



**Community  
Legal Aid SoCal**

Advocates for Justice in Orange and Los Angeles Counties

October 10, 2022

Honorable Robert A. Knox, Acting Presiding Judge  
Honorable John R. Zitny  
Honorable Scott Van Camp  
Orange County Superior Court  
Appellate Division  
Central Justice Center  
700 Civic Center Dr. West  
Santa Ana, CA 92701

**Re: Request for Publication of Opinion in *Attenello v. Basilious*  
Appellate Division Case No. 30-2021-01217998  
Orange County Superior Court Case No. 30-2021-01209364**

To the Honorable Judges Knox, Zitny, and Van Camp:

Pursuant to Rule 8.1120 of the California Rules of Court, Community Legal Aid SoCal (“CLA SoCal”) and the undersigned signatories listed below respectfully request that this Court certify for publication the Opinion filed on September 20, 2022 in *Attenello v. Basilious*, Case No. 30-2021-01217998.

CLA SoCal and the undersigned signatories have a strong interest in ensuring that tenants have access to safe, affordable housing and are not wrongfully evicted from their homes. CLA SoCal fights injustice and advocates for social, economic, and racial equity by providing compassionate, holistic, and impactful legal services. CLA SoCal serves low-income clients across a variety of issue areas, including providing free legal assistance and representation to tenants defending against wrongful and unlawful evictions. The undersigned signatories also provide legal services and representation to low-income tenants across California.

As discussed below, the Opinion meets the standards for publication and contains sound legal principles that, if made available as citable precedent, would provide much-needed guidance on the Tenant Protection Act of 2019 (“TPA”) to trial courts, landlords, and tenants across California.

**I. The Opinion meets the standards for publication pursuant to the California Rules of Court.**

The Opinion should be published because it: (a) “Applies an existing rule of law to a set of facts significantly different from those stated in published opinions”; (b) “Modifies, explains,



or criticizes with reasons given, an existing rule of law; (c) “Advances a new interpretation, clarification, criticism, or construction of a provision of a constitution, statute, ordinance, or court rule”; and (d) “Involves a legal issue of continuing public interest.” (Cal. Rules of Court, rule 8.1105(c)(2), (3), (4), (6).)

**II. There is no published opinion addressing the issues presented in *Attenello v. Basilious*.**

There is currently no published opinion that addresses whether an agreement that the landlord prepares and presents to a tenant for signature—such as the Realtors Association Form at issue here—can constitute a tenant’s written notice terminating the tenancy under Section 1946.2(b)(1)(K) of the TPA. At the demurrer hearing below, the trial court expressed concern that there was no legal precedent on whether the Realtors Association Form satisfied the TPA’s requirements. (See Respondents’ Supplemental Brief Regarding the Demurrer Hearing at 3 [quoting Official Electronic Recording of Demurrer Hearing (“Hearing”) at 36:14-37:00 [“*I don’t have any precedent, nobody has come in and said [the Form] ... has been found valid as meeting the requirements of the TPA.*”] [emphasis added].) Indeed, CLA SoCal did not discover any caselaw interpreting Section 1946.2(b)(1)(K) while briefing this appeal, and therefore relied solely on statutory interpretation arguments to support affirmance. For these reasons, the Opinion should be certified for publication. (See Cal. Rules of Court, rule 8.1105(c)(2).)

**III. The Opinion interprets and clarifies the requirements of Section 1946.2(b)(1)(K) of the TPA.**

If this Court certifies the Opinion for publication, it would be the first published appellate decision to explain the requirements a landlord must satisfy to establish a just cause basis for eviction under Section 1946.2(b)(1)(K). The Opinion provides critical legal analysis and reasoning regarding Section 1946.2(b)(1)(K) in three ways. *First*, this Court applied statutory interpretation principles to determine that the plain language of Section 1946.2(b)(1)(K) “unambiguously states that the *tenant is to provide* ‘the owner written notice . . . or makes a written offer to surrender. . . .’” (Opinion at 6.) *Second*, this Court concluded that, based on the plain language of Section 1946.2(b)(1)(K), a tenant’s written notice terminating the tenancy “must be served ‘as provided in Section 1946.’” (*Id.* at 7.) *Finally*, this Court reasoned that statutory notice procedures “must be strictly adhered to” and found that the Realtors Association Form “[did] not reflect strict compliance with section 1946.2.” (*Id.* [citing *Stancil v. Superior Court* (2021) 11 Cal.5th 381, 394-395].)

For these reasons, the Opinion provides important guidance on how trial courts should interpret Section 1946.2(b)(1)(K). Because of the small body of caselaw on the TPA—and no published precedent interpreting Section 1946.2(b)(1)(K)—the Opinion should be certified for publication. (See Cal. Rules of Court, rule 8.1105(c)(3)-(4).)



**IV. The Opinion involves an issue of continuing public interest.**

The Opinion provides a much-needed contribution to the limited universe of caselaw on the rights and duties of landlords and tenants. As discussed above, the Opinion instructs trial courts on how to interpret the TPA, which was enacted to safeguard against arbitrary, discriminatory, and retaliatory evictions, and which remains in effect today. (Respondents' Brief at 6 [summarizing TPA legislative history and intent].)

Additionally, the Opinion affirms the trial court's ruling that the Realtors Association Form does not satisfy the requirements of the TPA. Western Center on Law and Poverty informed this Court that they "ha[ve] seen the Realtors Association Form being utilized across Southern California," and the Form is still in circulation via the California Association of Realtors' website.<sup>1</sup> (Amicus Curiae Brief in Support of Respondents at 8.) Thus, publication is critical to assist trial courts in evaluating the Realtors Association Form—and similar boilerplate agreements that landlords prepare and ask tenants to sign—in future eviction proceedings. For this additional reason, the Opinion should be certified for publication. (See Cal. Rules of Court, rule 8.1105(c)(6).)

**V. Conclusion**

For the reasons outlined above, we respectfully request that this Court certify for publication its September 20, 2022 Opinion in *Attenello v. Basilious*.

Respectfully submitted,

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<sup>1</sup> See Coronavirus Rent Forgiveness, Termination of Tenancy and Possession of Premises Agreement, available at [https://www.car.org/-/media/CAR/Documents/Transaction-Center/PDF/Standard-Forms/2020-Winter-Meeting-RE/CRFP\\_9-21-2020.pdf?la=en&hash=8585A9874D99E0A7411D3F8D3C5A2D73824667FC&hash=8585A9874D99E0A7411D3F8D3C5A2D73824667FC](https://www.car.org/-/media/CAR/Documents/Transaction-Center/PDF/Standard-Forms/2020-Winter-Meeting-RE/CRFP_9-21-2020.pdf?la=en&hash=8585A9874D99E0A7411D3F8D3C5A2D73824667FC&hash=8585A9874D99E0A7411D3F8D3C5A2D73824667FC) (last accessed on Oct. 10, 2022).



Additional Signatories<sup>2</sup>:

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Alliance of Californians for Community Empowerment

Eric Post  
BASTA, Inc.

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<sup>2</sup> Signatories have been listed alphabetically, and Respondents' counsel attests that the signatories have authorized their inclusion in this request for publication.



# Community Legal Aid SoCal

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