PAGA standing in terms of violations, not injury."].) However, last year, facing the threat of a ballot measure that might have repealed PAGA, the Legislature amended the law to restrict statutory standing only to those employees who "personally suffered each of the violations alleged." (Lab. Code, § 2699, subd. (c)(1), as amended by Stats. 2024, ch. 44, § 1 (Assem. Bill 2288).)

The varied and evolving jurisdictional standards pertaining to these statutes demonstrate the authority and the flexibility accorded to the legislative branch—the Legislature and the electorate—in setting standing requirements. The case law involving the two laws equally demonstrates the lack of latitude afforded to the judicial branch. As a general matter, litigants need not establish a concrete injury to file suit—unless the statute requires it. And that is a decision left to the Legislature or the voters, not the courts.

C. Once A Cause Of Action Is Identified, California Plaintiffs Only Need To Point To A Sufficient Interest In The Matter To Establish Standing.

The Legislature's ability to determine standing for each statute is unconstrained by state constitution or 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 v. Bd. of Supervisors* (1989) 49 Cal.3d 432, 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. County of L.A.* (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 "[e]very 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.[32] "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, internal quotation marks, brackets, and emphases omitted; *Matrixx Initiatives v. Doe* (2006) 138 Cal.App.4th 872, 877-878 [distinguishing

[32] 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.)

these prudential concerns from the injury in fact requirement derived from Article III].)[33]

III. BECAUSE THE ROSENTHAL ACT DOES NOT REQUIRE AN INJURY IN FACT, KASHANIAN HAS STANDING TO BRING HIS CASE IN CALIFORNIA COURTS.

The Rosenthal Fair Debt Collection Practices Act (Civ. Code, § 1788 *et seq.*) permits consumers whose statutory rights have been violated by debt collectors to sue for relief under the Act. No injury in fact is required. Mr. Kashanian has thus met the standing requirement to proceed with his lawsuit.

A. The Legislature Conferred Broad Standing On Consumers To Enforce The Protections Of The Rosenthal Act.

The text and stated purpose of the Rosenthal Act demonstrate the Legislature's intent not to impose any particular limitations on standing — least of all a concrete injury-in-fact requirement. The Legislature enacted the Rosenthal Act in 1977 "to provide public protection against unregulated debt collectors." (*Olson v. La Jolla Neurological Assocs.* (2022) 85 Cal.App.5th 723, 735.) Among other things, the law imposes basic notice and communication requirements on debt collectors. (See Civ. Code, §§ 1788.14, 1788.14.5.) In 2002, the Legislature enacted the Consumer

[33] 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").

Collection Notice Act ("CCNA") to strengthen the notice obligations for third-party collectors and better "inform debtors of their rights." (See Civ. Code, § 1812.700.)[34] Violators of the Rosenthal Act or the CCNA—which incorporates the enforcement provisions of Rosenthal (see *id.*, § 1812.702)—may be subject to claims for actual or statutory damages as well as attorneys' fees. (*Id.*, § 1788.30, subds. (a)-(c).)

The Legislature intended for private suits to be the principal mechanism for enforcement of the Rosenthal Act—and, by extension, the CCNA. The law creates a cause of action for "any person" whose rights under the Act are violated. (Civ. Code, § 1788.62, subd. (a) ["[A] debt buyer that violates any provision of this title with respect to any person shall be liable to that person . . . ."].) That standing under the Rosenthal Act is broadly defined accords with the remedial purpose of the Act's documentation and notice requirements. (See *Davidson v. Seterus, Inc.* (2018) 21 Cal.App.5th 283, 295 [stating that "[t]he Rosenthal Act is a remedial statute that should be interpreted broadly in order to effectuate its purpose," cleaned up].) Moreover, the original enrolled bill report submitted to then-Governor Jerry Brown makes clear that the law "creates

[34] Sen. Com. on Judiciary, Analysis of Sen. Bill No. 1022 (2003-2004 Reg. Sess.); see Stat. 2003, ch. 259.

an individual cause of action for the debtor for any violation by the debt collector of the provisions of this bill."[35]

Affording standing broadly to any Rosenthal or CCNA plaintiff who has suffered a notice violation ensures that the protections provided by the Legislature remain fully enforceable. If the Legislature intended for only those plaintiffs who suffered an injury in fact to have a cause of action, it could and would have done so in the statutory text. Yet the Legislature did not restrict (or, according to the legislative record, even contemplate restricting) standing in the original bill.[36] In fact, the Legislature has not enacted additional standing requirements in the various subsequent amendments to Rosenthal, or in other state laws governing the debt collection industry—almost all of which also contain private rights of action. (See, e.g., Civ. Code, § 1788 *et seq.* [Rosenthal Act]; *id.*, § 1788.62 [private right of action to enforce Fair Debt Buying Practices Act]; *id.*, § 1788.208 *et seq.* [Private Student Loan Collections Reform Act]; *id.*, § 1788.305 [Fair Debt Settlement Practices Act]; *Chai*, *supra*, 108 Cal.App.5th at pp. 1040-1041.)

The Legislature's decisions make sense. Although significant economic, reputational, and emotional harm can result from illegal debt

---

[35] Cal. Dept. of Finance, Enrolled Bill Report, S.B. 237 (1977-1978 Reg. Sess.) p. 1.

[36] See generally *id.*; Cal. Dept. of Consumer Affairs, Enrolled Bill Report, S.B. 237 (1977-1978).

collection practices,[37] 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 NES proposes, could result in widespread increases in robo-signing, lawsuits threatened against the wrong person, and other abusive practices—because debt collectors would enjoy de facto immunity for not maintaining adequate documentation practices and not providing proper notice to consumers.[38] Requiring a showing of concrete injury in California courts would, contrary to the Legislature's intent, render the Rosenthal Act largely unenforceable.

B. Kashanian Has Standing Under The Rosenthal Act To Bring His Claims In A California Court.

Mr. Kashanian satisfies the statutory standing requirement in the Rosenthal Act to pursue his action in California courts. He alleged (and NES concedes, Resp. Br. at p. 13, fn. 3) that he and other class members

---

[37] Assem. Com. on Judiciary, Digest of Sen. Bill No. 237 (1977-1978 Reg. Sess.) (noting that debt collection proceedings may "result in an invasion of the debtor's privacy or may cause some mental anguish or anxiety"); Cal. Dept. of Finance, Enrolled Bill Report, *supra* note 35, at p. 2 (same).

[38] See Fed. Trade Com., *Repairing A Broken System: Protecting Consumers in Debt Collection Litigation and Arbitration* (2010) <https://perma.cc/FDX4-ZJF2> (describing how collectors falsely represent amounts owed, causing consumers to potentially pay debts they do not owe and disallowing others from being able to stop efforts to collect because they do not know how much they owe). The Legislature considered this report in the enactment of the FDBPA. (Assem. Com. on Judiciary, Digest, *supra* note 37, at pp. 4-5; Sen. Com. on Judiciary, Analysis, *supra* note 34, at pp. 5-6.)

did not receive the type of notice required by the CCNA. (See App. Br. at pp. 15-16.) That violation gave rise to a cause of action under the CCNA and the Rosenthal Act. Mr. Kashanian has a direct and personal interest in the outcome of the suit: he is being pursued by a debt collector, he did not receive the statutorily prescribed notice, and he is entitled to legislatively approved redress for that violation. (See Civ. Code, § 1788.30 [conferring the right to sue under the Rosenthal Act for a violation of "this title"]; *id.*, § 1788.702, subd. (a) [providing that any violation of the CCNA is a violation of Rosenthal].) 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 Rosenthal Act without any concomitant requirement for an injury in fact or beneficial interest, Mr. Kashanian is able—because he has brought his case in California state court—to do something too often unavailable to people in his position: he is able to access justice.

CONCLUSION

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

Dated: June 16, 2025

Respectfully submitted,

/s/ SETH E. MERMIN
SETH E. MERMIN
(SBN: 189194)
DAVID S. NAHMIAS
(SBN: 324097)
JORDAN HEFCART
UC BERKELEY CENTER FOR CONSUMER LAW & ECONOMIC JUSTICE
305 Berkeley Law
Berkeley, CA 94720-7200
tmermin@law.berkeley.edu
dnahmias@law.berkeley.edu
Telephone: (510) 643-3519

Counsel for Amici Curiae

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 11,975 words based on the word count of the program used to prepare the brief.

Dated: June 16, 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:**

Attorneys for Plaintiff-Appellant
Frederick W. Schwinn
Raeon R. Roulston
Matthew C. Salmonsen
CONSUMER LAW CENTER, INC.
38 West Santa Clara Street
San Jose, CA 95113

Attorneys for Defendant-Respondent
Justin M. Penn
Sara E. Franks
HINSHAW & CULBERTSON, LLP
11601 Wilshire Blvd., Suite 800
Los Angeles, CA 90025

Brian E. Whittemore
HINSHAW & CULBERTSON, LLP
50 California Street, Suite 2900
San Francisco, CA 94111

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on June 16, 2025, in Berkeley, CA.

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