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January 12, 2021

VIA TRUEFILING

California Court of Appeal
Second Appellate District, Division Eight
Ronald Reagan State Building
300 S. Spring Street
2nd Floor, North Tower
Los Angeles, CA 90013

Re: Case No. B297176
Trinity Risk Management, LLC, et. al. v.
Simplified Labor Staffing Solutions, Inc., et. al.
REQUEST FOR PUBLICATION (CRC, Rule 8.1120(a))

TO THE HONORABLE JUSTICES GRIMES, Acting P.J., STRATTON, and WILEY:

Pursuant to CRC, Rule 8.1120(a), Attorney and California State Bar Certified Appellate Specialist, Marc A. Eisenhart (State Bar No. 188518), as well as the law partnership, Gates Eisenhart Dawson (collectively, “Requesting Parties”), do hereby respectfully request publication of this Court’s opinion in the above-referenced appeal, filed March 12, 2020.

CRC, Rule 8.1120(a)(1)
“Any Person” May Request Publication

While not a party to the above-referenced matter, CRC Rule 8.1120(a)(1) expressly authorizes that “*any person* may request that an unpublished opinion be ordered published.” This definition includes law partnerships. (CRC, Rule 1.6(14) [Definitions and Use of Terms] [“ ‘Person’ includes a corporation or other legal entity as well as a natural person.”].)

CRC, Rule 8.1120(a)(2)
Person's Interest

The Requesting Parties' interest is as an individual attorney licensed to practice law in the State of California who routinely litigates in the California Courts of Appeals, and civil and probate courts. Gates Eisenhart Dawson routinely litigates in the area of anti-SLAPP, both in the trial courts and on appeal.

CRC, Rule 8.1105
Reasons Why Opinion Meets Mandatory Publication Standard

Requesting Parties respectively submit that this Court's Opinion in the above-referenced appeal meets the criteria for publication under Rule 8.1105, sbdvs. (c)(2) ["Applies an existing rule of law to a set of facts significantly different from those stated in published opinions"], and (c)(6) [involves a legal issue of continuing public interest], in the following important respects:


At Discussion Section C of the opinion, the Court applied existing law regarding the independence of cross-complaints from primary complaints in the new and unique context of an argument seeking to moot an anti-SLAPP motions.

At Discussion Section D of the opinion, the Court analyzed under its independent review, whether prelitigation emails "relate[d] to litigation that is contemplated in good faith and under serious consideration. (*Action Apartment Assn., Inc. v. City of Santa Monica* (2007) 41 Cal.4th 1232, 1251 (*Action Apartment*)....)" Importantly, the May 30 and 31 emails at issue never threaten litigation, never invoke the word lawsuit, nor do they request preservation of documents – a typical precursor to litigation. Nonetheless, the Court held that, by requesting discovery and by the short amount of time which elapsed prior to filing the action, the emails met the test of *Action Apartment*. This is an important addition to the ever-evolving public interest area of anti-SLAPP. (CCP §425.16(a) ["The Legislature finds and declares that it is in the *public interest* to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process."] emphasis added.)

Finally, at Discussion Section F of the opinion, the Court distinguished *Oakland Bulk and Oversized Terminal, LLC v. City of Oakland* (2020) 54 Cal.App.5th 738 which both clarifies that case and serves the public interest by educating litigants and their attorneys when seeking to withdraw a potential SLAPP complaint.

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Respectfully submitted,



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MAE:sas

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