

May 13, 2013

Presiding Judge Patti Jo McKay
Judge Gregory Keosian
Judge Alex Ricciardulli
Appellate Division, Superior Court of California, County of Los Angeles
Stanley Mosk Courthouse
111 North Hill Street, Room 607
Los Angeles, California 90012

Re: Request for Publication
Munoz v. Silva, LASC Case No. BV 030037 (Trial Case No. 12U06237)

Honorable Judges of the Appellate Division:

The undersigned California legal services programs ask this court to publish the opinion in *Munoz v. Silva*, on grounds that it involves a legal issue of continuing public interest – indigent persons’ constitutional right to jury trial; invokes law that has not been applied in a reported decision; and harmonizes the legislature’s provision for nonrefundable jury fee deposits with existing fee waiver law, thus resolving a conflict about which there has been protracted confusion. Cal. Rules of Court, Rule 8.1105(c), subsections 4, 5, 6 and 8; LASC Local Rule 9.8(c).

Western Center on Law and Poverty conducts statewide impact litigation and legislative advocacy, and provides technical assistance to legal services programs, on questions of access to courts, waivers of court fees, and rights of indigent tenants in unlawful detainer actions. Since last July, Western Center has received multiple requests for technical assistance to resolve the problem of nonrefundable jury fees being demanded of persons financially eligible for waivers of jury fees.

The Legal Aid Association of California (LAAC) is a membership organization of over 80 legal services nonprofits. LAAC’s member organizations, which include many of those signing on to this letter, represent low-income clients in legal matters including matters subject to jury trial.

The remaining 14 undersigned organizations provide free legal assistance to indigent Californians in unlawful detainer matters and general civil litigation involving rights subject to jury trial. Accordingly, the undersigned are all interested to see published case law that clarifies that indigent tenants and litigants who are financially eligible for waivers of jury fees, may still proceed to jury trial notwithstanding recent changes to Code of Civil Procedure section 631 that require nonrefundable jury fees to be posted before trial.

The opinion in *Munoz v. Silva* addresses a scenario that has been repeated many times in California courts since 2012 amendments to section 631(d) made by Senate Bill 1021 (2012). The 2012 changes require nonrefundable deposits of jury fees in the amount of

\$150. The section and bill do not, however, change the law of fee waivers.¹ Nevertheless, Western Center and several of the undersigned organizations (Tenants Together, Public Counsel, Legal Aid Foundation of Los Angeles, Eviction Defense Network) have received multiple complaints that otherwise eligible persons are required to make nonrefundable fee waiver deposits or forfeit the right to jury trial.

The opinion invokes law that has not been applied in reported decisions. The undersigned are aware of *no* published cases on Section 631's interplay with California law regarding jury trial fee waivers. Indeed, the undersigned are aware only *one* published case in the past 30 years regarding jury trial fee waivers at all. *Maldonado v. Superior Court*, 143 Cal.App.3d 185 (1983) (compelling trial court to grant waiver of jury fees to indigent defendant in an unlawful detainer action).

The *Munoz v. Silva* opinion resolves conflicts of law regarding an issue of significant public interest. The right to a trial by jury is inscribed in the state Constitution, Article I, section 16. It is so fundamental that this Court's opinion correctly found the failure to afford it was a miscarriage of justice. The legislature, in enacting California fee waiver laws, found:

That our legal system cannot provide "equal justice under law" unless all persons have access to the courts without regard to their economic means. California law and court procedures should ensure that court fees are not a barrier to access for those with insufficient economic means to pay those fees.

Govt. Code §65830(a). Publishing the opinion will further this legislative goal.

For all the forgoing reasons, the undersigned respectfully request publication of this opinion clarifying fundamental rights of indigent Californians.

Respectfully submitted,



Stephanie Haffner, Senior Litigator
Richard Rothschild, Director of Litigation

Legal Aid Association of California
Asian Pacific American Legal Center, Los Angeles CA
Bay Area Legal Aid, San Francisco CA
Bet Tzedek Legal Services, Los Angeles CA
Eviction Defense Collaborative, Oakland CA
Eviction Defense Network, Los Angeles CA
Law Foundation of the Silicon Valley, San Jose CA
Legal Aid Foundation of Los Angeles, Los Angeles CA
Legal Aid Society of Orange County, Santa Ana CA
Legal Aid Society of San Diego County, San Diego CA
Public Counsel, Los Angeles CA
Public Law Center, Santa Ana CA
Senior Citizens Legal Advocacy Program of the Legal Aid Society of Orange County
The Impact Fund, Berkeley CA
Tenants Together, San Francisco CA

¹ Govt. Code §§68630-68641; Cal. Rules of Court, Rules 3.50-3.58.

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PROOF OF SERVICE
Munoz v. Silva
LASC Case No. BV 030037
Trial Case No. 12U06237

I, the undersigned, say: I am over the age of 18 years and not a party to the within action or proceeding. My business address is 3701 Wilshire Boulevard, Suite 208, Los Angeles, California 90010.

On May 13, 2013, I served the foregoing documents described as:

REQUEST FOR PUBLICATION

On all interested parties in this action by placing copies thereof enclosed in a sealed envelope addressed as follows:

Richard Trejo
Law offices of Richard Trejo
3725 Tweedy Blvd, Suite 200
Southgate, California 90280

BASTA
2500 Wilshire Blvd., Suite 1050
Los Angeles, California 90057

BY MAIL - I deposited such envelope in the mail at Los Angeles, California, with first class postage thereon fully prepaid. I am readily familiar with the business practice for collection and processing of correspondence for mailing. Under that practice, it is deposited with the United States Postal Service on that same day, at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one (1) day after the date of deposit for mailing in affidavit; and/or

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 13, 2013, at Los Angeles, California.



NICOLE PAYNE