

Case No. S216566
(Court of Appeal No. C062329)
(Sacramento County Superior Court No. 06AS00671)

**IN THE SUPREME COURT OF
THE STATE OF CALIFORNIA**

F.P.,
Plaintiff and Respondent,

v.

JOSEPH MONIER,
Defendant and Appellant.

After a Decision By the Court of Appeal,
Third Appellate District

**REQUEST FOR LEAVE TO FILE AMICUS
CURIAE BRIEF AND PROPOSED BRIEF BY
THE CALIFORNIA ACADEMY OF APPELLATE
LAWYERS IN SUPPORT OF APPELLANT**

CALIFORNIA ACADEMY OF
APPELLATE LAWYERS

KATHRYN KARCHER (No. 125073)
CHAIR, AMICUS COMMITTEE
JAN T. CHILTON (No. 47582)
JON B. EISENBERG (No. 88278)
DENNIS A. FISCHER (No. 37906)
LISA R. JASKOL (No. 138769)
ROBIN B. JOHANSEN (No. 79084)
ROBIN MEADOW (No. 51126)

WENDY C. LASCHER (No. 58648)
FERGUSON CASE ORR
PATERSON LLP
1050 South Kimball Road
Ventura, California 93004
Telephone: (805) 659-6800
Fax: (805) 659-6818

*Attorneys for Amicus California Academy
of Appellate Lawyers*

**REQUEST FOR LEAVE TO FILE AMICUS CURIAE BRIEF
AND PROPOSED BRIEF IN SUPPORT OF APPELLANT**

The California Academy of Appellate Lawyers is a non-profit elective organization of experienced appellate practitioners. Its goals include promoting and encouraging sound appellate procedures designed to insure proper and effective representation of appellate litigants, efficient administration of justice at the appellate level, and improvements in the law affecting appellate litigation.

The Academy and its members have great interest in the manner appellate courts review a trial court's failure to file a statement of decision when one is required under Code of Civil Procedure section 632 and rule 3.1590. Academy members regularly rely on statements of decision in screening potential appeals and in representing both appellants and respondents. In view of that interest and the substantial appellate expertise and experience of its members, the Academy believes its views will assist the court in resolving this case.

The Academy has participated as amicus curiae in many cases before this court including, most recently, *Conservatorship of McQueen* (2014) 59 Cal.4th 602 and *Kurwa v. Kislinger* (2013) 57 Cal.4th 1097.

The Academy believes that its amicus brief will assist the court in addressing the effect of trial court error in failing to issue a statement of decision upon a timely request. The brief cites authorities not mentioned in the parties' briefs, and provides practical insights based on Academy members' experience.

The court granted the Academy an extension of time to March 11, 2015 to file this application and the accompanying brief. These documents are filed within that deadline.

No party's counsel authored this brief in whole or in part. No party or party's counsel contributed money that was intended to fund preparing or submitting this brief. Other than the Academy and its members, no person contributed money or services intended to fund preparing or submitting this brief.

Jay-Allen Eisen, one of the attorneys for defendant-appellant Joseph Monier, is an Academy member who ordinarily serves on the Academy's amicus committee. In accordance with the Academy's rules, Mr. Eisen has not participated in either the Academy's decision to file this brief, or in the brief's preparation.

For these reasons, the Academy respectfully requests that the court grant leave to file the accompanying amicus curiae brief.


Dated: March 10, 2015

CALIFORNIA ACADEMY OF
APPELLATE LAWYERS

KATHRYN KARCHER,
CHAIR, AMICUS COMMITTEE
JAN T. CHILTON
JON B. EISENBERG
DENNIS A. FISCHER
LISA R. JASKOL
ROBIN B. JOHANSEN
ROBIN MEADOW

FERGUSON CASE ORR PATERSON, LLP

By:


WENDY COLE LASCHER
ATTORNEYS FOR AMICUS CURIAE
CALIFORNIA ACADEMY OF
APPELLATE LAWYERS

PROOF OF SERVICE

I am employed in the County of Ventura, State of California. I am over the age of 18 and not a party to the within action; my business address is 1050 South Kimball Road, Ventura, California 93004.

On March 11, 2015, I served the foregoing document described as **“REQUEST FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND PROPOSED BRIEF BY THE CALIFORNIA ACADEMY OF APPELLATE LAWYERS IN SUPPORT OF APPELLANT”** on the interested parties in the action entitled *F.P. vs. Joseph Monier*; Sacramento County Superior Court Case No.: 06AS00671; Court of Appeal, Third Appellate District Case no.: C062329.

by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

See attached Service List

BY MAIL I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice the above envelope would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Ventura, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY PERSONAL SERVICE. I caused personal delivery (*I personally delivered by hand*) of the document(s) listed above to the person(s) at the address(es) listed above. (or address(es) as set forth on the attached service list)

BY OVERNIGHT DELIVERY Depositing the above document(s) in a box or other facility regularly maintained by the U.S. Post Office, Express Mail, overnight delivery in an envelope or package designated by the U.S. Post Office with delivery fees paid or provided for.

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

Executed on March 11, 2015, at Ventura, California.



Alice Duran

SERVICE LIST

F.P. vs. Joseph Monier

Sacramento County Superior Court Case No.: 06AS00671
Court of Appeal, Third Appellate District Case no.: C062329

Attorneys for Plaintiff and Respondent F.P.

John P. Henderson, Esq.
LAW OFFICES OF JOHN P. HENDERSON
8150 Sierra College Boulevard, Suite 170
Roseville, CA 95661

Jeffrey L. Bleich, Esq.
MUNGER TOLLES & OLSON, LLP
560 Mission Street, 27th Floor
San Francisco, CA 94105

Attorneys for Defendant and Appellant Joseph Monier

Jay-Allen Eisen, Esq.
Jay-Allen Eisen Law Corporation
2431 Capital Avenue
Sacramento, CA 95816

SACRAMENTO COUNTY SUPERIOR COURT
720 9th Street
Sacramento, CA 95814

COURT OF APPEAL
Third Appellate District
914 Capitol Mall, 4th Floor
Sacramento, CA 95814