

HORVITZ & LEVY LLP

Business Arts Plaza
3601 W. Olive Ave., 8th Fl.
Burbank, CA 91505
818.995.0800

September 9, 2022

Via Electronic Filing

Acting Presiding Justice Eileen C. Moore
Associate Justice Maurice Sanchez
The Honorable Judge Linda S. Marks
California Court of Appeal
Fourth Appellate District, Division Three
601 West Santa Ana Boulevard
Santa Ana, California 92701

Re: [*Bonni v. St. Joseph Health System et al.*](#)
Court of Appeal No. G052367
Request for Publication; Opinion filed August 23, 2022

Dear Presiding Justice Moore, Associate Justice Sanchez, and Judge Marks:

Under California Rules of Court, rule 8.1120(a), the California Hospital Association (CHA) respectfully requests that this court certify for publication its August 23, 2022, opinion in *Bonni v. St. Joseph Health System et al. (Bonni)*. As explained below, the opinion warrants publication because it clarifies the application of privileges afforded to certain communications during the hospital peer review process, a legal issue of undoubted continuing public interest, and develops anti-SLAPP litigation in the context of physician retaliation claims under Health and Safety Code section 1278.5. (See Cal. Rules of Court, rule 8.1105(c)(2), (3), (4) & (6).)

CHA is a nonprofit, member-driven organization, representing more than 400 hospitals and health care systems throughout California. It is committed to establishing and maintaining a financial and regulatory environment within which hospitals, health care systems, and other health care providers can offer high-quality patient care. To that end, CHA's members are active participants in the state-law mandated peer review process, and therefore have an important interest in seeing that the peer review process continues to serve the salutary and protective purposes that California law has entrusted to it. Accordingly, CHA's member

Acting Presiding Justice Eileen C. Moore
Associate Justice Maurice Sanchez
The Honorable Judge Linda S. Marks
September 9, 2022
Page 2

hospitals benefit from clear and consistent legal precedent governing the peer review process like this court's opinion in *Bonni*.

Prior to this court's opinion, published California appellate opinions had only addressed whether Civil Code section 47, subdivision (b)'s privilege extended to two components of the hospital peer review process: reports submitted to government agencies (*Joel v. Valley Surgical Center* (1998) 68 Cal.App.4th 360, 372) and summary suspensions of hospital privileges (*Smith v. Adventist Health System/West* (2010) 190 Cal.App.4th 40, 59). *Bonni* correctly covers new ground in determining that the initiation of the peer review process, allegedly defamatory statements made during peer review, and appellate committee recommendations made to a hospital's board of trustees are all protected communicative acts under section 47, subdivision (b)'s litigation privilege. (See typed opn. 14, 15.) If published, this opinion will provide much needed clarity to lower courts, litigants, and participants in the hospital peer review process.

In addition, since the California Supreme Court clarified which peer review activities constitute protected activity in *Bonni v. St. Joseph Health System* (2021) 11 Cal.5th 995, 1009–1011, 1015, no other published California appellate case addressing Health and Safety Code section 1278.5 retaliation claims has reached step two of anti-SLAPP analysis to assess the “probability that [a] plaintiff will prevail” on his or her claims (Code Civ. Proc., § 425.16, subd. (b)(1)). This court's opinion advances jurisprudence in this area by explaining that plaintiff's claims regarding fraudulent inducement and undue influence in settlement negotiations would nevertheless fail step two of anti-SLAPP analysis. (Typed opn. 16–18.) Such analysis provides useful guidance to future litigants tasked with navigating the anti-SLAPP statute in the context of section 1278.5 retaliation claims.

Finally, as this court noted, failing to apply Civil Code section 47, subdivision (b)'s privilege to statements related to peer review “ ‘would further discourage participation in peer review by allowing disciplined physicians to file harassing lawsuits against hospitals and their peer review committee members rather than seeking judicial review of the committee's decision by the available means of a petition for administrative mandate.’ ” (Typed opn. 15.) The compelling public interest in preserving active and candid participation in the peer review process alone warrants publication of this court's opinion.

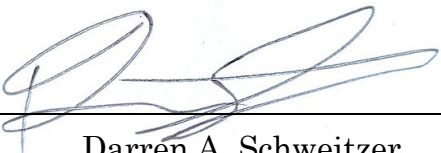
Acting Presiding Justice Eileen C. Moore
Associate Justice Maurice Sanchez
The Honorable Judge Linda S. Marks
September 9, 2022
Page 3

For these reasons, this court's opinion satisfies the criteria for publication and should therefore be published.

Respectfully submitted,

HORVITZ & LEVY LLP
JEREMY B. ROSEN
DARREN A. SCHWEITZER

By:



Darren A. Schweitzer

Attorneys for **CALIFORNIA HOSPITAL
ASSOCIATION**

PROOF OF SERVICE

**Bonni v. St. Joseph Health System et al.
Case No. G052367**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 3601 West Olive Avenue, 8th Floor, Burbank, CA 91505-4681.

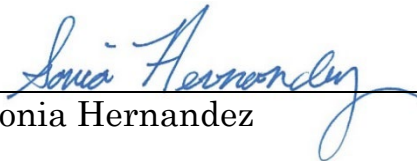
On September 9, 2022, I served true copies of the following document(s) described as **REQUEST FOR PUBLICATION** on the interested parties in this action as follows:

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BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission via Court's Electronic Filing System (EFS) operated by ImageSoft TrueFiling (TrueFiling) as indicated on the attached service list:

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

Executed on September 9, 2022, at Burbank, California.



Sonia Hernandez

SERVICE LIST
Bonni v. St. Joseph Health System et al.
Case No. G052367

<p>Mark Quigley Greene Broillet & Wheeler 222 No. Pacific Coast Highway Suite 210 El Segundo, CA 90245</p>	<p>Attorneys for Plaintiff and Appellant Aram Bonni, M.D.</p>
<p>Stuart B. Esner Esner, Chang & Boyer 234 E Colorado Blvd Ste 975 Pasadena, CA 91101</p>	<p>Attorneys for Plaintiff and Appellant Aram Bonni, M.D.</p>
<p>Debra Jill Albin-Riley ArentFox Schiff LLP 555 W 5th St 48th Floor Los Angeles, CA 90013-1065</p>	<p>Attorneys for Defendants and Respondents St. Joseph Health System; St. Joseph Hospital of Orange; Mission Hospital Regional Medical Center; St. Joseph Hospital of Orange Medical Executive Committee And Medical Staff; St. Joseph Hoag Health; Covenant Health Network; Christopher Nolan, M.D.; Michael Ritter, M.D.; Kenneth Rexinger, M.D.; Farzad Masoudi, M.D.; Tod Lempert, M.D.; Randy Fiorentino, M.D.; Juan Velez, M.D.; George Moro, M.D.;</p>