ASCDC
Association of Southern California Defense Counsel

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August 6, 2020

Justices Grimes, Bigelow, and Stratton
California Court of Appeal, Second District, Division 8
300 S. Spring Street, Los Angeles, CA 90013

Re: Request for Publication of
Oh v. TIAA (July 30, 2020, Div. 8) B297567

Honorable Justices,

The Association of Southern California Defense Counsel respectfully requests that this Court certify for publication its July 30, 23-page opinion in *Lin Joon Oh v. Teachers Insurance and Annuity Association of America*.

Statement of Interest. The Association is a preeminent regional organization of over a thousand California lawyers, specializing in defending civil actions. The Association is dedicated to promoting the administration of justice, educating the public about the legal system, and enhancing the standards of civil litigation practice. The Association is also actively engaged in assisting courts by appearing as amicus curiae, or filing publication requests, in cases involving issues of significance to its members. The Association has no connection to any of the parties and independently evaluated and voted to seek publication without influence by the lawyers or law firms involved.

Summary of the case. In *Oh* the parents of Mr. Oh sued the owner/landlord and the property manager of a commercial premises where their son worked after he died in an explosion there. His employer, who leased the premises, did not know that the combustible material Mr. Oh was handling was dangerous and so did not comply with requirements in the lease for storing and labeling hazardous materials. The trial court granted summary judgment for the defendants, concluding that they had no duty of care to Mr. Oh because they had no knowledge of the dangerousness of the product that was located in an area leased to Mr. Oh's

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employer (not in a common area) and was stored inside drums that did not disclose the contents were hazardous. This Court affirmed, recognizing the lack of any evidence that the defendants had any actual or constructive knowledge that the employer/tenant was storing hazardous material.

Reasons for publication. Lawsuits like this one, alleging negligence per se against owners, landlords, and property managers are fairly common. But published opinions exploring the duties of such defendants regarding dangerous conditions are sparse, especially in the commercial-leasing context.

In particular, the opinion in *Oh* notes that "there is no authority requiring a landlord to conduct research or otherwise investigate the contents of containers that present no indication of possible hazards." (Opn. at p. 21.) Publication would establish this useful precedent in a clearly stated fashion. Similarly, on page 22, this Court had to cite a case from over 30 years for the more general proposition that a landlord "need not take extraordinary measures or make unreasonable expenditures of time and money in trying to discover hazards unless the circumstances so warrant." This too is an important statement of law worth reiteration in this century.

Oh also contains notable analysis on procedural matters regarding the attempted use of a prior appellate writ record on appeal, a proffered declaration that the trial court never granted permission for filing, and the validity of defendants' separate statement supporting summary judgment.

In sum, the opinion satisfies the criteria for publication by applying existing rules to a new set of facts (capable of repetition in analogous situations), as well as addressing legal issues of public interest, and making a significant contribution to the legal literature. The opinion would be

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valuable as citable precedent and the Association urges its publication.

Respectfully submitted,
Manatt, Phelps & Phillips, LLP

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