

APPENDIX

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Appendix A

Court of Appeal, First Appellate District, Division
One – NO. A161442

S279378

IN THE SUPREME COURT OF CALIFORNIA

En Banc

SUPREME COURT
FILED

JUN 14 2023

Jorge Navarrete Clerk

Deputy

COOPER D. JOHNSON, Plaintiff and Appellant,

v.

MALIA M. COHEN, as State Controller, etc.,
Defendant and Respondent.

The petition for review is denied.
The request for an order directing publication of
the opinion is denied.

GUERRERO
Chief Justice

Appendix B

Filed 3/16/23 Johnson v. Cohen CA1/1

**NOT TO BE PUBLISHED IN OFFICIAL
REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

COOPER D. JOHNSON,

Plaintiff and Appellant,

v.

MALIA M. COHEN, as
State Controller, etc.,

Defendant and
Respondent.

A161442

(San Francisco City &
County Super. Ct. No.
CGC-20-584592)

Plaintiff Cooper D. Johnson filed a class action lawsuit, alleging that the State Controller (the Controller or defendant), violated his constitutional rights with respect to property governed by the Unclaimed Property Law (Code Civ. Proc., § 1500 et seq.; UPL). Among other allegations, he asserts the Controller violated his rights under the takings and due process clauses of the United States Constitution.

The trial court concluded the allegations in this dispute were substantially identical to those raised in *Hashim v. Chiang* (Super. Ct. S.F. City and County, No. CGC-13-531294) (*Hashim*). Because the trial court sustained the Controller’s demurrer without leave to amend in *Hashim*, it acted on its own motion to dismiss the complaint in this matter. Johnson failed to demonstrate reversible error, and we thus affirm.¹

I.

BACKGROUND

In 2020, Johnson filed a class action complaint against the Controller on behalf of “all individuals owning purportedly ‘abandoned’ property of less than \$50 . . . that was transferred to the Controller.” The complaint related to the Controller’s allegedly unconstitutional treatment of property under the

¹ On September 24, 2021, Johnson requested this court take judicial notice of the trial court’s order in *Hashim*. On March 15, 2022, the Controller requested this court take judicial notice of certain pleadings in *Hashim* and this court’s nonpublished opinion in *Hashim v. Chiang* (Sept. 4, 2019, A147670). We deny these requests as irrelevant to our resolution of this appeal.

UPL. Johnson alleged “amounts held by the Controller in sums less than \$50.00 and other property” of his was seized by the state without notice, and he had been unable to have the property returned. Johnson asserted causes of action for (1) declaratory relief; (2) deprivation of the constitutional right to procedural due process in violation of title 42 United States Code section 1983 (section 1983)²; and (3) unconstitutional taking of personal property in violation of section 1983.

Shortly after filing the complaint, Johnson filed a motion for a temporary restraining order (TRO) and preliminary injunction. Johnson sought to “immediately prohibit and to halt the Controller’s private property seizures under color of the State’s [UPL]” Johnson argued issuance of a preliminary injunction is appropriate to halt “unnoticed property seizures” because the legal remedies are inadequate

² Section 1983 provides: “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.” (42 U.S.C. § 1983.)

and “property owners . . . are hurt in a way that cannot be later repaired.”

The trial court denied Johnson’s motion and stayed the action. The court noted counsel for Johnson had previously filed the complaint in *Hashim* which contained “substantially similar” allegations, sought to certify a “substantially identical” class, and sought “relief that is word-for-word identical” to this action. The court further noted “[Johnson] now brings the same application for a TRO and preliminary injunction that the Court previously denied” in *Hashim*. The trial court thus concluded Johnson’s “application, and this entire action, is a transparent effort to evade the Court’s prior ruling.”

The trial court also issued an order dismissing Johnson’s complaint with prejudice. The court explained dismissal was appropriate because the complaint in this action “is substantially identical to the Third Amended Complaint in [*Hashim*]” and it had sustained the demurrer in *Hashim* without leave to amend. The court subsequently entered judgment, and Johnson timely appealed.

II.

DISCUSSION

Johnson challenges both the ruling dismissing his complaint and the order denying his application for a TRO and preliminary injunction. We address each order in turn.

A. Order Dismissing the Complaint

The trial court exercised its inherent authority to dismiss the complaint because it was duplicative of

Hashim, in which the trial court sustained defendant's demurrer without leave to amend. Johnson does not dispute the court's authority to do so or address the basis for the court's dismissal of his complaint, and instead raises various substantive arguments regarding the UPL. By failing to address the basis for the trial court's dismissal order and subsequent judgment, Johnson has not demonstrated error.

“ It is well established, in California and elsewhere, that a court has both the inherent authority and responsibility to fairly and efficiently administer all of the judicial proceedings that are pending before it, and that one important element of a court's inherent judicial authority in this regard is “the power . . . to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.” ’ ” (*Briggs v. Brown* (2017) 3 Cal.5th 808, 852.)

“In the absence of express statutory authority, a trial court may, under certain circumstances, invoke its limited, inherent discretionary power to dismiss claims with prejudice.” (*Lyons v. Wickhorst* (1986) 42 Cal.3d 911, 915; see Code Civ. Proc., § 581, subd. (m) [“The provisions of [§ 581] shall not be deemed to be an exclusive enumeration of the court's power to dismiss an action”].) As relevant here, “California ‘appellate courts possess the . . . inherent power to summarily dismiss any action or appeal which . . . is based upon . . . frivolous grounds. [Citations.]’

[Citations.] Frivolous appeals subject to dismissal include appeals that are ‘indisputably [without] merit.’” (*Huang v. Hanks* (2018) 23 Cal.App.5th 179, 182.) The California Supreme Court has instructed that an order dismissing an action is presumed correct and may not be reversed on appeal unless the appellant meets his or her burden of showing that the trial court abused its discretion. (*Howard v. Thrifty Drug & Discount Stores* (1995) 10 Cal.4th 424, 443.)

Here, Johnson fails to demonstrate the trial court abused its discretion. Johnson does not contend the trial court lacked authority to dismiss his complaint. Nor has he offered any authority or citations to the record to suggest the trial court erred in concluding this action constituted an impermissible attempt to circumvent its rulings in *Hashim*. Johnson’s failure to offer any legal argument, citation to authorities, or citation to the record waives his appeal challenging the judgment. (See *Ellenberger v. Espinosa* (1994) 30 Cal.App.4th 943, 948 [may treat argument as waived or abandoned when brief fails to contain legal argument with citation to authorities]; see also Cal. Rules of Court, rule 8.204(a)(1)(B)–(C) [appellant must identify points of law and error, support them by argument and, if possible, citation of authority, and provide citations to the record in support of those arguments].) Accordingly, Johnson has failed to demonstrate the trial court abused its discretion in dismissing his complaint.

B. The Preliminary Injunction Ruling

Johnson’s notice of appeal also seeks to appeal from the trial court’s order denying his request for a

TRO and preliminary injunction. However, his appeal from this order is untimely.

The court clerk served a filed-stamped order denying the TRO and preliminary injunction on July 14, 2020. That order was separately appealable, and Johnson was thus required to file a notice of appeal within 60 days. (Code Civ. Proc., § 904.1, subd. (a)(6) [order denying a preliminary injunction is an appealable order]; Cal. Rules of Court, rule 8.104(a)(1)(A), (e) [notice of appeal must be filed 60 days after court clerk serves a filed- endorsed copy of an appealable order showing date of service].) He failed to do so, and he instead filed a notice of appeal from that order on October 15, 2020—over 90 days later. This court now lacks jurisdiction to consider his appeal from the order denying his request for a TRO and preliminary injunction.

In any event, an injunction is not warranted where, as here, Johnson has not established a viable claim for relief. “A preliminary injunction is an interim remedy designed to maintain the status quo pending a decision on the merits. [Citation.] It is not, in itself, a cause of action. Thus, a cause of action must exist before injunctive relief may be granted.” (*MaJor v. Miraverde Homeowners Assn.* (1992) 7 Cal.App.4th 618, 623.)

III.
DISPOSITION

MARGULIES, J.

WE CONCUR:

HUMES, P. J.

BANKE, J.

A161442
Johnson v. Cohen

Appendix C

Code of Civil Procedure

Title 10, Chapter 7

Unclaimed Property Law

§ 1510. Escheat of intangible personal property

Unless otherwise provided by statute of this state, intangible personal property escheats to this state under this chapter if the conditions for escheat stated in Sections 1513 through 1521 exist, and if:

(a) The last known address, as shown on the records of the holder, of the apparent owner is in this state.

(b) No address of the apparent owner appears on the records of the holder and:

(1) The last known address of the apparent owner is in this state; or

(2) The holder is domiciled in this state and has not previously paid the property to the state of the last known address of the apparent owner; or

(3) The holder is a government or governmental subdivision or agency of this state and has not previously paid the property to the state of the last known address of the apparent owner.

(c) The last known address, as shown on the records of the holder, of the apparent owner is in a state that

does not provide by law for the escheat of such property and the holder is (1) domiciled in this state or (2) a government or governmental subdivision or agency of this state.

(d) The last known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is (1) domiciled in this state or (2) a government or governmental subdivision or agency of this state.

Code of Civil Procedure

Title 10, Chapter 7

Unclaimed Property Law

§ 1511. Escheat of money orders, travelers checks,
etc.; conditions

(a) Any sum payable on a money order, travelers check, or other similar written instrument (other than a third-party bank check) on which a business association is directly liable escheats to this state under this chapter if the conditions for escheat stated in Section 1513 exist and if:

(1) The books and records of such business association show that such money order, travelers check, or similar written instrument was purchased in this state;

(2) The business association has its principal place of business in this state and the books and records of the business association do not show the state in which such money order, travelers check, or similar written instrument was purchased; or

(3) The business association has its principal place of business in this state, the books and records of the business association show the state in which such money order, travelers check, or similar written instrument was purchased, and the laws of the state of purchase do not provide for the escheat of the sum payable on such instrument.

(b) Notwithstanding any other provision of this chapter, this section applies to sums payable on money orders, travelers checks, and similar written instruments deemed abandoned on or after February 1, 1965, except to the extent that such sums have been paid over to a state prior to January 1, 1974. For the purposes of this subdivision, the words “deemed abandoned” have the same meaning as those words have as used in Section 604 of Public Law Number 93-495 (October 28, 1974), 88th Statutes at Large 1500.

Code of Civil Procedure

Title 10, Chapter 7

Unclaimed Property Law

§ 1513.5. Notice of escheat by banking or financial organization

(a) Except as provided in subdivision (c), if the holder has in its records an address for the apparent owner, which the holder's records do not disclose to be inaccurate, every banking or financial organization shall make reasonable efforts to notify any owner by mail or, if the owner has consented to electronic notice, electronically, that the owner's deposit, account, shares, or other interest in the banking or financial organization will escheat to the state pursuant to clause (i), (ii), or (iii) of subparagraph (A) of paragraph (1), (2), or (6) of subdivision (a) of Section 1513. The holder shall give notice either:

(1) Not less than two years nor more than two and one-half years after the date of last activity by, or communication with, the owner with respect to the account, deposit, shares, or other interest, as shown on the record of the banking or financial organization.

(2) Not less than 6 nor more than 12 months before the time the account, deposit, shares, or other interest becomes reportable to the Controller in accordance with this chapter.

(b) The notice required by this section shall specify the time that the deposit, account, shares, or other

interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the deposit, account, shares, or other interest. The face of the notice shall contain a heading at the top that reads as follows: “THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US,” or substantially similar language. The notice required by this section shall, in boldface type or in a font a minimum of two points larger than the rest of the notice, exclusive of the heading, (1) specify that since the date of last activity, or for the last two years, there has been no owner activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier, which need not exceed four digits; (3) indicate that the deposit, account, shares, or other interest is in danger of escheating to the state; and (4) specify that the Unclaimed Property Law requires banking and financial organizations to transfer funds of a deposit, account, shares, or other interest if it has been inactive for three years. It shall also include a form, as prescribed by the Controller, by which the owner may declare an intention to maintain the deposit, account, shares, or other interest. If that form is filled out, signed by the owner, and returned to the banking or financial organization, it shall satisfy the requirement of clause (iii) of subparagraph (A) of paragraph (1), clause (iii) of subparagraph (A) of paragraph (2), or clause (iii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 1513. In lieu of returning the form, the banking or financial organization may provide a

telephone number or other electronic means to enable the owner to contact that organization. The contact, as evidenced by a memorandum or other record on file with the banking or financial organization, shall satisfy the requirement of clause (iii) of subparagraph (A) of paragraph (1), clause (iii) of subparagraph (A) of paragraph (2), or clause (iii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 1513. If the deposit, account, shares, or other interest has a value greater than two dollars (\$2), the banking or financial organization may impose a service charge on the deposit, account, shares, or other interest for this notice in an amount not to exceed the administrative cost of mailing or electronically sending the notice and form and in no case to exceed two dollars (\$2).

(c) Notice as provided by subdivisions (a) and (b) shall not be required for deposits, accounts, shares, or other interests of less than fifty dollars (\$50), and, except as provided in subdivision (b), no service charge may be made for notice on these items.

(d) In addition to the notices required pursuant to subdivision (a), the holder may give additional notice as described in subdivision (b) at any time between the date of last activity by, or communication with, the owner and the date the holder transfers the deposit, account, shares, or other interest to the Controller.

(e) At the time a new account is opened with a banking or financial organization, the organization shall provide a written notice to the person opening the account informing the person that his or her

property may be transferred to the appropriate state if no activity occurs in the account within the time period specified by state law. If the person opening the account has consented to electronic notice, that notice may be provided electronically.

Code of Civil Procedure

Title 10, Chapter 7

Unclaimed Property Law

§ 1514. Safe deposit box or other safekeeping depository, contents or proceeds of sale of contents; notice of escheat to state; default by owner

(a) The contents of, or the proceeds of sale of the contents of, any safe deposit box or any other safekeeping repository, held in this state by a business association, escheat to this state if unclaimed by the owner for more than three years from the date on which the lease or rental period on the box or other repository expired, or from the date of termination of any agreement because of which the box or other repository was furnished to the owner without cost, whichever last occurs.

(b) If a business association has in its records an address for an apparent owner of the contents of, or the proceeds of sale of the contents of, a safe deposit box or other safekeeping repository described in subdivision (a), and the records of the business association do not disclose the address to be inaccurate, the business association shall make reasonable efforts to notify the owner by mail, or, if the owner has consented to electronic notice, electronically, that the owner's contents, or the proceeds of the sale of the contents, will escheat to the state pursuant to this section. The business association shall give notice not less than 6 months and not more than 12 months before the time the

contents, or the proceeds of the sale of the contents, become reportable to the Controller in accordance with this chapter.

(c) The face of the notice shall contain a heading at the top that reads as follows: “THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US,” or substantially similar language. The notice required by this subdivision shall specify the date that the property will escheat and the effects of escheat, including the necessity for filing a claim for the return of the property. The notice required by this section shall, in boldface type or in a font a minimum of two points larger than the rest of the notice, exclusive of the heading, do all of the following:

(1) Identify the safe deposit box or other safekeeping repository by number or identifier.

(2) State that the lease or rental period on the box or repository has expired or the agreement has terminated.

(3) Indicate that the contents of, or the proceeds of sale of the contents of, the safe deposit box or other safekeeping repository will escheat to the state unless the owner requests the contents or their proceeds.

(4) Specify that the Unclaimed Property Law requires business associations to transfer the contents of, or the proceeds of sale of the contents of, a safe deposit box or other safekeeping repository to the Controller

if they remain unclaimed for more than three years.

(5) Advise the owner to make arrangements with the business association to either obtain possession of the contents of, or the proceeds of sale of the contents of, the safe deposit box or other safekeeping repository, or enter into a new agreement with the business association to establish a leasing or rental arrangement. If an owner fails to establish such an arrangement prior to the end of the period described in subdivision (a), the contents or proceeds shall escheat to this state.

(d) In addition to the notice required pursuant to subdivision (b), the business association may give additional notice in accordance with subdivision (c) at any time between the date on which the lease or rental period for the safe deposit box or repository expired, or from the date of the termination of any agreement, through which the box or other repository was furnished to the owner without cost, whichever is earlier, and the date the business association transfers the contents of, or the proceeds of sale of the contents of, the safe deposit box or other safekeeping repository to the Controller.

(e) The contents of, or the proceeds of sale of the contents of, a safe deposit box or other safekeeping repository shall not escheat to the state if, as of June 30 or the fiscal yearend next preceding the date on which a report is required to be filed under Section 1530, the owner has owned, with a banking organization providing the safe deposit box or other safekeeping repository, any demand, savings, or

matured time deposit, or account subject to a negotiable order of withdrawal, which has not escheated under Section 1513 and is not reportable under subdivision (d) of Section 1530.

(f) The contents of, or the proceeds of sale of the contents of, a safe deposit box or other safekeeping repository shall not escheat to the state if, as of June 30 or the fiscal yearend next preceding the date on which a report is required to be filed under Section 1530, the owner has owned, with a financial organization providing the safe deposit box or other safekeeping repository, any demand, savings, or matured time deposit, or matured investment certificate, or account subject to a negotiable order of withdrawal, or other interest in a financial organization or any deposit made therewith, and any interest or dividends thereon, which has not escheated under Section 1513 and is not reportable under subdivision (d) of Section 1530.

(g) The contents of, or the proceeds of sale of the contents of, a safe deposit box or other safekeeping repository shall not escheat to the state if, as of June 30 or the fiscal yearend next preceding the date on which a report is required to be filed under Section 1530, the owner has owned, with a banking or financial organization providing the safe deposit box or other safekeeping repository, any funds in an individual retirement account or under a retirement plan for self-employed individuals or similar account or plan pursuant to the internal revenue laws of the United States or the income tax laws of this state, which has not escheated under Section 1513 and is

not reportable under subdivision (d) of Section 1530.

(h) In the event the owner is in default under the safe deposit box or other safekeeping repository agreement and the owner has owned any demand, savings, or matured time deposit, account, or plan described in subdivision (e), (f), or (g), the banking or financial organization may pay or deliver the contents of, or the proceeds of sale of the contents of, the safe deposit box or other safekeeping repository to the owner after deducting any amount due and payable from those proceeds under that agreement. Upon making that payment or delivery under this subdivision, the banking or financial organization shall be relieved of all liability to the extent of the value of those contents or proceeds.

(i) For new accounts opened for a safe deposit box or other safekeeping repository with a business association on and after January 1, 2011, the business association shall provide a written notice to the person leasing the safe deposit box or safekeeping repository informing the person that his or her property, or the proceeds of sale of the property, may be transferred to the appropriate state upon running of the time period specified by state law from the date the lease or rental period on the safe deposit box or repository expired, or from the date of termination of any agreement because of which the box or other repository was furnished to the owner without cost, whichever is earlier.

(j) A business association may directly escheat the contents of a safe deposit box or other safekeeping

repository without exercising its rights under Article 2 (commencing with Section 1630) of Chapter 17 of Division 1 of the Financial Code.

Code of Civil Procedure

Title 10, Chapter 7

Unclaimed Property Law

§ 1530. Report of escheated property

(a) Every person holding funds or other property escheated to this state under this chapter shall report to the Controller as provided in this section.

(b) The report shall be on a form prescribed or approved by the Controller and shall include:

(1) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of at least fifty dollars (\$50) escheated under this chapter. This paragraph shall become inoperative on July 1, 2014.

(2) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of at least twenty-five dollars (\$25) escheated under this chapter. This paragraph shall become operative on July 1, 2014.

(3) In the case of escheated funds of life insurance corporations, the full name of the insured or annuitant, and his or her last known address, according to the life insurance corporation's records.

(4) In the case of the contents of a safe deposit box or other safekeeping repository or in the case of other tangible property, a description of the property and the place where it is held and may be inspected by the Controller. The report shall set forth any amounts owing to the holder for unpaid rent or storage charges and for the cost of opening the safe deposit box or other safekeeping repository, if any, in which the property was contained.

(5) The nature and identifying number, if any, or description of any intangible property and the amount appearing from the records to be due, except that items of value under twenty-five dollars (\$25) each may be reported in aggregate.

(6) Except for any property reported in the aggregate, the date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property.

(7) Other information which the Controller prescribes by rule as necessary for the administration of this chapter.

(c) If the holder is a successor to other persons who previously held the property for the owner, or if the holder has changed his or her name while holding the property, he or she shall file with his or her report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each

year as of June 30 or fiscal yearend next preceding, but the report of life insurance corporations, and the report of all insurance corporation demutualization proceeds subject to Section 1515.5, shall be filed before May 1 of each year as of December 31 next preceding. The initial report for property subject to Section 1515.5 shall be filed on or before May 1, 2004, with respect to conditions in effect on December 31, 2003, and all property shall be determined to be reportable under Section 1515.5 as if that section were in effect on the date of the insurance company demutualization or related reorganization. The Controller may postpone the reporting date upon his or her own motion or upon written request by any person required to file a report.

(e) The report, if made by an individual, shall be verified by the individual; if made by a partnership, by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer or other employee authorized by the holder.

Code of Civil Procedure
Title 10, Chapter 7
Unclaimed Property Law
§ 1531. Notice and publication of lists of escheated
property

(a) Within one year after payment or delivery of escheated property as required by Section 1532, the Controller shall cause a notice to be published, in a manner that the Controller determines to be reasonable, which may include, but not be limited to, newspapers, Internet Web sites, radio, television, or other media. In carrying out this duty, the Controller shall not use any of the following:

(1) Money appropriated for the Controller's audit programs.

(2) More money than the Legislature appropriates for this subdivision's purpose.

(3) A photograph in a notice.

(4) An elected official's name in a notice.

(b) Within 165 days after the final date for filing the report required by Section 1530, the Controller shall mail a notice to each person having an address listed in the report who appears to be entitled to property of the value of fifty dollars (\$50) or more escheated under this chapter. If the report filed pursuant to Section 1530 includes a social security number, the Controller shall request the Franchise Tax Board to provide a current address for the apparent owner on

the basis of that number. The Controller shall mail the notice to the apparent owner for whom a current address is obtained if the address is different from the address previously reported to the Controller. If the Franchise Tax Board does not provide an address or a different address, then the Controller shall mail the notice to the address listed in the report required by Section 1530.

(c) The mailed notice shall contain all of the following:

(1) A statement that, according to a report filed with the Controller, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the notice, the property will be placed in the custody of the Controller and may be sold or destroyed pursuant to this chapter, and all further claims concerning the property or, if sold, the net proceeds of its sale, must be directed to the Controller.

(d) This section is intended to inform owners about the possible existence of unclaimed property identified pursuant to this chapter.

Code of Civil Procedure

Title 10, Chapter 7

Unclaimed Property Law

§ 1531.5. Notification program for possible owners of
escheated property

(a) The Controller shall establish and conduct a notification program designed to inform owners about the possible existence of unclaimed property received pursuant to this chapter.

(b) Any notice sent pursuant to this section shall not contain a photograph or likeness of an elected official.

(c)(1) Notwithstanding any other law, upon the request of the Controller, a state or local governmental agency may furnish to the Controller from its records the address or other identification or location information that could reasonably be used to locate an owner of unclaimed property.

(2) If the address or other identification or location information requested by the Controller is deemed confidential under any laws or regulations of this state, it shall nevertheless be furnished to the Controller. However, neither the Controller nor any officer, agent, or employee of the Controller shall use or disclose that information except as may be necessary in attempting to locate the owner of unclaimed property.

(3) This subdivision shall not be construed to require disclosure of information in violation of federal law.

(4) If a fee or charge is customarily made for the information requested by the Controller, the Controller shall pay that customary fee or charge.

(d) Costs for administering this section shall be subject to the level of appropriation in the annual Budget Act.

Code of Civil Procedure

Title 10, Chapter 7

Unclaimed Property Law

§ 1532. Payment or delivery of escheated property

(a) Every person filing a report as provided by Section 1530 shall, no sooner than seven months and no later than seven months and 15 days after the final date for filing the report, pay or deliver to the Controller all escheated property specified in the report. Any payment of unclaimed cash in an amount of at least two thousand dollars (\$2,000) shall be made by electronic funds transfer pursuant to regulations adopted by the Controller. The Controller may postpone the date for payment or delivery of the property, and the date for any report required by subdivision (b), upon the Controller's own motion or upon written request by any person required to pay or deliver the property or file a report as required by this section.

(b) If a person establishes their right to receive any property specified in the report to the satisfaction of the holder before that property has been delivered to the Controller, or it appears that, for any other reason, the property may not be subject to escheat under this chapter, the holder shall not pay or deliver the property to the Controller but shall instead file a report with the Controller, on a form and in a format prescribed or approved by the Controller, containing information pertaining to the property subject to escheat.

(c) Any property not paid or delivered pursuant to subdivision (b) that is later determined by the holder to be subject to escheat under this chapter shall not be subject to the interest provision of Section 1577.

(d) The holder of any interest under subdivision (b) of Section 1516 shall deliver a duplicate certificate to the Controller or shall register the securities in uncertificated form in the name of the Controller. Upon delivering a duplicate certificate or providing evidence of registration of the securities in uncertificated form to the Controller, the holder, any transfer agent, registrar, or other person acting for or on behalf of the holder in executing or delivering the duplicate certificate or registering the uncertificated securities, shall be relieved from all liability of every kind to any person including, but not limited to, any person acquiring the original certificate or the duplicate of the certificate issued to the Controller for any losses or damages resulting to that person by the issuance and delivery to the Controller of the duplicate certificate or the registration of the uncertificated securities to the Controller.

(e) Payment of any intangible property to the Controller shall be made at the office of the Controller in Sacramento or at another location as the Controller by regulation may designate. Except as otherwise agreed by the Controller and the holder, tangible personal property shall be delivered to the Controller at the place where it is held.

(f) Payment is deemed complete on the date the electronic funds transfer is initiated if the settlement

to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If the settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(g) Any person required to pay cash by electronic funds transfer who makes the payment by means other than an authorized electronic funds transfer shall be liable for a civil penalty of 2 percent of the amount of the payment that is due pursuant to this section, in addition to any other penalty provided by law. Penalties are due at the time of payment. If the Controller finds that a holder's failure to make payment by an appropriate electronic funds transfer in accordance with the Controller's procedures is due to reasonable cause and circumstances beyond the holder's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that holder shall be relieved of the penalties.

(h) An electronic funds transfer shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, a Federal Reserve Wire Transfer (Fedwire), or by an international funds transfer. Banking costs incurred for the automated clearinghouse debit transaction by the holder shall be paid by the state. Banking costs incurred by the state for the automated clearinghouse credit transaction may be paid by the holder originating the credit. Banking costs incurred for the Fedwire transaction charged to the holder and the state shall be paid by the person originating the transaction. Banking costs

charged to the holder and to the state for an international funds transfer may be charged to the holder.

(i) For purposes of this section:

(1) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, modem, computer, or magnetic tape, so as to order, instruct, or authorize a financial institution to credit or debit an account.

(2) “Automated clearinghouse” means any federal reserve bank, or an organization established by agreement with the National Automated Clearing House Association or any similar organization, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and that authorizes an electronic transfer of funds between those banks or bank accounts.

(3) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the holder’s bank account and crediting the state’s bank account for the amount of payment.

(4) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the holder, through its own bank, originates an entry crediting the state’s bank account and debiting the

holder's bank account.

(5) "Fedwire" means any transaction originated by the holder and utilizing the national electronic payment system to transfer funds through federal reserve banks, pursuant to which the holder debits its own bank account and credits the state's bank account.

(6) "International funds transfer" means any transaction originated by the holder and utilizing the international electronic payment system to transfer funds, pursuant to which the holder debits its own bank account, and credits the funds to a United States bank that credits the Unclaimed Property Fund.

Code of Civil Procedure

Title 10, Chapter 7

Unclaimed Property Law

§ 1532.1. Payment or delivery of property escheated
to state

Notwithstanding Sections 1531 and 1532, property that escheats to the state pursuant to Section 1514 shall not be paid or delivered to the state until the earlier of (a) the time when the holder is requested to do so by the Controller or (b) within one year after the final date for filing the report required by Section 1530 as specified in subdivision (d) of Section 1530. Within one year after receipt of property as provided by this section, the Controller shall cause a notice to be published as provided in Section 1531.

Code of Civil Procedure

Title 10, Chapter 7

Unclaimed Property Law

§ 1533. Exclusion of certain tangible personal property from notice requirement and escheat

Tangible personal property may be excluded from the notices required by Section 1531, shall not be delivered to the State Controller, and shall not escheat to the state, if the State Controller, in his discretion, determines that it is not in the interest of the state to take custody of the property and notifies the holder in writing, within 120 days from receipt of the report required by Section 1530, of his determination not to take custody of the property.