

**CALIFORNIA COURT OF APPEAL, FOURTH APPELLATE DISTRICT,  
DIVISION ONE**

**Spotlight on Coastal Corruption v. Kinsey**

Spotlight on Coastal Corruption v. Kinsey · No. D074673 · Decided November 24, 2020

**SUMMARY**

The California Court of Appeal, Fourth Appellate District, Division One, reversed a nearly \$1 million judgment against current and former California Coastal Commissioners for alleged violations involving disclosure of ex parte communications. The court held that Spotlight on Coastal Corruption lacked public-interest standing to pursue civil fines under Public Resources Code sections 30324 and 30327 because the action was not a mandamus proceeding. It also held that the additional civil-liability penalties under section 30820, subdivision (a)(2), did not apply to the ex parte disclosure violations.

**CASE DETAILS**

|                              |                                                                                                                                                                                                                                                                                                                                |
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| <b>COURT</b>                 | California Court of Appeal, Fourth Appellate District, Division One                                                                                                                                                                                                                                                            |
| <b>WRITING FOR THE COURT</b> | Per curiam; Huffman, J.; Benke, Acting P. J.; Irion, J.                                                                                                                                                                                                                                                                        |
| <b>JURISDICTION</b>          | California                                                                                                                                                                                                                                                                                                                     |
| <b>DECIDED</b>               | November 24, 2020                                                                                                                                                                                                                                                                                                              |
| <b>DOCKET</b>                | D074673                                                                                                                                                                                                                                                                                                                        |
| <b>DISPOSITION</b>           | reversed_and_remanded                                                                                                                                                                                                                                                                                                          |
| <b>PROCEDURAL POSTURE</b>    | Defendants, current or former California Coastal Commissioners, appealed a nearly \$1 million judgment imposing civil fines and attorneys' fees for alleged violations of California Coastal Act provisions governing disclosure of ex parte communications and participation in matters involving undisclosed communications. |
| <b>STANDARD OF REVIEW</b>    | Standing and the legal sufficiency of a complaint are reviewed de novo. Statutory interpretation is reviewed independently and de novo.                                                                                                                                                                                        |
| <b>PRECEDENTIAL VALUE</b>    | published                                                                                                                                                                                                                                                                                                                      |
| <b>PARTIES</b>               | Steve Kinsey, Erik Howell, Martha McClure, Wendy Mitchell, Mark Vargas v. Spotlight on Coastal Corruption                                                                                                                                                                                                                      |

**TOPICS**

administrative law

environmental law

statutory interpretation

appellate procedure

remedies

## PRACTICE AREAS

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## QUESTIONS PRESENTED

1. Whether Spotlight had public-interest standing to pursue civil-fine claims under Public Resources Code sections 30324 and 30327.
2. Whether a request for a writ of mandate in the caption or prayer was sufficient to make the action a mandamus proceeding for purposes of public-interest standing.
3. Whether a court may confer public-interest standing in a civil action seeking monetary penalties based on the perceived importance of the public interest or the absence of another effective remedy.
4. Whether Public Resources Code section 30820, subdivision (a)(2), authorizes an additional civil penalty of up to \$30,000 for violations of the Coastal Act's ex parte communication disclosure provisions.
5. Whether the attorneys' fee award could stand after reversal of the judgment.

## HOLDINGS

1. Spotlight lacked public-interest standing to pursue counts based on alleged violations of the Coastal Act's ex parte communication disclosure and participation provisions because public-interest standing is consistently applied only in mandamus proceedings, and this action was not a mandamus action.
2. A trial court may not create public-interest standing in an ordinary civil action seeking monetary penalties merely because the case involves an important public interest or because denying standing might leave an ineffective remedy.
3. Public Resources Code section 30820, subdivision (a)(2), does not apply to violations of the Coastal Act's ex parte communication disclosure and participation provisions governed by sections 30324, 30327, and 30824.
4. The prevailing-party attorneys' fee and cost award must also be reversed because it was based on the reversed judgment.

## KEY QUOTATIONS

“*Lack of standing is a fatal . . . defect that requires judgment against the plaintiff.*” (15)

“*A specific provision relating to a particular subject will govern in respect to that subject, as against a general provision, although the latter, standing alone, would be broad enough to include the subject to which the more particular provision relates.*” (23)

“*[T]o decide this case, it is only necessary to hold that section 30820(a)(2) does not apply to ex parte communication disclosure violations punishable under sections 30324, 30327, and 30824.*” (33)

## FACTUAL BACKGROUND

Spotlight, a lawyer-created entity with no employees, sued current and former California Coastal Commissioners for allegedly failing to timely and fully disclose ex parte communications and, in some instances, participating in Commission matters involving undisclosed communications. Spotlight did not seek to overturn any particular Commission land-use decision and primarily sought civil fines and attorneys' fees. The trial court found a limited number of violations among hundreds alleged, imposed fines, and awarded Spotlight substantial attorneys' fees despite defendants' defeat of approximately 99 percent of the claimed monetary relief.

## PROCEDURAL HISTORY

Spotlight sued five Coastal Commissioners, seeking civil penalties under Public Resources Code sections 30324, 30327, and 30820. After a six-day bench trial, the San Diego County Superior Court found various disclosure violations, imposed fines, and awarded Spotlight \$929,046.57 in attorneys' fees. The Court of Appeal reversed and directed the superior court to enter judgment for defendants and conduct further proceedings concerning prevailing-party fees and costs.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Enter judgment for defendants and conduct further proceedings consistent with the opinion, including consideration of defendants' motion for prevailing-party attorneys' fees and costs under Public Resources Code sections 30327, subdivision (b), and 30824.

## CASES CITED

- Yost v. Thomas, 36 Cal.3d 561, 565 (1984)
- Mendoza v. JPMorgan Chase Bank, N.A., 6 Cal.App.5th 802, 809 (2016)
- United Farmers Agents Assn., Inc. v. Farmers Group, Inc., 32 Cal.App.5th 478, 488 (2019)
- San Diegans for Open Government v. Public Facilities Financing Authority of City of San Diego, 8 Cal.5th 733, 738 (2019)
- People ex rel. Becerra v. Superior Court, 29 Cal.App.5th 486, 497, 503 (2018)
- Save the Plastic Bag Coalition v. City of Manhattan Beach, 52 Cal.4th 155, 166, 170 n.5 (2011)
- Reynolds v. City of Calistoga, 223 Cal.App.4th 865, 874 (2014)
- Stiger v. Flippin, 201 Cal.App.4th 646, 654 (2011)
- County of San Diego v. State of California, 164 Cal.App.4th 580, 593 (2008)
- Saunders v. Superior Court, 27 Cal.App.4th 832, 837 (1994)
- Carsten v. Psychology Examining Committee, 27 Cal.3d 793, 795-799 (1980)
- Green v. Obledo, 29 Cal.3d 126, 145 (1981)
- Nowlin v. Department of Motor Vehicles, 53 Cal.App.4th 1529, 1537-1538 (1997)
- Desny v. Wilder, 46 Cal.2d 715, 729 (1956)

- Pacific Palisades Bowl Mobile Estates, LLC v. City of Los Angeles, 55 Cal.4th 783, 793 (2012)
- People v. Jacobo, 37 Cal.App.5th 32, 42 (2019)
- People v. Smith, 95 Cal.App.4th 283, 298 (2002)
- Lopez v. Sony Electronics, Inc., 5 Cal.5th 627, 635 (2018)
- Klem v. Access Insurance Co., 17 Cal.App.5th 595, 620 (2017)
- Varshock v. California Department of Forestry and Fire Protection, 194 Cal.App.4th 635, 639, 643-647 (2011)
- People v. Mendoza, 23 Cal.4th 896, 907-908 (2000)
- Das v. Bank of America, N.A., 186 Cal.App.4th 727, 738 (2010)
- Lateef v. City of Madera, 45 Cal.App.5th 245, 253 (2020)
- City of Malibu v. California Coastal Commission, 206 Cal.App.4th 549, 552 (2012)
- Security National Guaranty, Inc. v. California Coastal Commission, 159 Cal.App.4th 402, 407 (2008)
- Absher v. AutoZone, Inc., 164 Cal.App.4th 332, 340-341 (2008)
- Gordon H. Ball, Inc. v. State of California ex rel. Department of Public Works, 26 Cal.App.3d 162, 170 (1972)
- Gillan v. City of San Marino, 147 Cal.App.4th 1033, 1053 (2007)