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Via Email Only

California Court of Appeal
Second Appellate District, Division 5
300 S. Spring Street, 2nd Floor, North Tower
Los Angeles, CA 90013

**Re: Case Nos. B337889 and B341189
Request for Publication of Opinions**

To the Honorable Court:

The undersigned is counsel to Plaintiff and Respondent Douglas Kruschen and the attorney responsible for handling this matter at the trial court and appellate levels. Pursuant to California Rules of Court, Rule 8.1105(c), publication of the opinions in Case Nos. B337889 and B341189 is requested on three separate grounds.

The opinions apply “an existing rule of law to a set of facts significantly different from those stated in published opinions.” (CRC Rule 8.1105(c)(2).) A substantial portion of my current practice pertains to matters involving community associations. Effective January 1, 2020, the section of the Civil Code governing community association elections (§§5100–5145) was revised to substantially increase the degree to which elections are regulated. Since those revisions, practitioners and associations frequently confront the question as to what degree of noncompliance with the Civil Code would support a legal challenge and a judicial decision to void an election. In my experience, advising clients on this issue often includes acknowledging uncertainty because there is no published case law addressing the threshold question under the revised statutory scheme. Publishing the referenced opinions would increase understanding as to how the law functions regarding the conduct of elections and the recovery of fees from a successful challenge.

The opinions also advance “a new . . . clarification . . . or construction of a provision of a . . . statute[.]” (CRC Rule 8.1105(c)(4).) My research in this matter found no published decisions that address: i) factual circumstances supporting a trial court decision to void a community association election under Civil Code §5145(a); ii) the authority of inspectors of election concerning closing the polls in community association elections under Civil Code §5110(c)(6); or iii) discussing a trial court’s award of attorney fees following a successful election challenge under Civil Code §5145. Accordingly, publication would provide needed guidance on statutory

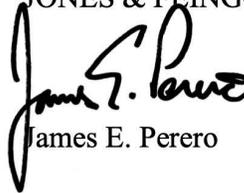
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provisions of recurring importance to community associations, their members, and the professionals supporting election administration.

Finally, the opinions involve “a legal issue of continuing public interest[.]” (CRC Rule 8.1105(c)(6).) As noted in the Appellant’s Opening Brief for Case No. 337889 at page 23, “by 2010, California had an estimated 49,000 [common interest developments], comprising more than 4.9 million housing units.” (Advising California Common Interest Communities (2d ed. Cal. CEB 2025) §1.1.) In light of California’s continuing housing shortage and high real estate costs, community associations—especially condominiums—are likely to grow in number and to play a continuing and substantial role in the lives of tens of millions of the state’s residents.

Publication of the opinions will provide valuable guidance not only to community associations and their members, but to attorneys, managers, and professional inspectors of election seeking to support associations in the conduct of lawful elections. Such guidance will promote compliance with the Civil Code and may reduce the likelihood of lawsuits over director elections. For these reasons, I respectfully request that the Court order publication of the opinions in Case Nos. B337889 and B341189.

Very truly yours,
MYERS, WIDDERS, GIBSON,
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James E. Perero