Case Nos. A164519, A164521

IN THE CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT, DIVISION 4

U.S. BANK, N.A.,
Defendant-Petitioner,
v.
SUPERIOR COURT FOR THE CITY AND COUNTY OF SAN FRANCISCO,
Respondent,
STATE OF CALIFORNIA *EX REL.* KEN ELDER,
Real Party in Interest.

JPMORGAN CHASE BANK, N.A.,
Defendant-Petitioner,
v.
SUPERIOR COURT OF CALIFORNIA, CITY & COUNTY OF SAN FRANCISCO,
Respondent,
STATE OF CALIFORNIA *EX REL.* KEN ELDER,
Real Party in Interest.

On Review of Order Denying Demurrer to Plaintiff's Second Amended Complaint, Superior Court of California, County of San Francisco, Case No. CGC-19-581373, The Honorable Ethan P. Schulman, Department 302

APPLICATION FOR PERMISSION TO FILE AMICI CURIAE BRIEF and AMICI CURIAE BRIEF IN SUPPORT OF PETITION FOR WRIT OF MANDATE; [PROPOSED] ORDER

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APPLICATION FOR LEAVE TO FILE AMICI CURIAE BRIEF

The Chamber of Commerce of the United States of America ("Chamber"), the California Chamber of Commerce ("CalChamber"), and the California Bankers Association ("CBA") respectfully seek permission to file this amici curiae brief in support of Defendants-Petitioners JPMorgan Chase Bank, N.A.'s and U.S. Bank, N.A.'s petitions for a peremptory writ of mandate. The brief explains that these petitions present issues of extreme importance to national financial institutions and other holders of unclaimed property with ties to California, and the trial court erred by permitting these cases to proceed.

This amici brief is permitted by the California Rules of Court. Rule 8.487(e) expressly allows for amicus briefs to be filed after an order to show cause regarding a petition for a writ of mandate "no later than 14 days after the return is filed or, if no return is filed, within 14 days after the date it was due." The Courts of Appeal thus have regularly permitted amici letters in connection with a petition for writ of mandate. (See, e.g., *Regents of University of California v. Superior Court* (2013) 220 Cal.App.4th 549, 557-558.)

No party or counsel for a party in the pending case authored this amici brief in whole or in part or made a monetary contribution intended to fund the preparation or submission of the proposed brief. No person or entity other than amici, their members, or their counsel made a monetary contribution intended to fund the preparation or submission of this amici brief.

Interest of Amici Curiae

The Chamber is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than 3 million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files amici curiae briefs in cases, like this one, that raise issues of concern to the nation's business community. The Chamber routinely files amici briefs in cases in the California courts.

CalChamber is a non-profit business association with over 13,000 members, both individual and corporate, representing virtually every economic interest in the state of California. For over 100 years, CalChamber has been the voice of California business. While CalChamber represents several of the largest corporations in California, seventy-five percent of its members have 100 or fewer employees. CalChamber acts on behalf of the business community to improve the state's economic and jobs climate by representing business on a broad range of legislative, regulatory, and legal issues.

The CBA is one of the largest banking trade associations in the United States, advocating on legislative, regulatory, and legal matters on behalf of banks doing business in California. The CBA routinely files amici curiae briefs in the California courts on issues of concern to the banking industry. The Superior Court's decision directly impacts CBA's members who are holders of

unclaimed property. In fact, among property holders, the banking industry is likely the largest segment of entities that are subject to statutory obligations under California's Unclaimed Property Law.

The decision below would directly affect many of amici's members. Many of their members are financial institutions and other holders of unclaimed property with ties to California. Under the decision below, private parties can pursue a lawsuit under California's False Claims Act to enforce California's Unclaimed Property Law without any notice to the defendant from the California Controller—and without even a clearly established obligation that a defendant allegedly violated. That decision thus threatens to greatly expand the liabilities of holders and impose massive penalties on them without any prior notice or the chance to correct any errors. Worse, it is contrary to the decisions by three Courts of Appeal, which amici's members rely on when working to comply with California law. Given that all fifty states have unclaimed property laws, amici's members need clarity on how to comply with California law when dealing with unclaimed property, lest they face overlapping claims to the property from different states. Indeed, the potential for overlapping claims to the same property raise serious due process concerns and is contrary to the decisions of the U.S. Supreme Court. Amici thus have a substantial interest in obtaining clarity in this area of the law.

Conclusion

For the foregoing reasons, amici respectfully request that the Court accept for filing this amici brief in support of

Defendants-Petitioners JPMorgan Chase Bank, N.A.'s and U.S. Bank, N.A.'s petitions for a peremptory writ of mandate.

Dated: April 27, 2022 By: /*s*/ *Steven A. Engel*

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AMICI CURIAE BRIEF IN SUPPORT OF PETITION FOR WRIT OF MANDATE

Introduction

In these actions, relator seeks to use the False Claims Act ("CFCA") to circumvent and expand California's Unclaimed Property Law ("UPL"). These actions—if allowed to proceed—would run roughshod over clear legal constraints on both CFCA and UPL actions, as well as constitutional guarantees of due process. And in doing so, these actions would lead to considerable confusion for national companies obliged to comply with the unclaimed property laws of every state where they do business. This Court therefore should issue a peremptory writ directing the trial court to sustain the demurrers.

Because all fifty states have unclaimed property laws, national financial institutions and other holders of unclaimed property must navigate a web of federal and state statutes and requirements bearing on where to report and how to remit unclaimed property. Federal common and statutory law establishes priority rules that determine where property must be remitted as among several states. As companies seek to comply with these requirements and with applicable state-law requirements, California law does not require companies to act at their own peril but imposes clear requirements before they may face penalties. ***First***, the UPL requires the California Controller to give notice to the holder of a potential violation and an opportunity to cure before California (much less a relator) may maintain an action for penalties. ***Second***, the CFCA imposes liability only if the defendant has knowingly violated a clearly

established legal obligation. The statutes make these requirements plain, and the California Courts of Appeal have repeatedly enforced them.

In these actions, relator seeks to recover penalties even though the Controller has not provided notice and the underlying obligations are far from clear. The Controller in fact has been completely silent, and the California Attorney General has acknowledged in other litigation that the federal statutory framework remains unsettled (as to whether cashier's checks are a "similar written instrument" subject to a place of purchase rule under federal statutory law). *See* Reply Br. of Defendants at 8, *Delaware v. Arkansas*, Nos. 22O145 & 22O146 (S. Ct. Mar. 29, 2019). It is therefore unsurprising that, to date, the California Attorney General has declined to take a position on whether the law even requires the escheatment of property that relator demands.

Against this backdrop, the trial court should have sustained the demurrers. By allowing these actions to proceed, the trial court's decision threatens to impose massive liabilities on national financial institutions and other holders of unclaimed property without any notice or even a clear obligation to remit such property to California. If left unchecked, that decision will incentivize other relators in this and other states to bring similar suits, imposing inconsistent and unwarranted burdens on financial institutions and other holders who are working in good faith to comply with fifty states' laws and federal law on unclaimed property.

And that is also why these lawsuits threaten the due process rights of Petitioners. The U.S. Supreme Court has held that federal law governs the priority rules for competing state claims, and the Constitution prohibits any double escheat, i.e., the collection by one state of property escheated by another. If a state believes that another state has collected property to which it was entitled, then the Supreme Court has held that the appropriate judicial remedy is an original action between the states before the Supreme Court. The states, however, may not sue the former holders to recover property already escheated by another state.

That is effectively what relator seeks here: Relator acknowledges that Petitioners have already remitted property at issue to Ohio, yet relator seeks to rely on California law to recover that same property. If California wishes to assert such a claim to judicial relief, then it should do so by establishing the priority of its claim in an action brought against Ohio. But due process does not permit relator to accomplish that result by invoking the CFCA to recover against the former holders of that property—particularly in the absence of any action by the Controller signaling agreement with relator's interpretation of the UPL.

Argument

The trial court's decision allows a private relator to expand the UPL to pursue remedies that the state could not. In doing so, the decision erred thrice over. First, the decision allowed a relator to pursue a penalty action for a UPL violation even though the Controller has not given notice of any UPL violation.

The decision thus allows a private party to do indirectly what California may not do directly: impose penalties for alleged violations of the UPL without first giving those companies notice or a chance to respond to the notice or correct any errors.

Second, the trial court's decision allowed a private relator to sue under the CFCA even though relator cannot allege that Petitioners have violated a clearly established obligation. The CFCA's plain text requires such a violation and targets only knowing violations. And clarity in any law allegedly violated is particularly necessary here, given the vast and complex range of laws and requirements relating to unclaimed property. Yet the laws governing cashier's checks, the property at issue, are anything but clear, as the California Attorney General has acknowledged. That uncertainty should have been fatal to relator's CFCA claims.

Third, the trial court's decision threatens to violate the U.S. Constitution's guarantee of due process by permitting double recovery against holders of unclaimed property. The Supreme Court has made clear that the Constitution forbids any double escheat. States that seek to escheat property already escheated by another state must bring an original action before the Supreme Court. Without such a requirement, multiple states could assert claims to escheat the same property in their own courts and impose directly conflicting liabilities on holders for the same property. But that result is exactly what the trial court's decision invites. By permitting relator's lawsuit to proceed, the

decision threatens to impose overlapping obligations on Petitioners for property remitted to Ohio.

At bottom, the trial court's decision threatens to make a muddle of an area of the law that necessitates clarity. All fifty states have unclaimed property laws on top of federal statutory and common law, and national financial institutions must reconcile potentially competing state claims. These institutions are required to voluntarily report and remit property in many states (including California and Ohio), and they need clear rules to govern those obligations, lest a wrong step invite conflicting liabilities. California law recognizes this need by requiring notice under the UPL and a clear obligation under the CFCA before either statute may provide a basis for liability. The decision below jettisoned those requirements, and in so doing, broke with prior decisions by the California Courts of Appeal. The writ petitions should be granted.

I. Notice Is Required for Any UPL Penalty Action.

The trial court erred by disregarding the UPL's notice requirement. The California Courts of Appeal have already recognized three times that a CFCA plaintiff may pursue claims for UPL violations only when the Controller has provided notice and the opportunity to correct a mistake. (See *State of California ex rel. McCann v. Bank of Am., N.A.* (2011) 191 Cal.App.4th 897, at p. 914 (hereinafter *McCann*); *State of California ex rel. Grayson v. Pacific Bell Tel. Co.* (2006) 142 Cal.App.4th 741, at p. 746 (hereinafter *Grayson*); *State of California ex rel. Bowen v. Bank of Am. Corp.* (2005) 126 Cal.App.4th 225, at pp. 245-46 (hereinafter *Bowen*).) That requirement reflects the UPL's

statutory design and makes eminent sense. Before holders are subjected to penalties, California law requires that they be given notice by the Controller of a potential violation.

The trial court rejected the prior appellate decisions as dicta, but that is mistaken. To start, the Courts of Appeal could not have been clearer: "Penalties for willful failure to report under the UPL may only be imposed *after* the Controller has given notice by certified mail of the violation and the violator has failed to respond." (*Bowen*, *supra*, 126 Cal.App.4th at p. 235.) Likewise, "[t]he UPL imposes penalties for the willful failure to report and deliver abandoned property subject to escheat but only *after* the Controller has given notice by certified mail of the violation and the violator has failed to respond." (*Grayson*, *supra*, 142 Cal.App.4th at p. 746; see also *McCann*, *supra*, 191 Cal.App.4th at p. 906 [same].) Private parties and national financial institutions should be able to rely on such clear statements, and the trial court should have followed them.

Nor were these statements dicta. In *Bowen*, the court held that the plaintiff's claim failed because "he sought to use the UPL as the hook for imposing reverse false claims liability for violations that are not even punishable under the UPL" without notice. (*Bowen*, *supra*, 126 Cal.App.4th at p. 246.) So too in *McCann*, which recognized that, "[a]s in *Bowen*," the plaintiffs "fail[ed] to state a cause of action under either the UPL or the CFCA" because the Controller had not given "'notice and an opportunity to correct the alleged violations.'" (*McCann*, *supra*, 191 Cal.App.4th at p. 914, quoting *Bowen*, *supra*, 126

Cal.App.4th at pp. 245-46.) *Grayson* likewise observed that *Bowen* had "aborted the plaintiff's attempt to use the FCA to enforce the UPL" without notice. (*Grayson*, *supra*, 142 Cal.App.4th at p. 746.) By definition, the conclusion that a plaintiff's claim "fails" or is "aborted" because of a lack of notice reflects a holding of the court. Both *McCann* and *Grayson* therefore recognized *Bowen*'s conclusion as a holding, not dicta.

These holdings also correctly describe the text and structure of the UPL. The UPL provides that notice is required for any "willful" violation, and that a "willful" violation is necessary for penalties. (Cal. Code Civ. Proc. §§ 1532, 1576, 1581.) In other words, only a person who "willfully fails to render any report or perform other duties" required by the UPL may be "punished." And the statute could not be clearer: "[n]o person shall be considered to have willfully failed to report, pay, or deliver escheated property . . . unless he or she has failed to respond within a reasonable time after notification by certified mail by the Controller's office of his or her failure to act." (*Id.* § 1576.) In dismissing that language, the trial court pointed to other statutory sections. But the UPL's two other penal provisions, §§ 1532 and 1581, likewise require "willful neglect" or "willful[]" violations—thus importing the same notice requirement. (*Id.* §§ 1532(g), 1581.)

The statute thus sharply distinguishes between actions to recover the property and penalty actions. To *recover* non-escheated property, the Controller may sue without notice because the lawsuit seeks only what the state is owed. (E.g., *id.*

§ 1572.) But to obtain *penalties* for a violation, the Controller must give notice and the chance to correct an error. (E.g., *id.* § 1576.) And it follows that what the Controller cannot do under the UPL, private relators cannot do through the CFCA. (E.g., *McCann*, *supra*, 191 Cal.App.4th at p. 914; see also *Vermont Agency of Nat. Res. v. U.S. ex rel. Stevens* (2000) 529 U.S. 765, at p. 786 [recognizing that the treble damages and statutory penalties available under statutes like the CFCA "are essentially punitive in nature"].) Notice is required before any penalties may be levied for a UPL violation, including penalties assessed indirectly under the CFCA. (E.g., *Bowen*, *supra*, 126 Cal.App.4th at p. 246.)

That notice requirement is especially critical given the potential for competing claims by states based on the intricate web of regulations that govern unclaimed property. Federal common law and federal statutory law provide standards governing when states may demand unclaimed property. (E.g., *Texas v. New Jersey* (1965) 379 U.S. 674; 12 U.S.C. ch. 26.) Yet in recent decades, states have sought to expand their unclaimed property laws to generate additional revenue—threatening competing claims to the same property and increasing compliance costs.[1] (Ethan D. Millar et al., *Building a Better Unclaimed Property Act* (2018), 73 Bus. L. 711, at p. 761.) When left with

[1] Each of the fifty states, as well as the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, has enacted its own abandoned property statute. (See John A. Biek, *Jurisdictional Limitations on State Claims to Abandoned Property* (2000) 5 State & Local Tax L. 1, at p. 1.)

unclaimed property, national financial institutions and other holders must determine how best to comply with those fifty-plus sets of laws, which often "differ substantially" with respect to what they say about the property that must be remitted and how to report property. (John A. Biek, *Jurisdictional Limitations on State Claims to Abandoned Property* (2000) 5 State & Local Tax L. 1, at p. 18.) Though federal law ultimately governs, the potential for competing claims is clearly a burden for national financial institutions and other holders of unclaimed property.

Financial institutions accordingly need clear notice as to when they are required to remit unclaimed property in any state. Yet the decision below allowed a self-interested private relator to seek penalties for a UPL violation without any notice or input from the Controller—a result that, if allowed to stand, will surely incentivize other self-interested parties to bring new and aggressive UPL theories to obtain CFCA penalties. In turn, those lawsuits will throw further confusion and uncertainty over holders trying to navigate the vast web of unclaimed property laws. The trial court could have avoided all of this by simply recognizing and enforcing the UPL's notice requirement, as the Courts of Appeal have already done. California's government, not private parties, should determine whether to put its state laws on a potential collision course with both federal law and the unclaimed property laws of other states. The lack of statutorily required notice from the Controller is accordingly fatal to relator's claims, and the trial court should have sustained the demurrers for this reason alone.

II. A CFCA Claim Requires a Clearly Established Obligation.

Relator's claims independently fail because they do not allege that Petitioners violated any established UPL "obligation," as required by the CFCA. (Cal. Gov't Code § 12651(a)(7); *id.* § 12650(b)(5).) Again, the California Courts of Appeal have explicitly held that the CFCA requires a clearly established obligation before relators may pursue liability. (See *Bowen*, *supra*, 126 Cal.App.4th at p. 242; *McCann*, *supra*, 191 Cal.App.4th at p. 913-14.) And again, that requirement is plain in the CFCA's text, which allows for suit only when a defendant violates an "obligation," defined as an "established duty." (Cal. Gov't Code § 12651(a)(7); *id.* § 12650(b)(5).)

Without such a requirement, the Courts of Appeal have explained, "there would be no way to define the scope of a [CFCA claim]." (*McCann*, *supra*, 191 Cal.App.4th at p. 914, citation and internal quotations omitted.) Instead, the courts could be led astray by CFCA cases "as broad as any lawyer's creative impulses in defining a possible claim in the first place." (*Ibid.*). Given the CFCA's "substantial financial incentives," the courts have accordingly striven to "curb [such] 'opportunistic' or 'parasitic' actions." (*Bowen*, *supra*, 126 Cal.App.4th at p. 241, citation omitted.)

That is especially important in the UPL context, given the potential for overlapping state laws. As mentioned above, states have been expanding their unclaimed property statutes "for over thirty years" now. (Millar et al., *Building a Better Unclaimed Property Act*, *supra*, 73 Bus. L. J. at p. 761.) Given that

expansion, as well as "[t]he increase in abandoned property audits and the desire for additional state revenue," there is a real risk of multiple states asserting competing claims to the same property. (Biek, *Jurisdictional Limitations*, *supra*, 5 State & Local Tax L. at p. 18; see also, e.g., *Western Union Tel. Co. v. Commonwealth of Pa.* (1961) 368 U.S. 71.) Yet in the face of fifty-plus sets of unclaimed property laws, holders are often required to affirmatively report and remit property on their own—navigating that complex web of regulations and determining in the first instance how to best comply with federal and state law requirements.

When imposing that daunting task on holders, it is imperative that states set clear rules of the road before seeking any penalties for UPL violations. Yet there are no clear signposts here. Relator has sued Petitioners for failing to remit cashier's checks in California, but has not pointed to any provision that expressly requires Petitioners to remit those cashier's checks in California. Instead, relator has gestured only to UPL § 1511, which refers to "money order[s], travelers check[s], or other similar written instrument[s]." (Cal. Code Civ. Proc. § 1511(a).) On its face, that provision does not mention cashier's checks, and it is not established, much less clearly established, that they amount to "similar written instrument[s]" to money orders or travelers checks. (See *ibid.*)

Lacking any clear statutory text, relator also fails to offer any California authority, guidance, or caselaw that has read § 1511 to govern cashier's checks. Nor could relator do so,

because the Attorney General has declined to take any position on whether § 1511 pertains to the cashier's checks at issue here. And in other proceedings, California has acknowledged that the appropriate treatment of cashier's checks is governed by federal law and, in any event, is unsettled at best. Reply Br. of Defendants at 8, *Delaware v. Arkansas*, Nos. 22O145 & 22O146 (S. Ct. Mar. 29, 2019) (recognizing that "[t]he question whether" the materially identical federal unclaimed property law applies "to a number of prepaid instruments, including cashier's checks, teller's checks, and certified checks . . . need not be decided. Such a decision would require a detailed analysis based on the specific characteristics of those products and how they function in the marketplace."). In the face of such admissions by California, relator can hardly be allowed to sue Petitioners for allegedly violating such an indeterminate, arguable obligation.

In similar situations, the Courts of Appeal have enforced the CFCA's requirement that the relator plead a clear obligation in order to survive demurrer. For example, *Bowen* affirmed the grant of a demurrer when the "state of the law" made it a "virtual impossibility" to affix a definitive obligation that a holder had breached. (*Bowen*, *supra*, 126 Cal.App.4th at p. 243.) And *McCann* affirmed the sustaining of a demurrer when a relator could not point to specific authority that made "liquidated and certain" the alleged obligation that the holder was accused of breaching. (*McCann*, *supra*, 191 Cal.App.4th at p. 913-14.) The same result should obtain here. Relator is trying to shoehorn an interpretation of an ambiguous UPL requirement into a CFCA

action. But the CFCA provides for penalties in an action for fraud, and may not be used to expand the scope of the underlying law. Because relator fails to point to a clearly established obligation, this lawsuit should fail.

III. Due Process Prohibits This Litigation, Because Relator's Claims Subject the Same Property to Competing State Claims.

A third, independent reason for dismissal is that relator's theory would violate due process protections by claiming property for California that has been escheated elsewhere. As the Supreme Court has long held, the Constitution prohibits any "double escheat." (*W. U. Tel. Co. v. Pennsylvania ex rel. Gottlieb* (1961) 368 U.S. 71, at p. 76, quoting *Standard Oil Co. v. New Jersey* (1951) 341 U.S. 428, at p. 443.) Particularly given the "rapidly multiplying state escheat laws," it is imperative that "controversies between States [be] settled without" violating the due process rights of those "individuals and companies affected by those controversies." (*W. U. Tel. Co.*, *supra*, 368 U.S. at p. 77-79.) Due process thus forbids states from imposing overlapping obligations on holders for the same property. (*Ibid.*)

The Supreme Court has recognized that the "Constitution has wisely provided a way" to resolve such overlapping claims: the Supreme Court itself.[2] (*Id.* at p. 77.) Article III gives the Supreme Court "original jurisdiction of cases in which a State is party," thereby providing a "forum where all the States that want

[2] The Supreme Court may "under some circumstances" refer these cases to United States District Courts for resolution. (*W. U. Tel. Co.*, *supra*, 368 U.S. at p. 79.)

to [escheat the same property] can present their claims for consideration and final authoritative determination." (*Id.* at p. 79.) Given the due process problems with any attempt to doubly escheat property, that course is mandatory for overlapping state claims. (*Ibid.*) If states wish to assert a competing claim to already escheated property, they may bring an action before the Supreme Court, which can resolve the claim according to federal statutory and common law priority rules. (*Id.*; see also *Delaware v. New York* (1993) 507 U.S. 490, at p. 499-500.)

In these actions, relators pursue a significant amount of property that has already been remitted to Ohio. If California sought to assert a claim to escheat that property, then it would have to do so by an action against Ohio, not against Petitioners as the former holders. (See *W. U. Tel. Co.*, *supra*, 368 U.S. at p. 79.) Yet once again, relator seeks to bypass those procedures and use the CFCA to recover—with penalties—already escheated property. Relator's claims threaten a constitutionally forbidden "double escheat" (*id.* at p. 77), and for that reason too, must fail.

Relator suggests that these constitutional limits should be irrelevant because Ohio itself has not asserted a claim. But the question is not whether Ohio has asserted a claim, but whether one state seeks property escheated to another. State unclaimed property laws, including in both Ohio and California, *require* holders to voluntarily report and remit property to each state. (Cal. Code Civ. Proc. §§ 1510, 1511; Ohio Rev. Code §§ 169.04, 169.05.) Holders like Petitioners are statutorily required to determine where to remit unclaimed property lest they face civil

fines. The property has escheated to Ohio (which therefore has had no need to independently assert a claim against Petitioners), and Ohio certainly has not returned it to Petitioners.

If relator could now pursue that property by suing the former holders, then he would accomplish on behalf of California precisely what the U.S. Supreme Court said could not be done by California itself. If California believes that it should have had priority, consistent with the governing federal priority rules, with regard to property that is now held by Ohio, then California can request the return of the property from Ohio and, if Ohio objects, California may seek judicial relief by bringing an action against Ohio. A private relator may not, consistent with due process, circumvent the Court's holding by placing the former holder of the property in the middle of competing states' claims.

At bottom, these constitutional problems further confirm that the CFCA is not the right vehicle for UPL suits like these, where the law is far from clear and the Controller has not given notice. The trial court's decision allows private relators to stretch the UPL's bounds, while threatening massive liabilities on holders who must navigate these complex state laws in light of the governing federal requirements. In the process, those lawsuits would generate new conflicts and inconsistent state claims to the same property. Relator's lawsuit should not have been allowed to proceed.

Conclusion

Amici respectfully request that this Court issue a peremptory writ of mandate ordering the trial court to sustain the demurrers as requested by Petitioners.

Dated: April 27, 2022 By: */s/ Steven A. Engel*

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[PROPOSED] ORDER

The application of the Chamber of Commerce of the United States of America, the California Chamber of Commerce, and the California Bankers Association to file a brief as amici curiae in support of Defendants-Petitioners JPMorgan Chase Bank, N.A.'s and U.S. Bank, N.A.'s petitions for writ of mandate is hereby granted, and the clerk is directed to file the amici curiae brief.

IT IS SO ORDERED

Dated: _____ _____

Presiding Justice