S291859

Supreme Court Number S_____

In the Supreme Court of the State of California

LEAH HICKEY,

Plaintiff and Respondent,

v.

REBECCA HARRINGTON,

Defendant and Petitioner.

After a Decision by the Court of Appeal for the
First Appellate District, Division Two
First Civil Number A173544
Appeal from the Superior Court of the State of California
For the County of San Francisco
Case No. CGC-23-606326
The Honorable Joseph M. Quinn; Dept. 302

PETITION FOR REVIEW

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ISSUE PRESENTED

The issue presented here is whether a defendant can be forced to provide raw neuropsychological testing data to lay persons when it will cause the withdrawal of their chosen expert and that of at least 269 other qualified experts in the state because the turn-over order violates their professional duties, resulting in denial of the defendant's right to defend against a plaintiff's mental health damages claims.

INTRODUCTION AND WHY REVIEW SHOULD BE GRANTED

The ruling of the trial court in this matter allowing a neuropsychological examination of Plaintiff Leah Hickey ("Hickey" or "Plaintiff"), but requiring that Defendant Rebecca Harrington ("Harrington" or "Defendant") turn over the raw testing data to Hickey, unfairly deprives Harrington of her right to the examination by an expert of her choosing because such a requirement would force her expert and at least 269 other expert neuropsychologists in California to withdraw from the case according to their sworn declarations. The declarations all state that even with a protective order, the order to deliver raw psychological testing data to non-psychologists violates their professional duties and the advice of multiple professional psychology associations.

Consequently, Harrington—and all other defendants in similar positions—are forced to forego having an expert witness examine Plaintiff and opine on her claimed severe and potentially permanent mental health injuries, unless Harrington can find an expert who will willingly violate the advice, guidance, and rules set out by the California Board of Psychology, the American Psychological Association, the National Academy of Neuropsychology, the American Academy of Clinical Neuropsychology, and the American College of Professional Neuropsychology. This Sophie's choice severely impacts Harrington's, and all similarly situated defendants', ability to defend against Plaintiff's mental health damages claims.

Harrington will suffer extreme and incurable prejudice if forced to either lose her chosen expert—and the ability to hire any one of at least 269 other highly qualified and licensed neuropsychologists in California as her expert—or to forego having her expert examine Plaintiff and rely solely on the information provided by Plaintiff's treating provider or experts.

Review is necessary here "to settle an important question of law[.]" (Cal. Rules of Court, rule 8.500(b)(1).) Namely, whether a defendant can be forced to provide raw neuropsychological testing data to lay persons when it will cause the withdrawal of their chosen expert and that of at least 269 other qualified experts in the state.

In *Randy's Trucking, Inc. v. Superior Court* (2023) 91 Cal.App.5th 818 ("*Randy's Trucking*"), the court held the trial court did not abuse its discretion when it ordered transmission of defendant's neuropsychologist's raw data and audio recording of plaintiff's mental health examination. In that case, the trial court did not have any affidavits from the defense in which other psychologists or neuropsychologists stated their concerns regarding test security and refusals to participate in any case in which they would be ordered to turn raw testing data over to an individual who was not a licensed psychologist or neuropsychologist. (*Id.* at pp. 847–848.)

Here, Harrington presented overwhelming evidence that her own expert, and 269 other neuropsychologists in the state, would refuse to participate as expert witnesses if forced to turn

over their raw data. As a result, Harrington will not be able to obtain an independent psychological examination of Hickey. Forcing Harrington to proceed to trial without the benefit of an independent psychological evaluation of the claimed severe and permanent mental damages is extremely prejudicial and violates her due process rights. The impact of the trial court's ruling has far-reaching consequences beyond just this case, as it will be weaponized by the plaintiff's bar to deter independent psychological evaluations in cases involving mental health damage claims.

STATEMENT OF THE CASE

This case involves a personal injury claim arising out of a motor vehicle accident. The Petitioner and Defendant is Rebecca Harrington. [App., Exh. 1, p. 10.] Respondent is the Superior Court of the State of California for the County of San Francisco. App., Exh. 1, p. 10; Exh. 12, pp. 306–308.] The Real Party in Interest and Plaintiff is Leah Hickey. [App., Exh. 1, p. 10.]

A. Hickey's complaint.

Hickey's complaint asserts a single cause of action for negligence in the operation of a motor vehicle. [App., Exh. 1, p. 12–14.]

As part of her complaint, Hickey alleges "great mental, physical, and nervous pain and suffering" as well as "some permanent physical and mental disability." [App., Exh. 1, p. 13.]

Hickey requests general and special damages as a result of her alleged injuries. [App., Exh. 1, p. 14.]

In response to Harrington's discovery requests, Hickey indicated that she had extensive physical and psychological claims. [App., Exh. 6, pp. 185–194, 200–205, 211.] Hickey stated that as a result of the incident, she had chronic post-traumatic stress disorder, severe major depressive disorder with psychotic features, adjustment disorder with mixed anxiety and depressed mood, and generalized anxiety disorder, among several other ailments. [*Id.* at pp. 185–186.]

B. Harrington moves to compel a mental health examination and Hickey objects.

Harrington demanded a neuropsychological examination of Hickey. [App., Exh. 6, pp. 220–221.] The neuropsychological examination demand stated that the raw testing data would be shared by directly sending the data to Hickey's designated psychologist or neuropsychologist upon Hickey's counsel providing the name and address. [App., Exh. 6, pp. 220–221.]

Hickey's counsel objected to the demand for Hickey's neuropsychological examination and demanded that the raw testing data be provided directly to Hickey's counsel pursuant to *Randy's Trucking, supra,* 91 Cal.App.5th 818. [App., Exh. 6, p. 226.]

Harrington filed a motion to compel a neuropsychological examination of Hickey. [App., Exh. 3, pp. 20–23.]

Harrington argued there was good cause for a neuropsychological examination because Hickey alleged severe and potentially permanent mental health injuries as a result of the accident between her bicycle and Harrington's car. [App., Exh. 4, pp. 28–31.] Harrington also argued that serious harm would result if the raw test data was produced to Hickey's counsel because the efficacy of various tests depends on the subject's naivete to the questions being asked. Thus, good cause existed to prevent the raw test data from being sent directly to Hickey's counsel. [App., Exh. 4, p. 31.]

Harrington explained that a protective order would not sufficiently protect the interests of the test makers, nor would it abrogate the professional and ethical duties of the psychologist or neuropsychologist in protecting the testing information. Additionally, Hickey's counsel did not have a compelling interest in receiving the raw data or audio of the testing rather than giving the same information to their designated expert psychologist or neuropsychologist. [App., Exh. 4, pp. 31–32.]

Harrington further argued that the discovery statutes do not require that this data be given directly to Hickey's counsel and that *Randy's Trucking, supra,* 91 Cal.App.5th 818, was not centered on whether this disclosure to counsel was mandatory, but rather on whether the trial court in that case had abused its discretion in ordering the disclosure in the first place when there was no analysis as to why the professional and ethical obligations

of the examiner would be violated if a protective order was issued. [App., Exh. 4, pp. 32–33.]

Finally, Harrington argued that a thorough canvass of psychologists and neuropsychologists showed that the overwhelming majority of the neuropsychology community (some 269 expert witnesses other than the designated expert in this matter) refuse to conduct examinations under parameters that threaten to violate the validity of the assessment processes, none of which was available to the trial or appellate court in *Randy's Trucking, supra,* 91 Cal.App.5th 818. [App., Exh. 4, p. 33; Exh. 6, pp. 57–143.] Indeed, the California Board of Psychology, American Psychological Association, National Academy of Neuropsychology, American Academy of Clinical Neuropsychology, and American College of Professional Neuropsychology prohibit the distribution of testing materials to non-professionals or lay persons.[1] [App., Exh. 6, pp. 60–61.]

Hickey opposed Harrington's motion to compel, arguing that access to the raw data and audio recordings are essential to her counsel's ability to effectively cross-examine the defense psychologist. [App., Exh. 7, pp. 231–232.] She asserted that "[w]ithout the raw data and audio recording, plaintiffs cannot effectively scrutinize the way the data was collected, determine if there are discrepancies, and cross-examine the

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[1] "Lay persons" in this context would apply to any individual who is not a licensed psychologist or neuropsychologist trained in how to interpret and use the raw testing data to come to medical conclusions or diagnoses.

neuropsychologist on the basis and reasons for the neuropsychologist's opinion." [*Id.* at p. 232.]

Hickey also argued that reliance on a neuropsychologist alone is prejudicial because she should not be forced to hire a psychologist or neuropsychologist in order to prepare and conduct an effective cross-examination. [App., Exh. 7, pp. 232–233.] She asserted that the cost of hiring such experts is prohibitive. [*Id.* at p. 233.] Hickey further argued that she could not rely on her treating psychologist to assist with the interpretation of the raw testing data. [*Ibid.*]

Hickey asserted that her counsel has received such raw testing data before, has caught defense expert witness mistakes in the past, and thus it was necessary for her counsel to personally receive the raw data. [App., Exh. 7, p. 234.] Further, Hickey argued that, because her counsel received such data before, no novel information will be transmitted here. [*Id.* at pp. 237–238.] Hickey contended that a protective order would be sufficient to protect the integrity of the testing data. [App., Exh. 7, p. 235.] According to Hickey, a protective order would prevent any ethical obligations of the defense experts from being violated. [*Id.* at pp. 235–236.]

Finally, Hickey claimed there is no prejudice to forcing Harrington to seek out a new expert witness who will agree to serve as the defense mental health examiner *and* will agree to turn over the raw data. [App., Exh. 7, p. 237.]

In reply, Harrington emphasized that Hickey conceded the necessity of the mental health examination and only contested the handling of the raw testing data. [App., Exh. 9, pp. 274–275.] Harrington argued that the court should consider the examiner's ethical and professional obligations in determining whether to order the disclosure of raw testing data. [App., Exh. 9, p. 275.] She urged the court to consider the voices of 269 clinical neuropsychologists who all live, work, and are licensed to practice in California, who have an ethical and professional obligation to protect the test data, and who would refuse to serve as an expert witness in a case where the data would be shared with non-psychologists, which in and of itself distinguishes this case from the facts presented in *Randy's Trucking, supra,* 91 Cal.App.5th 818. [*Id.* at p. 276.]

Harrington also argued that a protective order is not sufficient because after-the-fact penalties are no substitute for actual secrecy protecting the testing information upon which the entire psychological community relies for test efficacy. [App., Exh. 9, p. 277.] Harrington emphasized that, prior to *Randy's Trucking*, plaintiffs and their counsel conducted effective and skillful cross-examinations of defense mental health expert witnesses without reviewing the raw data and with assistance from neuropsychologist experts. Thus, contrary to Hickey's assertion, it is not essential for plaintiffs to have the raw testing data. [App., Exh. 9, p. 278.]

C. The trial court grants in part and denies in part Harrington's motion to compel.

Respondent court granted the motion to compel the mental health examination, finding good cause for the examination, and granted all of Harrington's proposed specifics except the restriction on preventing the raw testing data from being produced directly to Hickey's counsel. [*Id.* at Exh. 10, pp. 303–305.] Respondent court ordered that the raw testing data be produced within 30 days of the conclusion of the evaluation to Hickey's counsel, subject to the protective order provided by Hickey's counsel. [*Id.* at p. 305.]

D. The Court of Appeal summarily denies Harrington's petition for writ of mandate.

On May 17, 2025, Harrington filed a petition for writ of mandate with the Court of Appeal. On June 30, 2025, the Court of Appeal summarily denied the petition. No reason for the denial was given.

LEGAL ARGUMENT

I. Review Is Necessary To Settle An Important Question Of Law Regarding Whether An Order Forcing The Withdrawal of A Defendant's Chosen Expert And At Least 269 Other Qualified Experts Is Violative Of The Defendant's Due Process Rights.

This Court reviews appellate decisions "when necessary to secure uniformity of decision or to settle an important question of law." (Cal. Rules of Court, rule 8.500(b)(1).) The Court of Appeal summarily denied Harrington's petition for writ of mandamus,

leaving intact the trial court's ruling requiring turn-over of raw test data to lay persons. Review is sought to provide relief from the portion of the court's order denying Harrington's request that the raw testing data not be provided directly to Hickey's counsel. Harrington has no plain, expedient, or adequate remedy at law other than the relief requested in this petition.

Review is necessary because Harrington and all similarly situated defendants throughout the California will be severely prejudiced and disadvantaged if they must comply with the order to turn over the raw testing data. These defendants will immediately lose the ability to have a mental health examination performed by an expert witness of their choice if the expert is forced to provide the raw data to any individual other than another psychologist or neuropsychologist, where the expert refuses to act in conflict with the ethical guidelines and guidance provided by the California Board of Psychology, the American Psychological Association, the National Academy of Neuropsychology, the American Academy of Clinical Neuropsychology, the American College of Professional Neuropsychology, and 269 of their peers who are also licensed psychologists or neuropsychologists in California.

Review is also necessary because Harrington and all similarly situated defendants will be severely prejudiced and disadvantaged if they must comply with the order to turn over the raw testing data because they face the high chance of not being able to retain a qualified neuropsychologist willing to

perform the necessary mental health testing—effectively leaving a plaintiff's claims of significant, severe, and potentially permanent damages to their mental health unchallenged by expert opinion based on an independent evaluation by anyone other than plaintiff's treating physicians. This essentially forecloses the defense's right to defend against that portion of a plaintiff's claims.

Finally, review is necessary because Harrington and all similarly situated defendants in the state will be severely prejudiced and disadvantaged if they must comply with the order to turn over the raw testing data because each will face a Sophie's choice of being able to retain a neuropsychologist to serve as an expert witness only if the expert is willing to ignore the advice, guidance, and rules set out by the California Board of Psychology, the American Psychological Association, the National Academy of Neuropsychology, the American Academy of Clinical Neuropsychology, and the American College of Professional Neuropsychology.

A. There is no requirement under the discovery code that mandates that raw test data be delivered directly to Plaintiff's counsel.

Code of Civil Procedure section 2032.610, subdivision (a)(1), provides that if a party submits to a mental examination, "that party has the option of making a written demand that the party" seeking the examination deliver to the demanding party "[a] copy of a detailed written report setting out the history, examinations,

findings, including the results of all tests made, diagnoses, prognoses, and conclusions of the examiner."

The court in *Roe v. Superior Court* (2015) 243 Cal.App.4th 138, determined that the petitioners did not show that the statute required "defendants to deliver the written testing materials and [the patient's] raw answers to plaintiffs. Consequently, they have not demonstrated in this writ proceeding that the superior court was under a legal duty to order, or that its discretion could be legally exercised only by ordering, such delivery." (*Id.* at p. 148; see also *Carpenter v. Super. Ct.* (2006) 141 Cal.App.4th 249, 271, 274–275 [noting "there is no express statutory authority for Carpenter's position, neither is there statutory authority precluding a trial court, in its discretion, from ordering the disclosure of the written test questions" and in exercise of that discretion courts may consider examiner's ethical and professional obligations].)

The *Randy's Trucking* court agreed: "… *Roe* stands for the proposition that a trial court is not *required* to order the production of test materials or test data under section 2032.610." (*Randy's Trucking, supra,* 91 Cal.App.5th at p. 837, original italics.) While *Randy's Trucking* went on to hold that it was reasonable and within the trial court's discretion to order the production of raw testing data to the plaintiff's counsel, the reason it did so is extremely important.

B. *Randy's Trucking* is distinguishable from this matter because here, Harrington presented extensive evidence that she would be unable to find a suitable expert witness to perform the examination and testify at trial.

This court should take the opportunity to provide definitive guidance to litigants on the issue of forcing turn-over of protected raw test data from mental health evaluations to lay persons. Trial courts throughout the state make decisions regarding whether *Randy's Trucking* applies to the case before them with varying results. Some courts are in agreement with Harrington's position, and some are in agreement with the trial court here. This important issue of law requires this Court's guidance to provide state-wide clarity and consistency on this issue.

The trial court relied upon *Randy's Trucking, supra,* 91 Cal.App.5th 818, in its order compelling Harrington to submit Dr. Peery's raw testing data generated in her mental health examination of Hickey directly to Hickey's counsel. [App., Exh. 11, pp. 303–305.] "Based on the present record and for the reasons articulated in *Randy's Trucking, Inc. v. Superior Court* (2023) 91 Cal.App.5th 818, the court will require production of the raw data and audio recording of the examination to Plaintiff's counsel for review subject to a protective order." [*Id.* at p. 304.]

The Court of Appeal for the Fifth Appellate District in *Randy's Trucking, supra,* 91 Cal.App.5th 818, was asked to review whether the trial court abused its discretion when it

ordered the defendant to produce raw testing data following a plaintiff's mental health examination directly to the plaintiff's counsel pursuant to a protective order. (*Randy's Trucking, supra,* 91 Cal.App.5th at pp. 824–825.) However, in that case, the trial court did not have any affidavits from the defense in which other psychologists or neuropsychologists stated their concerns regarding test security and refusals to participate in any case in which they would be ordered to turn raw testing data over to any individual who was not a licensed psychologist or neuropsychologist. (*Id.* at pp. 847–848.)

In contrast, here, counting Harrington's designated expert witness, Dr. Peery, respondent court had the sworn declarations of **269** licensed psychologists and neuropsychologists before it, prior to issuing its order directing that the raw testing data be disclosed directly to Hickey's counsel. All 269 experts agreed in their sworn declarations that turning over the raw testing data would violate their ethical, professional, and licensure requirements. All 269 experts agreed in their sworn declarations that they would refuse to serve as an expert witness in any case where that would be required of them. [App., Exh. 4, p. 33; Exh. 6, pp. 57–143.] This is a major distinguishing factor between this case and *Randy's Trucking, supra,* 91 Cal.App.5th 818.

The court in *Randy's Trucking, supra,* 91 Cal.App.5th 818, cited with approval the proposition that "'a court must act with great care before entering an order which as a practical matter excludes a designated expert from testifying.'" (*Id.* at p. 847,

quoting *Stony Brook I Homeowners Assn. v. Super. Ct.* (2000) 84 Cal.App.4th 691, 700.) The court discussed the fact that the trial court did not have evidence before it that defendants would be unable to retain another neuropsychologist. (*Randy's Trucking,* at p. 842.) The court thus concluded that "[b]ased on the record before it, the trial court reasonably could believe defendants would be able to retain a neuropsychologist who would comply with its order. In sum, the trial court did not abuse its discretion in ordering transmission of raw data and audio recording to plaintiffs' attorney subject to a protective order[.]" (*Ibid.*)

When discussing this major distinction between the factual basis behind *Randy's Trucking* and this case, respondent court was dismissive of the sworn declarations of 269 experts who all agreed that they would recuse themselves if ordered to turn over the raw testing data. Respondent court remarked, "[h]onestly, it doesn't carry a lot of weight for me." [App., Exh. 10, p. 295.]

Respondent court further stated, "I don't know that nobody else is available[,]" when discussing Harrington's argument that the loss of Dr. Peery and lack of other experts willing to work on this case if ordered to turn the raw data over to Hickey's counsel would be severely prejudicial to Harrington's defense of this case. [App., Exh. 10, p. 300.]

At what point, then, could a defendant like Harrington produce convincing evidence that an order like this one would effectively deprive the defendant of having a designated expert

testify at trial? Is it not enough that the sworn testimony of 269 highly qualified experts and defense counsel's statements on the record posited extreme reservations against hiring an expert witness who would be willing to violate the advice, guidance, and rules set out by the California Board of Psychology, the American Psychological Association, the National Academy of Neuropsychology, the American Academy of Clinical Neuropsychology, and the American College of Professional Neuropsychology?

Harrington respectfully submits that such evidence is enough to show that she cannot reasonably obtain another qualified neuropsychologist to perform an examination pursuant to respondent court's order. Therefore, the order is an abuse of respondent court's discretion because it unreasonably denies Harrington the ability to have a designated expert from both testifying at trial and from examining Hickey's mental health. This denial severely impacts Harrington's ability to defend herself from Hickey's claims of severe and potentially permanent mental health damages at trial.

C. The denial of qualified experts to examine Hickey's mental health status is extremely prejudicial to the defense of the case and to all similarly situated defendants in California.

The neuropsychological examination is critical to the defense. "[D]efendants must be allowed to investigate the continued existence and severity of plaintiff's alleged damages."

(*Vinson v. Super. Ct.* (1987) 43 Cal.3d 833, 841.)
"[P]laintiff cannot be allowed to make her very serious allegations without affording defendants an opportunity to put their truth to the test." (*Id.* at p. 842.) "The right of access to the courts may be compromised if a defendant is deprived of the opportunity to conduct the discovery necessary to prove his or her case." (*Zhao v. Wong* (1996) 48 Cal.App.4th 1114, 1129.)

Experienced counsel, such as counsel for Hickey in this case, can and have skillfully taken the depositions of expert witnesses by asking questions to elicit opinions and the basis of those opinions without counsel reviewing the raw test data. [App., Exh. 9, p. 278.]

The practical effect of *Randy's Trucking*, however, has been immense. In a multitude of cases throughout the state, plaintiffs have effectively forced the withdrawal of demands for mental health examinations for lack of any defense expert willing to participate in the case if orders like that in *Randy's Trucking* are enforced. The cases are then forced to proceed to trial with either no defense expert or a defense expert who never met or examined the plaintiff but must testify regarding a review of the plaintiff's mental health records by merely commenting on the plaintiff's treating providers' and expert witnesses' opinions.

The trial court's order was a manifest abuse of discretion. Despite finding there was good cause to order the neuropsychological examination [App., Exh. 11, p. 304], and rather than acknowledge the lack of prejudice to Hickey in

denying access to raw test data, the trial court entered an order that results in the denial of expert neuropsychologist review of Hickey's mental health status. The order is a miscarriage of justice as it deprives Harrington of the opportunity to conduct the discovery the trial court determined was necessary to her defense.

II. Review Is Necessary Because The Trial Court's Refusal To Give Weight To The Opinions Of The Experts As To Why A Protective Order Is Insufficient To Satisfy Their Legal And Ethical Obligations Was A Manifest Abuse Of Discretion.

The declarations of the 269 expert psychologists and neuropsychologists discussed at length the reasons why a protective order is not enough to assuage their professional, ethical, and legal concerns regarding the release of raw testing data to non-psychologists. [See App., Exh. 6, pp. 57–64.] Among those reasons is the concern that the disclosure of the testing materials and data are a direct threat to the scientific process behind the tests employed to evaluate ***all*** people, resulting in widespread social harm. [*Id.* at p. 64.] The declaration indicates that the intentional or inadvertent violation of the protective order in this or any other case can invalidate the tests which take years or decades to develop by fundamentally altering the accuracy of the results. [*Id.* at pp. 58–59, 64.] The following excerpt from Harrington's motion to compel is particularly enlightening regarding the cost and expense in developing new or updated psychological screening tests:

> The development of standardized psychological tests requires considerable time and expense. [Citation.] The process 'is arduous, expensive, time consuming, and cannot be immediately replicated when test content becomes compromised.' [Citation.] Nearly all such measures are protected by copyright law that prohibits their reproduction in any form, including audio-recording, without express written permission of the publisher. [Citation.] Improper disclosure of test materials 'can result in damage both to those who have an ownership interest in the test and to all who rely on the availability of the test.' [Citation.]

[App., Exh. 4, p. 35, citing App., Exh. 6, pp. 51–52, ¶ 15; Exh. 6, pp. 58–59, ¶ 4 (describing "five-stage, nationwide research program" requiring advisory panel of experts and examiners, sample size of 2,200 examinees aged 16–90, validity testing, quality assurance, and examiner training and reeducation, market research across eight cities, and more).]

The declarations of the experts further discuss the inability of protective orders to "claw back" the intentionally or inadvertently leaked information. In the digital age, once a document has been leaked, it is almost certain to be permanently available. [App., Exh. 6, p. 63.] In this age of data breaches, to which law firms are not immune, even a perfectly behaving counsel can unintentionally release information that is subject to a protective order.[2]

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[2] By way of example, in May of 2024, Bloomberg Law reported that at least 21 law firms had reported data breaches in the first five months of the year. (Sam Sholnik, Bloomberg Law,

In light of the expert declarations of 269 witnesses, respondent court's decision to not give "a lot of weight" [App., Exh. 10, p. 295] to their testimony was an abuse of discretion when considering whether a protective order would adequately protect the examination materials or address the concerns of the experts, such that they would not recuse themselves from serving on this matter.

This court should take the opportunity to overturn and distinguish the facts of this case from those found in *Randy's Trucking*, or clarify the holding and make it applicable throughout the state in order to provide much needed guidance to the trial courts. Litigants and the courts require consistency when an order like that in *Randy's Trucking* is appropriate and when a defendant has shown enough evidence to change that outcome and preserve their right to have a mental health examination by an expert of their choosing.

Trial courts throughout the state are facing this argument regarding whether *Randy's Trucking* applies to the case in front of them with varying results. Some courts are in agreement with Harrington's position and some are in agreement with the trial court here. Clarity and certainty regarding this issue can be granted by this court drawing a brighter line and relieving

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Wake Up Call: 2024 on Pace to Set Law Firm Data Breach Record (May 24, 2024) <https://news.bloomberglaw.com/business-and-practice/wake-up-call-2024-on-pace-to-set-law-firm-data-breach-record> [as of June 17, 2025].)

litigants throughout the state from burdensome law and motion requirements.

CONCLUSION

Based on the foregoing reasons, Defendant/Petitioner Rebecca Harrington respectfully requests this court grant review of the Court of Appeal's order denying defendant's petition for writ of mandate.

Respectfully Submitted,

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Lann G. McIntyre

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Attorneys for Defendant and Petitioner
REBECCA HARRINGTON

CERTIFICATE OF COMPLIANCE WITH RULE 8.504

I, the undersigned, Raymond K. Wilson Jr., declare that:

1. I am a partner in the firm of Lewis, Brisbois, Bisgaard & Smith LLP, counsel of record for defendant and petitioner Rebecca Harrington.

2. This certificate of compliance is submitted in accordance with rule 8.504(d)(1) of the California Rules of Court.

3. This petition for review was produced with a computer. It is proportionately spaced in 13-point Century Schoolbook typeface. The petition contains 4,758 words, including footnotes.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Diego, California, on July 10, 2025.

/s/ Raymond K. Wilson Jr.
Raymond K. Wilson Jr.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

REBECCA HARRINGTON,

Petitioner,

v.

SUPERIOR COURT FOR THE CITY & COUNTY OF SAN FRANCISCO,

Respondent;

LEAH HICKEY,

Real Party in Interest.

A173544

(San Francisco Sup. Ct. No. CGC-23-606326)

BY THE COURT:

The petition for writ of mandate or other appropriate relief is denied.

Date 06/30/2025 Stewart, P.J., P.J.

PROOF OF SERVICE

Harrington v. The Superior Court of the City and County of San Francisco

First Civil Number A173544

Supreme Court Number _____

I, Janis Kent, state:

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 550 West C Street, Suite 1700, San Diego, California 92101.

On July 10, 2025, I served the following document described as **PETITION FOR REVIEW** on all interested parties in this action through TrueFiling, addressed to all parties appearing on the electronic service list for the above-titled case. The service transmission was reported as complete and a copy of the TrueFiling Receipt/Confirmation will be filed, deposited or maintained with the original document in this office.

On July 10, 2025, I served the following document described as **PETITION FOR REVIEW** by placing a true copy enclosed in a sealed envelope addressed as stated on the attached service list. I am readily familiar with the firm's practice for collection and processing correspondence for regular and overnight mailing. Under that practice, this document will be deposited with the Overnight Mail provider and/or U.S. Postal Service on this date with postage thereon fully prepaid at San Diego, California to addresses listed below in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 10, 2025, at San Diego, California.

/s/ Janis Kent
Janis Kent

SERVICE LIST

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First Civil Number A173544
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San Francisco County Superior Court
The Honorable Joseph M. Quinn (Dept. 302)
Civic Center Courthouse
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San Francisco, CA 94102
(*Via Overnight Mail)*

California Supreme Court
Attn: Clerk of Court
350 McAllister Street, Room 1295
San Francisco, CA 94102
(*Via Electronic*)

Presiding Judge (Civil)
San Francisco Superior Court
Civic Center Courthouse
400 McAllister Street
San Francisco, CA 94102
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Clerk of the Court
California Court of Appeal
First Appellate District, Division Two
350 McAllister Street
San Francisco, CA 94102
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STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

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Supreme Court of California

Case Name: **Leah Hickey v. Rebecca Harrington**
Case Number: **TEMP-59KHHQMV**
Lower Court Case Number:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

7/10/2025

Date

/s/Janis Kent

Signature

Wilson, Raymond (284686)

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