No. B337904

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

STACY KATE YEH, et al.,
Plaintiffs-Appellants,

v.

BARRINGTON PACIFIC, LLC, et al.,
Defendants-Respondents.

Superior Court for the County of Los Angeles
Case No. 20STCV42994
Hon. Thomas D. Long

BRIEF OF AMICI CURIAE UC BERKELEY CENTER FOR CONSUMER LAW & ECONOMIC JUSTICE, CENTER FOR CALIFORNIA HOMEOWNER ASSOCIATION LAW, COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, CONSUMERS FOR AUTO RELIABILITY AND SAFETY, CONSUMER WATCHDOG, EAST BAY COMMUNITY LAW CENTER, HOUSING AND ECONOMIC RIGHTS ADVOCATES, IMPACT FUND, KATHERINE & GEORGE ALEXANDER COMMUNITY LAW CENTER, OPEN DOOR LEGAL, PUBLIC COUNSEL, PUBLIC JUSTICE, PUBLIC LAW CENTER, AND THE UNIVERSITY OF SAN DIEGO SCHOOL OF LAW LEGAL CLINICS IN SUPPORT OF PLAINTIFFS-APPELLANTS

SETH E. MERMIN (SBN 189194)
DAVID S. NAHMIAS (SBN 324097)
LÉO MANDANI
UC Berkeley Center for
Consumer Law & Economic Justice
308 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

CONSTITUTIONAL PROVISIONS

LEGISLATIVE MATERIALS

TREATISES

OTHER AUTHORITIES

INTEREST OF AMICI CURIAE

Amici curiae are fourteen nonprofit organizations that represent and advocate for economic justice on behalf of consumers, workers, and vulnerable populations in California. In their advocacy, amici regularly 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*.).[1] Amici appear in this proceeding to provide a broader and deeper 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 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 (§ 1788.50 *et seq.*) requires an injury in fact]; *Kashanian v. National Enterprise Systems, Inc.* (2025) (A171046, app. pending) [regarding standing to bring a claim under Rosenthal Fair Debt

[1] All further statutory references are to the Civil Code unless otherwise indicated.

Collection Practices Act (§ 1788 *et seq.*) in state court]; *Parsonage v. Wal-Mart Associates, Inc.* (2025) (D083831, app. pending) [ICRAA].)

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 individuals without deep pockets to enforce their statutory 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 the State—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 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.[2] That standard differs from the federal courts, which must adhere to the standing requirement imposed by Article III of the United

[2] 13 Wright & Miller, Federal Practice & Procedure (3d ed. 2023) Courts of Limited Jurisdiction § 3522 (hereafter "Wright & Miller").

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.

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 a deviation from a bedrock principle of California jurisdictional law. *Limon*, its companion *Muha v. Experian Information Solutions* (2024) 106 Cal.App.5th 199, and the outlying string of decisions they rely on erroneously grafted the beneficial interest test contained in the writ of mandate (Code Civ. Proc., §§ 1085-1086), broadly onto all statutes. To the contrary, the beneficial

interest test is limited to the writ 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, 343; see *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*, at p. 751 [citing cases].)

Barrington 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. (RB at 21, 24-25; see *Modern Barber Colleges v. Cal. Employment Stabilization Com.* (1948) 31 Cal.2d 720, 726-727 ["[T]he Legislature has complete power over the

rights involved in [all civil] actions and may either create or abolish particular causes of action"].) But Barrington 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's ability to ease standing an "exception, not the rule." (RB at 21-22.)

Barrington 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 instances 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 at p. 751.) In other words, the Legislature possesses the plenary "power to grant litigants access to the state's own courts to vindicate rights the Legislature conferred." (*Chai*, at p. 1043.)

Applying the principles of California standing law to the present case is straightforward. Stacy Yeh and the other plaintiff tenants meet the minimal constitutional and general statutory standards for bringing a claim: they have 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 ICRAA. The tenants here did not

receive the proper notices and copies of their credit reports as required by the Legislature in the Act. (AOB at 14-15.) Under California law, therefore, Ms. Yeh and the other tenants have standing to pursue their 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 v. Bowron*, *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.) 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 [observing 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 is "a matter of statutory interpretation . . . which varies according to the intent of the Legislature." (*Guracar*, *supra*, 111 Cal.App.5th at pp. 342-343

[quoting *Adolph v. Uber Technologies* (2023) 14 Cal.5th 1104, 1120, and *Angelucci*, *supra*, 41 Cal.4th at p.175]; *Chai*, *supra*, 108 Cal.App.5th at p. 1037.) The Legislature imposed no concrete injury requirement in the ICRAA. The tenants therefore have standing to pursue their claims in superior court.

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

The requirement of an injury in fact imposed by the "case or controversy" requirement of Article III of the United States Constitution "does not apply in state courts." (*Grosset*, *supra*, 42 Cal.4th at p. 1117 & fn. 13.) 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.[3] 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. Barrington's back-door attempt to establish a baseline injury-in-fact standard by shifting the lenient default "interest" standard to a heightened "concrete 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.

[3] 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").

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 comparable to the "case or controversy" standard in federal court.

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. California's superior courts are authorized to exercise "original jurisdiction in all . . . causes." (Cal. Const., art. VI, § 10; 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.) This provision embodies "the state Constitution's broad conferral of jurisdiction." (*Donaldson v. Nat. Marine, Inc.* (2005) 35 Cal.4th 503, 512; see also *Wells*, at pp. 472-473 [stating that "cause" in section 10 confers a "broad meaning" with an "all-embracing application"].)[4] The general

[4] See also Doggett, *"Trickle Down" Constitutional Interpretation: Should Federal Limits on Legislative Conferral of Standing Be Imported into State*

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]

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 "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

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

limited jurisdiction that constitute 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"].) 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*

[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 3, at p. 1886 (noting that "commentators have recognized that significant institutional differences distinguish many state courts from federal courts").

[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 3, 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").

(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"] [evaluating a matter that originated in the California courts]; Wright & Miller, *supra*, § 3522.)

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.'"

[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).

(*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 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, significantly limited the general jurisdiction of the California courts.

[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").

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 Constitution, which controls today, retains that same broad jurisdictional grant to state courts in article VI, section 10.[12] Notably, the federal Constitution—with its case-or-controversy requirement—was not a source of inspiration for the drafters of the jurisdictional standards of either California charter.[13] The historical record contains no evidence that the delegates to either of California's

[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.) The constitution of New York, the other document that the drafters largely considered, did not contribute to article VI, section 6 of the California Constitution. (Burlingame, *The Contribution of Iowa to the Formation of the State Government of California in 1849* (1932) 20 Iowa J. Hist. & Pol. 182, 215).

[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] See Saunders, *California Legal History: The California Constitution of 1849* (1998) 90 Law Library J. 447, 457-458; Burlingame, *supra* note 11, 209-212, 215; 3 Willis & Stockton, *supra* note 15, at pp. 1514-1515.

constitutional conventions referenced or considered adopting the jurisdictional limits of the federal case and controversy regime.[14] Moreover, the state Constitution has been amended over 500 times,[15] and neither the Legislature nor the voters of California has ever adopted a constitutional provision imposing an injury in fact or other restriction on standing.

The text, history, and development of the California Constitution make plain that the state charter provides for broad and general jurisdiction in the superior courts and imposes no heightened standing requirement.

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

[14] For an examination of the 1849 Constitution, see Saunders, *supra* note 13. For the record of the 1879 Constitution, see 2 Willis & Stockton, Debates and Proceedings, California Constitutional Convention 1878-1873, pp. 966-967; 3 Willis & Stockton, *supra* note 15, at pp. 1333-1334, 1514-1515; 1521-1522; Blume, *supra* note 12, at pp. 165-169 (discussing the jurisdiction of the superior courts).

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

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"].)

Barrington nonetheless contends that heightened standing represents the default level required in California courts. (See RB at 22.) For this remarkable contention—a funhouse mirror image that inverts actual California standing jurisprudence—Barrington relies primarily on two recent court of appeal decisions that rest on very shaky ground: *Limon*, *supra*, 84 Cal.App.5th at p. 704, from the Fifth District, and *Muha*, *supra*, 106 Cal.App.5th at p. 208, from the Fourth District, Division 3. 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, *Limon*, *supra*, 84 Cal.App.5th at pp. 692-693) 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 by itself strongly 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, the Court has interpreted this narrowly applied standard 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 in two scenarios: first, where plaintiffs 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 an association had "the direct, substantial sort of beneficial interest" necessary to seek a writ of mandate in a California Environmental Quality Act challenge]); and second, when plaintiffs 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].)[16]

[16] The only other place in which the "beneficial interest" test applies is in the unrelated context of real property, corporate, and trust law, from which the principle of a beneficial interest derives. (See, e.g., *Prang v. L.A. County Assessment Appeals Bd.* (2024) 15 Cal.5th 1152, 1178 [explaining the "beneficial interest" of stockholders in a corporation]; *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 export 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 monetary relief.[17] Moreover, the extension of a heightened jurisdictional standard for writs of mandate to all civil cases would constitute a significant self-imposed curtailment of the judiciary's authority to hear all manner of disputes under California laws.

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

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

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

The contrary assertion put forward by Barrington (see RB at 22-23, 27-30) 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 Barrington here—grapples 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 exceptions to lenient standing provided in the text of 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 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 in *Holmes v. California National Guard* (2001) 90 Cal.App.4th 297, 315-316, applied the language of *Carsten* and *Associated Builders* in a way that would eventually give rise to the small, peculiar line of decisions relied on by *Limon* and *Muha*—and Barrington here. (RB at 19-20). Although it is not clear that *Holmes* was a section 1085 action, the case at least involved circumstances analogous to those actions: the plaintiffs brought an action against public officials seeking equitable relief, and 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, whether there would also be standing under a less stringent standard was unnecessary to examine.

After the *Holmes* decision, a number of other appellate courts 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*—and relied on by Barrington here (RB at 20-22)—are either writ of mandate cases and therefore fall within the statutory scope of section 1086 or are, like *Holmes*, suits in equity analogous to writ of mandate cases. (See, e.g., *Iglesia Evangelica Latina, Inc. v. Southern Pacific Latin Am. Dist. of the Assemblies of God* (2009) 173 Cal.App.4th 420, 445 [involving a claim for injunctive relief and citing, without analysis, *Carsten* and *Holmes*].) Since these courts found standing even under the heightened standard, they had no reason to consider whether a lower standard should properly apply. *Limon* and Barrington also cite several damages cases that 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," with citation to the *Carsten* and/or *Holmes* decisions.

(*Limon*, *supra*, 84 Cal.App.5th at p. 699; see, e.g., *Boorstein v. CBS Interactive, Inc.* (2013) 222 Cal.App.4th 456, 466; *CashCall, Inc. v. Super. Ct.* (2008) 159 Cal.App.4th 273 [subj. of lender's recorded debt collection calls in violation of eavesdropping law presumed to meet beneficial interest test].) 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.[18]

The court in *Muha v. Experian Information Solutions*, also relied on by Barrington (e.g., RB at 22), 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 remedies tracing back to *Holmes* and *Carsten*. (*Ibid.*, citing *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.)[19]

[18] A final case cited in *Limon* and Barrington, *Schoshinski v. City of Los Angeles* (2017) 9 Cal.App.5th 780, 791, analyzes mootness, not standing.
[19] 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.

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.

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.)[20] 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

[20] 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 when there is no explicit federal statutory bar "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 for statutory causes of action 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 when 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 purpose to cases wholly outside that context. The cases that have done so, like *Limon* and *Muha*, can and should be recognized as outliers.

C. 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-like injury in fact would severely undermine the longstanding role of the

California judiciary in providing ready 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.[21] 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.

Moreover, grafting an Article III standing requirement onto state court jurisdiction could undermine the many California statutory

[21] 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).

protections enacted by the Legislature with statutory damages provisions. 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 would not satisfy Article III standing after *Spokeo, Inc. v. Robins* (2016) 578 U.S 330, and *TransUnion LLC v. Ramirez* (2021) 594 U.S. 413—and allow consumers and workers to bring private lawsuits in court to remedy those harms.[22] Consumer privacy regimes like the California Consumer Privacy Act and the ICRAA that are intended to protect individuals against unauthorized disclosure of their personal information also rely on private suits in which a

[22] See, e.g., § 1770, subd. (a)(27) (misrepresentation of goods under the Consumer Legal Remedies Act as "Made in California"); § 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); §§ 1788.14, 1788.30 (disclosure and notice requirements under the Rosenthal Fair Debt Collection Practices Act); §§ 2982-2983 (disclosure requirements on conditional sales contracts and private right of action under the Rees-Levering Motor Vehicle Sales and Finance Act); Bus. & Prof. Code, § 17533.7 (prohibiting misrepresentation of goods as being "Made in U.S.A." that were produced outside of the U.S. under the False Advertising Law); *id.*, §§ 22444-22445 (misrepresentations about immigration services made by non-lawyer immigration consultants to clients); 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.)

concrete and particularized injury in fact may be difficult to establish.[23] Certain civil rights statutes 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 would otherwise be 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].) 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

[23] § 1785.31, subd. (a) (private right of action to challenge violations of the California Consumer Credit Reporting Agencies Act); § 1798.82, subd. (a), § 1798.84 (requirement to disclose any breach of consumer information under California Data Breach Notification Act); § 1798.150 (private right of action to redress unauthorized access or disclosure of personal information under the California Consumer Privacy Act); see also Citron & Solove, *Privacy Harms* (2022) 102 Bost. U. L.Rev. 793, 830 (observing that "[f]or many types of privacy harms, the law lacks clarity and consistency as to whether the harm is cognizable").

motivated to pursue it." (*Chai*, *supra*, 108 Cal.App.5th at p. 1040; see also *Guracar*, *supra*, 111 Cal.App.5th 330, 343 ["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 enforcement of statutory protections for Californians in their own state courts. It would create a bizarre scenario in which hundreds if not thousands of statutes, duly enacted by the California Legislature, are rendered largely unenforceable. 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.[24]

It is difficult to imagine the courts of California broadly countenancing that result and its pernicious impact on access to justice. Yet

[24] Notably, similar attempts across the nation to compel the adoption of an Article III standing framework have met little success. At least two state supreme courts have held that standing in those states' courts does not require an injury in fact, and at least three more are currently considering the matter after intermediate appellate courts similarly rejected a heightened standard. (*Case v. Wilmington Trust, N.A.* (Tenn. 2024) 703 S.W.3d 274; *Committee to Elect Dan Forest v. Employees Political Action Committee* (N.C. 2021) 376 N.C. 558, 600; *Fausett v. Walgreen Co.* (Ill. Ct. App. 2024) 256 N.E.3d 1087; *Gudex v. Franklin Collection Service, Inc.* (Wis. Ct. App. 2024) 18 N.W.3d 441; *Voss v. Quicken Loans, LLC* (Ohio Ct. App., Jan. 5, 2024, No. C-230065, 2024 WL 66762, at pp. *4-5.)

that is precisely the outcome that Barrington's argument, if widely adopted, would achieve.

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; Code Civ. Proc., § 367.) When the Legislature creates a cause of action—as it did when it enacted the ICRAA—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 Legislative Branch 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 the voters (see Cal. Const., art. IV, § 1) to determine who has standing to bring suit under a particular state 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 "party[']s right to 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. "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." (*Id*. 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 or 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."].)

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*, *supra*, 14 Cal.5th at p. 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 Legislative Branch's Exclusive 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., Bus. & Prof. 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 function.

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[25].) Court-defined standing

[25] The one "narrow exception" is to challenge government expenditures that violate the Establishment Clause and is irrelevant. (*Hein*, *supra*, at p. 602.)

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.)

The adoption of certain provisions *restricting* standing also makes plain that only statutes and initiatives, not any other source of law, 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 impose an injury-in-fact requirement. 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 an 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).)[26]

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 these 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—that changes only if 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, Plaintiffs In California 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 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. (*Common Cause*, *supra*, 49 Cal.3d at pp. 439-440.)

[26] Barrington concedes, as it must, that PAGA "open[s] the proverbial doors of the courthouse regardless of whether [the plaintiff] had an actual injury," but that that is "an exception, not the rule." (RB at 26.) As demonstrated above, Barrington has it backwards: the default rule is that standing in state court is readily available; it is only when the legislature or voters specifically and expressly act that the standard is tightened.

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 Code of Civil Procedure does not interpose any additional requirements, including those imposed by Article III. (*Jasmine*, *supra*, 180 Cal.App.4th at p. 991.) Section 367 assures that there is 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.[27] "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].)[28]

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[27] 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.)

[28] 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"].) In any

III. BECAUSE THE ICRAA DOES NOT REQUIRE AN INJURY IN FACT, THE TENANTS HAVE STANDING TO BRING THEIR 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. Ms. Yeh and the other tenants has thus met the standing requirement to proceed with her lawsuit.

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

The text and stated purpose of the Investigative Consumer Reporting Agencies Act demonstrate the Legislature's intent not to impose particular limitations on standing—least of all a concrete injury-in-fact requirement. Consumer credit reports, the subject of the ICRAA, contain crucial personal information and are instrumental for any person to participate in the national economy. "A credit report can determine everything from whether a person can secure a credit card, purchase a home, win a new job, or start a small business." (*Dep't of Agriculture Rural Dev. Rural Housing Service v. Kirtz* (2024) 601 U.S. 42, 45 [interpreting the federal Fair Credit Reporting Act (FCRA)]; see § 1786, subd. (a) [finding that "[i]nvestigative consumer reporting agencies have assumed a vital role in collecting, assembling,

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event, amici agree with the tenants here that they maintain a sufficient direct interest in this proceeding to satisfy Section 367. (See AOB at 51.)

evaluating, compiling, reporting, transmitting, transferring, or communicating information on consumers for employment and insurance purposes, and for purposes relating to the hiring of dwelling units, subpoenas and court orders, licensure, and other lawful purposes"].) Mistakes on consumer reports—or worse, fraud and identity theft—can inflict significant harm on people's daily lives. (*Kirtz*, at p. 48.)

In recognition of the essential role of consumer reports, the Legislature enacted the ICRAA in 1975 to protect information on those reports and ensure "that investigative consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy." (§ 1786, subd. (b).) The law imposes numerous disclosure, authorization, and procedural requirements on investigative consumer reporting agencies and those persons who procure such reports. (See §§ 1786.10-1786.40.) Because the Legislature intended private litigation to be the principal mechanism to enforce the ICRAA, the law provides a cause of action to any consumer who is the subject of an investigative consumer report and suffers a statutory violation. (§ 1786.50.) Violators of the ICRAA may be liable for actual or statutory damages, costs, attorneys' fees and, in cases of "grossly negligent or willful violations," punitive damages. (*Ibid*.)

The Legislature crafted the ICRAA to confer greater protections for consumers than those available on the federal level through the FCRA. The

authors of the original bill, Assemblymembers Jerry Lewis and Gene Chappie observed a "definite need to enact stricter provisions" and establish "more stringent guidelines" for handling consumer reports in California than those provided by the FCRA.[29] According to the California Department of Consumer Affairs, "the FCRA has been declared inadequate in a number of respects by the agency responsible for its enforcement, the Federal Trade Commission," and the ICRAA and its companion law the Consumer Credit Reporting Agencies Act (CCRAA) "provide badly needed protections for California consumers in areas where the FCRA has proved most sadly deficient."[30] Underscoring the point, industry groups opposed ICRAA in large part because the California law was stricter than federal law.[31]

The Legislature expressly intended to differentiate between the ICRAA and the FCRA (see *Connor v. First Student, Inc.* (2018) 5 Cal.5th 1026, 1032 [observing that the ICRAA and FCRA serve "complementary, but not identical, goals"]), and signaled its intent to confer, in the ICRAA, "more stringent and comprehensive" protections and remedies to California

[29] Assemblyman Jerry Lewis, press release on Assem. Bill No. 601 (1975-1976 Reg. Sess.) Jan. 28, 1975; Assemblyman Gene Chappie, press release on Assem. Bill No. 601 (1975-1976 Reg. Sess.) Mar. 19, 1975 (same).
[30] Dept. Consumer Affairs, Enrolled Bill Rep. on Assem. Bill No. 601 (1975-1976 Reg. Sess.) Sept. 17, 1975, p. 1.
[31] See, e.g., George L. Richards, George A. Richards & Sons, Inc., letter to Senator Alfred H. Song, Aug. 11, 1975 (contending that Assembly Bill 601 "goes far beyond [FCRA]).

consumers.[32] For example, the state law holds consumer reporting agencies strictly liable for any harm caused by their non-compliance with its procedures (§ 1786.50, subd. (a)); by contrast, liability for statutory damages under the FCRA requires a showing of a willful intent to mishandle credit reporting data. (See 15 U.S.C. § 1681n.[33]) The ICRAA also provides consumers with a greater range of mechanisms to retrieve their information, including a right to visually inspect a credit report, than does the federal law. (§ 1786.10, subd. (a).)[34]

That the ICRAA creates a statutory award for violations (§ 1786.50)—whether conceived of as penalties or statutory damages—as an alternative to actual damages reflects the Legislature's intent to provide a remedy for any statutory violation, irrespective of concrete harm. As the Department of Consumer Affairs explained, "[A]ctual damages are extremely difficult to determine [and] there is little incentive for the

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[32] Assem. Com. on Finance, Insurance & Commerce, Analysis of Assem. Bill No. 601 (1975–1976 Reg. Sess.) as amended Apr. 9, 1975.
[33] *Ibid.*
[34] *Ibid.* Barrington nevertheless asserts that FCRA and ICRAA must be read *in pari materia*. (RB at 32.) However, that canon of statutory construction "makes the most sense when the statutes were enacted by the same legislative body at the same time." (*Erlenbaugh v. United States* (1972) 409 U.S. 239, 244; see *Stevenson's Heirs v. Sullivant* (1820) 18 U.S. 207, 220 [applying the canon to acts made by the same legislature during the same session].) A federal law enacted by Congress and its state analogue enacted by the California Legislature, while addressing similar subject and purpose, do not necessarily demand an equivalent construction, especially when the Legislature evidences its intent to deviate from the federal law.

consumer to exercise his right to sue [under the FCRA] in the event of negligent compliance and little incentive for the consumer reporting agency to comply with the [FCRA]."[35] The Legislature has successively increased the statutory damages under the ICRAA from $300 in 1975 to $2,500 in 1998 to $10,000 in 2001; in 2003, it created a nuanced scheme with $2,500 per violation and no stated limitation on liability for willful violations.[36] Crucially, however, the Legislature never required consumers to prove an injury in fact in order to become eligible for statutory damages.

Affording broad standing to any ICRAA plaintiff who has suffered a procedural or disclosure violation ensures that the protections provided by the Legislature remain fully enforceable. If the Legislature had intended to limit causes of action only to those consumers who suffered a concrete injury in fact, it could have do so—yet at no point has the Legislature ever evinced an intent to interpose a particular standing requirement to challenge violations of the ICRAA.[37] In fact, the record shows that industry groups

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[35] Dept. Consumer Affairs, Enrolled Bill Rep., *supra* note 30, pp. 2–3.)

[36] Stats. 1998, ch. 988, § 12; Stats. 2001, ch. 354, § 18; Stats. 2003, ch. 146, § 2; see also Sen. Com. on Judiciary, analysis of Sen. Bill No. 1454 (1997–1998 Reg. Sess.) May 5, 1998, p. 5 ("The existing penalty of $300 for false information contained in a report is not a sufficient incentive to insure accuracy").

[37] For example, following the 2001 amendments to ICRAA, the Legislature introduced and passed "clean up legislation" in order to "resolve some of the issues that have arisen out of the changes made last year to [ICRAA]." (Assem. Com. on Judiciary, analysis of Assem. Bill No. 2868 (2001–2002 Reg. Sess.) May 7, 2002, p. 1.) None of the amendments introduced in

opposed to the bill understood that the bill provided a cause of action for consumers to enforce its provisions even absent a concrete injury in fact. Those groups decried ICRAA's strict liability regime and the Legislature's apparent intention to "award damages [to prevailing plaintiffs] without regard to whether the individual has ever suffered damages."[38] Industry noted that "even a simple typographical error could give rise to litigation and minimum damages of $300 and attorney's fees, *although no actual damage has occurred* to the consumer."[39] Another group expressed its opposition to the statutory damages imposed "regardless of any actual damages."[40]

As Barrington concedes (RB at 22, 31), the availability and type of remedies under a statute is irrelevant to whether a plaintiff may bring a cause of action to vindicate rights afforded under that statute. (See *Clayworth v. Pfizer, Inc.* (2010) 49 Cal.4th 758, 789 [disapproving of an argument that "conflates the issue of standing with the issue of the remedies

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Assembly Bill 2868 addressed the private right of action. (See Stats. 2002, ch. 1029, § 7.)

[38] Donald Carlton Burns, Legis. Counsel, Retail Credit Company, letter to Governor Edmund G. Brown, Jr. (1975–1976 Reg. Sess.) Sept. 22, 1975 (urging, on behalf of the Retail Credit Company, a veto of Assembly Bill 601).

[39] *Ibid.*, emphasis added.

[40] George Joseph, President, Mercury Casualty Co., letter to Governor Edmund G. Brown, Jr. (1975–1976 Reg. Sess.) Sept. 25, 1975 (urging veto of Assembly Bill 601).

to which a party may be entitled"].) "That a party may ultimately be unable to prove a right to damages . . . does not demonstrate that it lacks standing to argue for its entitlement to them." (*Ibid*.) Furthermore, even assuming *arguendo* that the ICRAA's remedies were relevant to standing to bring a case under the Act (see RB 32-37), the remedies afforded under the FCRA simply do not bear on the question of standing under the ICRAA. Yet Barrington still attempts to conjure to conjure a rule that an injury in fact is a prerequisite to seeking statutory damages in California state court. (RB at 23.) There is simply no support for that proposition.

In enacting the ICRAA, the Legislature established statutory disclosure provisions and authorized any consumer who suffered a violation to sue for monetary relief that complements the rights and remedies of the FCRA. It did not impliedly adopt any universal, jurisdictional injury-in-fact standard, least of all the stringent test that the U.S. Supreme Court applied in *Spokeo* and *Ramirez.* (See *supra*, Section I.A.) Accordingly, even if the courts in *Limon* and *Muha* were correct about the FCRA—which they were not—their conclusions about standing to bring a FCRA claim in California cannot be imported to assess standing to bring ICRAA claims. (See *Limon*, *supra*, 84 Cal.App.5th at pp. 706-707; *Muha*, *supra*, 106 Cal.App.5th at pp. 209-210).

The Legislature's decision to confer standing under ICRAA broadly makes sense. Although significant economic, reputational, and emotional

harm can result from inadequate and inaccurate consumer reporting, those harms can be difficult to measure or quantify. To read the Act's private right of action as limited only to parties who can allege a separate concrete injury could result in widespread increases in undisclosed background checks, inaccurate reporting, and other violations—because reporting agencies and users would enjoy de facto immunity for failing to maintain proper disclosure and authorization procedures. Requiring a showing of concrete injury in California courts would, contrary to the Legislature's intent, render the ICRAA's disclosure and procedural protections largely unenforceable. (See, e.g., § 1786, subd. (e) ["Because notice of identity theft is critical before the victim can take steps to stop and prosecute this crime, consumers are best protected if they are automatically given copies of any investigative consumer reports made on them"].) Just as California courts have held for other disclosure-based statutes, failure to comply with ICRAA's provisions is sufficient standing "to sue for the violation of [] statutory rights." (*Chai*, *supra*, 108 Cal.App.5th at p. 1040 [Fair Debt Buying Practices Act]; *Guracar*, *supra*, 111 Cal.App.5th at p. 343 [Private Student Loan Collections Reform Act].)

B. The Tenants Have Standing Under The ICRAA To Bring Their Claims In California Court.

Stacy Yeh and the other tenants in this case satisfy the minimal statutory standing requirements set forth by the Legislature in the ICRAA.

It is undisputed that she did not receive the notices and a copy of her consumer report as required by Section 1786.16 of the Civil Code. (See AOB at 14-15; RB at 13.) Those assertions are sufficient to establish the tenants' standing to bring this case.[41]

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, Stacey Yeh and the other Tenants are able—because they have brought their case in California state court—to do something too often unavailable to people in their position: they are able to access justice.

CONCLUSION

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

Dated: August 21, 2025

Respectfully submitted,

/s/ SETH E. MERMIN
SETH E. MERMIN
(SBN 189194)
DAVID S. NAHMIAS
(SBN 324097)
LÉO MANDANI

[41] By paying money for a consumer report that she did not receive, Yeh also suffered economic injury, "a classic form of injury in fact." (*Kwikset*, 51 Cal.4th at p. 324; see AOB at 57-58; Reply at 42-44.)

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

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 11,922 words based on the word count of the program used to prepare the brief.

Dated: August 21, 2025

By: /s/ *David S. Nahmias*
David S. Nahmias

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 & ECONOMIC JUSTICE, CENTER FOR CALIFORNIA HOMEOWNER ASSOCIATION LAW, COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, CONSUMERS FOR AUTO RELIABILITY AND SAFETY, CONSUMER WATCHDOG, EAST BAY COMMUNITY LAW CENTER, HOUSING AND ECONOMIC RIGHTS ADVOCATES, IMPACT FUND, KATHERINE & GEORGE ALEXANDER COMMUNITY LAW CENTER, OPEN DOOR LEGAL, PUBLIC COUNSEL, PUBLIC JUSTICE, PUBLIC LAW CENTER, AND THE UNIVERSITY OF SAN DIEGO SCHOOL OF LAW LEGAL CLINICS IN SUPPORT OF PLAINTIFFS-APPELLANTS

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

Attorneys for Plaintiffs-Appellants

Ari J. Stiller
STILLER LAW FIRM
ari@stillerlawfirm.com
16133 Ventura Blvd., Ste 1200
Encino, CA 91436
(818) 381-9951

Michael A. Shakouri
META LAW GROUP, APC
mshakouri@metalawgrp.com
1801 Century Park East, Ste 2500

Los Angeles, CA 90067
(310) 563-7002

Erik S. Velie, SBN 252446
VICTORY LAW GROUP, LLP
consumerlaw@victorylawllp.com
24324 Walnut St., Ste A
Newhall, CA 91321
(424) 384-0015
Attorneys for Defendants-Respondents

Justin Penn
jpenn@hinshawlaw.com
Sara Franks
sfranks@hinshawlaw.com
HINSHAW & CULBERTSON LLP
350 South Grand Ave., Suite 3600
Los Angeles, CA 90071-3476

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on August 21, 2025, in Oakland, CA.

By: /s/ *David S. Nahmias*
David S. Nahmias