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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

FINANCIAL CASUALTY &  
SURETY, INC.,

Defendant and Appellant.

B268321

(Los Angeles County  
Super. Ct. No. OSJ1759)

APPEAL from an order of the Superior Court of Los Angeles County. Kerry R. Bensinger, Judge. Reversed with directions.

Law Office of John Rorabaugh, John M. Rorabaugh and Crystal L. Rorabaugh for Defendant and Appellant.

Mary C. Wickham, County Counsel, Ruben Baeza, Jr., Assistant County Counsel, and Joanne Nielsen, Principal Deputy County Counsel, for Plaintiff and Respondent.

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Appellant Financial Casualty & Surety, Inc. appeals from the trial court's order denying its motion for relief from forfeiture of a bail bond. The trial court first denied appellant's timely motion to extend the appearance period, after which summary judgment on the forfeited bond was issued. The trial court then denied appellant's motion brought under Penal Code section 1305.6 to set aside the summary judgment, to vacate the forfeiture, and to exonerate the bond.<sup>1</sup> Appellant argues it demonstrated the required "good cause" for granting its section 1305.6 motion. We agree appellant satisfied the good cause requirement for the requested relief and, therefore, we reverse.

### **BACKGROUND**

#### **1. December 2014: Forfeiture of Bail**

On October 27, 2014, appellant's agent posted bail for the release of a defendant in a criminal matter pending in Los Angeles County. On December 1, 2014, that defendant failed to appear for a court hearing. Accordingly, the trial court issued a bench warrant and ordered bail forfeited.

Almost two weeks later, on December 12, 2014, the clerk of the court mailed the notice of forfeiture to both appellant and its agent. Thus, under section 1305, the appearance period (i.e., the amount of time appellant or its agent had to move to vacate the forfeiture and exonerate the bond) was set to expire June 15, 2015, which was 185 days after the clerk mailed notice.

#### **2. February 2015: Early Attempts to Locate the Defendant**

In February 2015, Martin Delgado, Jr., an investigator for appellant's agent, worked on locating the defendant. On

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<sup>1</sup> Subsequent undesignated statutory references are to the Penal Code.

February 11, 2015, Delgado confirmed the defendant was not in custody in California and the warrant for her arrest was still active. That same day, Delgado also tried calling the defendant, but no one answered the call and no message option was available. Also that same day, he called and spoke with the defendant's sister, who had co-signed the bail bond. Delgado explained to the sister that the defendant could have her bond liability reinstated. The sister said she would pass the information on to the defendant. Later that day, Delgado called the sister again to see if she had made contact with the defendant. However, the sister did not pick up that call. Delgado left a detailed message and requested a call back. The next day, Delgado again called the sister, who again did not answer his call. Delgado left another detailed message and requested a call back. Finally, Delgado stated that on February 12, 2015, he reconfirmed the warrant was active, the bond forfeited, and the defendant was not in custody. He then sent the defendant's file to a bail bond recovery agent.

**3. February 24–25, 2015: The defendant is arrested on the underlying case outside Los Angeles County, signs a promise to appear, and is released.**

On February 24, 2015, the defendant was arrested in Solano County on the underlying case. Before being released from custody the next day, the defendant signed a promise to appear in court on March 11, 2015. However, the defendant's February 24 arrest and March 11 court date were never entered in the docket for this case. And, as explained below, appellant did not discover or obtain the "promise to appear" document until after the appearance period had expired.

**4. March–June 2015: Continued Efforts to Locate the Defendant and to Confirm Her Arrest Outside Los Angeles County**

Between March and June 2015, Marco Alcaraz, a fugitive recovery investigator, attempted to locate the defendant. He received the defendant's file on March 4, 2015, and reviewed it the following day. The file indicated that, the month before, the defendant had walked into one of appellant's agent's offices and said she was just released from jail. The defendant then walked out of the office and never returned. On March 12, Alcaraz tried calling the defendant, but just as was the case with Delgado, no one answered the call and no message option was available. On March 23, Alcaraz confirmed the bond was still forfeited.

Alcaraz reported that, in early April 2015, another fugitive recovery agent told him the defendant had been in custody in Mendocino County both on this case and on a local Mendocino case in the last week of March 2015. The agent told Alcaraz he had confirmed with a deputy at the Mendocino jail that the defendant was being held on this case and was released after two days in custody. On April 15, 2015, Alcaraz called the court clerk and informed the clerk the defendant had been arrested in Mendocino County on this case. The clerk told Alcaraz the court had not received a new bail bond on the case. Alcaraz believed it would take a few weeks before the court received notice of the new bond.

A few days later, Alcaraz unsuccessfully tried to call the defendant's sister. A couple of weeks later, after conducting a search, he discovered the phone numbers the defendant and her sister provided did not belong to them. Later, Alcaraz also ran a

background report on the defendant and found no new addresses listed for her after the year 2013.

On May 1, 2015, Alcaraz called the court clerk, who informed him the warrant for the defendant remained active and the bond remained forfeited. On May 21, 2015, Alcaraz discovered an online Mendocino County report with the defendant's February 2015 arrest information, including defendant's booking photograph. However, no case number was included.

In early June 2015, Alcaraz conducted additional background searches on the defendant and eventually discovered an alias she was using and a new address for her. He also found a social media account the defendant currently was using under her alias. Finally, on June 8, 2015, Alcaraz called the court clerk, who again confirmed the bond was still forfeited. Because he had discovered the defendant's current home address, Alcaraz believed his agents would apprehend the defendant at that address if given more time to do so.

#### **5. Appellant's Unsuccessful Motion to Extend the Appearance Period**

On June 11, 2015, a few days before the initial appearance period was set to expire, appellant's agent filed a motion under section 1305.4 to extend the appearance period. The motion included supporting declarations from Delgado and Alcaraz detailing their efforts to locate the defendant and to determine the status of her apparent out of county arrests. Almost one month later, on July 8, 2015, the trial court heard and denied the motion to extend the appearance period. Thus, by that time, the appearance period had expired.

**6. Appellant's Notice to the Trial Court of the Defendant's Arrest, Promise to Appear, and Release**

That same day, July 8, 2015, appellant received written proof of the defendant's February 2015 arrest in Solano County (namely, a copy of the defendant's February 25, 2015 "Agreement for Release on Promise to Appear"). Appellant immediately sent notice of the defendant's arrest and release to the bond clerk at the Los Angeles Superior Court. Citing section 1305, subdivision (c)(1), appellant requested that the court on its own motion reinstate and exonerate the bond or that it occur by operation of law. It is not clear what happened with that request, but it appears that, at the same time, summary judgment paperwork was already being processed, although summary judgment on the forfeited bond had not yet been entered.

**7. Appellant's Attempted Motion to Vacate the Forfeiture; Entry of Summary Judgment**

Soon after, appellant attempted to file a motion to vacate the forfeiture based on the defendant's earlier arrest in Solano County. Again, however, because the paperwork for entry of summary judgment on the forfeited bond already was being processed, the motion was not filed.

The next week, on July 16, 2015, the trial court entered summary judgment on the forfeited bond.

**8. Appellant's Unsuccessful Motion to Set Aside Summary Judgment, to Vacate the Forfeiture, and to Exonerate the Bail**

**a. Moving Papers**

On August 10, 2015, after the appearance period had expired, appellant filed a motion to set aside the summary judgment, to vacate the forfeiture, and to exonerate the bond.

Relying on subdivision (c)(3) of section 1305, appellant argued the court was required to vacate summary judgment and exonerate the bond because within the initial 180-day appearance period the defendant had been arrested and released on the underlying case in a county outside Los Angeles County.

Respondent opposed the motion, arguing that, rather than section 1305, subdivision (c)(3), appellant actually was seeking relief under section 1305.6, subdivision (b), which required appellant to demonstrate good cause for the requested relief. Respondent claimed appellant failed to show the required good cause.

Although in its reply brief, appellant did not explicitly agree section 1305.6 applied, it nonetheless addressed and argued it had satisfied the good cause requirement under that section. Specifically, appellant stated it had not filed a motion to vacate the forfeiture during the initial appearance period because, despite its many efforts, appellant had been unable to confirm the defendant's arrest in the underlying action. Appellant explained it could not file its motion until it had proof of the arrest, which it received on July 8, 2015, after the initial appearance period had expired. Appellant also explained it had filed a timely motion to extend the appearance period so that it could acquire proof of the defendant's arrest, which motion the trial court had denied.

In support of its reply, appellant included a declaration from the paralegal who prepared both the motion for an extension of the appearance period and the motion to set aside summary judgment, as well as a copy of the July 8, 2015 letter appellant's agent sent to the court the same day the agent received written proof of the defendant's arrest and release. In

that July 8 letter, the agent alerted the court to the defendant's February 2015 arrest, release and promise to appear, and indicated that, although the warrant for the defendant had been recalled, the bond forfeiture had not been addressed. The agent requested that the court review the case and exonerate the bond.

**b. Hearings**

The trial court held two hearings on the motion. The first hearing was held September 18, 2015. The trial court noted the parties agreed that section 1305.6 applied, appellant was required to show good cause for the requested relief, and good cause required a showing appellant acted both reasonably and in good faith. The court held there was no doubt appellant had acted in good faith. Rather, the issue was whether appellant had acted reasonably. The trial court was concerned that, although by March or April 2015 appellant knew of the defendant's February 2015 arrest, there were gaps in appellant's story as it appeared appellant failed to take any action on that knowledge until July 2015 when appellant received proof of the defendant's arrest. The court set the motion for an evidentiary hearing on October 16, 2015.

At the continued hearing on October 16, 2015, counsel for appellant stated he would not be calling any witnesses but had filed three supplemental declarations. Although the supplemental declarations are referenced in the reporter's transcript from the October 16 hearing, they are not included in the clerk's transcript on appeal. Thus, we have not reviewed the supplemental declarations appellant filed with the trial court. However, the parties do not dispute the accuracy of the trial court's oral findings of facts, which include the following additional facts: On May 4, 2015, the bail agent called a court



clerk (it is not clear what court this was), who verbally confirmed the defendant had been in custody then released; on June 30, 2015, after the appearance period had expired, the bail investigator confirmed he met the defendant or someone she knew (it was not clear) at a Jack-in-the-Box and obtained the defendant's "cite and release" paperwork from that person, which paperwork the investigator then scanned "into the legal office"; and on July 8, 2015, appellant received the "cite and release" paperwork obtained at the Jack-in-the-Box.

Counsel for appellant argued the new declarations as well as those submitted with appellant's motion to extend the appearance period and motion to vacate the forfeiture demonstrated the reasonable efforts taken by appellant's agent and others during the appearance period not only to locate the defendant but also to obtain proof of the defendant's arrest. Those efforts included conversations with various courthouse personnel in both Los Angeles County and Solano County, all of which except for the May 4, 2015 call reported no evidence of the defendant's arrest or release. And once appellant finally received the written proof it needed, the appearance period had expired.

Counsel for respondent agreed appellant could not have filed a successful motion to vacate the forfeiture or to exonerate the bond absent admissible evidence proving the defendant had been arrested on the underlying case, which evidence appellant did not have until July 8, 2015 (i.e., after the appearance period had expired). Respondent's counsel stated: "[A] declaration by itself would not be sufficient, your honor. The motion has to be supported by admissible evidence. . . . In other words that motion has to present evidence, admissible evidence to prove the truth of the matter asserted which means that hearsay from the sheriff's

department clerk would not be sufficient . . . . [¶] So then a documentation of an official court record, official business record of the sheriff's department, that written documentation would be necessary to properly support the motion and would be sufficient for the county to provide a nonopposition." However, counsel believed it was unreasonable for appellant not to have obtained the necessary documentation within the appearance period such that it could have filed a successful and timely motion. Counsel argued simply making phone calls to court personnel was neither sufficient nor reasonable, and appellant could have and should have done more to obtain the necessary documentation.

Following argument, the trial court held that, although appellant established it acted in good faith, appellant failed to demonstrate it acted reasonably in not filing its motion until after the appearance period had expired. In particular, the trial court concluded appellant acted unreasonably, "given the knowledge of what the surety had in February, March and April and May not to have either written a letter or to have sent someone to the police department or even to have brought that to the attention of the court or opposing counsel at least if it had been brought to the attention even by way of hearsay declaration while it may not have been sufficient, it would have alerted both parties to the issues and efforts to have been made." The court further found "that it was not reasonable to wait until after the [appearance period] had passed to take affirmative actions, the Jack-in-the-Box handoff was done way too late when the surety had knowledge, and primarily the failure to send a letter or send someone to the police department to obtain the record of the book and release, the court finds is unreasonable under these circumstances. [¶] . . . [T]he court finds that based upon these

facts, the surety did not exercise due diligence and act reasonably based upon the knowledge they ha[d].” The court also mused that, although appellant acted unreasonable for purposes of section 1305.6, “there may have been sufficient information that the court [that heard appellant’s motion to extend the appearance period] should have considered and granted the 180[-day extension of the appearance period.]”

In light of its finding that appellant did not act reasonably, the trial court denied the motion to set aside summary judgment, to vacate the forfeiture, and to exonerate the bond.

## **9. Appeal**

On November 5, 2015, appellant filed a notice of appeal from the summary judgment and the trial court’s October 16, 2015 order denying appellant’s motion to set aside the summary judgment, to vacate the forfeiture, and to exonerate the bond.

## **DISCUSSION**

### **1. Standard of Review**

The parties disagree on the proper standard of review. Appellant states we should apply a de novo standard of review, while respondent argues we should review for an abuse of discretion.

“Ordinarily, appellate courts review an order denying a motion to vacate the forfeiture of a bail bond under an abuse of discretion standard. [Citation.] When the appellate court is deciding only legal issues, however, such as jurisdictional questions and matters of statutory interpretation, the abuse of discretion standard does not apply. [Citation.] When the facts are undisputed and only legal issues are involved, appellate courts conduct an independent review.” (*People v. International Fidelity Ins. Co.* (2012) 204 Cal.App.4th 588, 592.) “As the

Supreme Court has noted, however, “The abuse of discretion standard is not a unified standard; the deference it calls for varies according to the aspect of a trial court’s ruling under review. The trial court’s findings of fact are reviewed for substantial evidence, its conclusions of law are reviewed de novo, and its application of the law to the facts is reversible only if arbitrary and capricious.’ ” (*County of Los Angeles v. Fairmont Specialty Group* (2009) 173 Cal.App.4th 538, 543.)

We need not reconcile the parties’ differences on the appropriate standard of review, since under either the abuse of discretion standard or de novo review, the result here would be the same. (See *People v. Financial Casualty & Surety, Inc.* (2017) 14 Cal.App.5th 308, 314 (*FC&S*).)

## **2. Controlling Statutes and Case Law**

“A bail bond ‘ “is a contract between the surety and the government whereby the surety acts as a guarantor of the defendant’s appearance in court under the risk of forfeiture of the bond.” ’ [Citation.] When the surety breaches the contract by failing to secure the defendant’s appearance, the bond generally must be enforced. [Citation.] The purpose of bail and of its forfeiture, however, is to ensure the accused’s attendance and obedience to the criminal court, not to raise revenue or to punish the surety.” (*People v. Financial Casualty & Surety, Inc.* (2016) 2 Cal.5th 35, 42.)

“[A]s a general rule, the statutes governing bail are strictly construed to avoid forfeiture.” (*People v. Accredited Surety Casualty Co.* (2014) 230 Cal.App.4th 548, 556 (*Accredited*).) “The law disfavors forfeitures in general and bail forfeitures in particular. [Citation.] . . . This policy of strict construction to avoid forfeitures protects the surety ‘and more importantly the

individual citizens who pledge to the surety their property on behalf of persons seeking release from custody.’ ” (*Id.* at pp. 555–556; see *County of Los Angeles v. Fairmont Specialty Group*, *supra*, 173 Cal.App.4th at pp. 542–543.)

Once a court has ordered a bond forfeited, and during the appearance period, section 1305 provides various grounds on which the surety may move to vacate the forfeiture and exonerate the bond. Relevant here, subdivision (c)(3) of section 1305 requires the trial court to vacate the forfeiture and exonerate the bond “[i]f, outside the county where the case is located, the defendant is surrendered to custody by the bail agent or is arrested in the underlying case within the 180-day period.” (§ 1305, subd. (c)(3).) Also, under section 1305.4, upon a showing of good cause, a surety may move to extend the appearance period up to an additional 180 days from the court’s order. (§ 1305.4.) If, at the end of the appearance period, forfeiture has not been vacated, section 1306, subdivision (a) requires the trial court to enter summary judgment against the surety. (§ 1306, subd. (a).)

Even after summary judgment has been filed, however, a surety may move to vacate the forfeiture and have the bond exonerated. Specifically, subdivision (b) of section 1305.6 provides that, “[u]pon a showing of good cause,” a surety may file a section 1305, subdivision (c)(3) motion “within 20 days from the mailing of the notice of entry of judgment under Section 1306.” (§ 1305.6, subd. (b).)

For purposes of section 1305.6, “good cause” requires two elements. The surety must show it acted (1) reasonably and (2) in good faith. (*Accredited*, *supra*, 230 Cal.App.4th at pp. 551, 562; *FC&S*, *supra*, 14 Cal.App.5th at p. 315.) In other words, the

required good cause “contains an objective component (i.e., reasonableness) and [a] subjective good faith component. In determining whether a surety acted reasonably and in good faith, courts must consider the totality of the circumstances and evaluate the reasons given by the surety for not filing a motion within the 185-day appearance period.” (*Accredited*, at p. 551.)

Finally, “section 1305.4 provides a useful comparison because both section 1305.4 and section 1305.6, subdivision (b) involve extensions of time for setting aside a forfeiture of bail. . . . Because the extension available under subdivision (b) of section 1305.6 is shorter and narrower, [however,] that provision’s ‘good cause’ requirement requires a lesser showing than the good cause requirement in section 1305.4. The justification for [the] relatively short, narrow extension [under section 1305.6] need not be as demanding as the justification for an extension that doubles the length of the appearance period.” (*Accredited, supra*, 230 Cal.App.4th at pp. 560–561.)

### **3. Appellant acted reasonably.**

Here, the parties do not dispute that appellant’s section 1305.6 motion was timely or that appellant acted in good faith. Instead, the dispute focuses on whether appellant’s actions were objectively reasonable for purposes of section 1305.6, subdivision (b). As explained below, under the facts of this case, we conclude appellant acted reasonably and that the trial court erred in finding otherwise.

At the time of the hearing on this matter, the only published case addressing whether a surety acted reasonably for purposes of section 1305.6 was the Fifth District’s opinion in *Accredited, supra*, 230 Cal.App.4th 548. In that case, the Fifth District affirmed the trial court’s order denying the surety’s

section 1305.6, subdivision (b) motion. The court concluded the surety had not acted reasonably when it waited until after the expiration of the appearance period to file its motion to set aside summary judgment, to discharge forfeiture, and to exonerate the bond. (*Id.* at pp. 551–552.)

In *Accredited*, the surety's agent took a decidedly passive approach to determining whether the defendant in that case (who, like the defendant here, had been arrested in another county during the appearance period of the underlying case) would be returned to the county of his original arrest (Fresno County). The agent did not file a section 1305, subdivision (c)(3) motion during the appearance period because he believed based on his experience that the defendant not only would be returned to Fresno County, but also that he would be returned to Fresno County before the appearance period expired. (*Accredited, supra*, 230 Cal.App.4th at pp. 563–564.) The agent did not explain why it was reasonable for him to believe that. (*Ibid.*) The surety in *Accredited* also failed to include in the record on appeal a minute order on which the agent claimed to have relied to his detriment. (*Id.* at pp. 564–565.) Without the minute order to review, the court was unable to determine the reasonableness of the agent's reliance on it. (*Ibid.*)

After the opening and respondent's briefs were filed in this appeal, Division Three of the First District certified for publication its decision in *FC&S, supra*, 14 Cal.App.5th 308. In contrast with *Accredited*, the court in *FC&S* vacated the trial court's order denying the surety's section 1305.6, subdivision (b) motion. (*Id.* at p. 319.) The *FC&S* court concluded the facts of that case demonstrated the surety acted both in good faith and reasonably in filing its motion after the appearance period.

In *FC&S*, the court summarized the surety's objectively reasonable conduct as follows: Once the surety's bail agent discovered the defendant there (who had been arrested in San Francisco County) was in custody in another county (Contra Costa County), the "bail agent attempted to get the San Francisco warrant served in order to hold him and have him arrested for the San Francisco case. However, the Contra Costa County Sheriff twice informed the bail agent it had no warrants for [the defendant] in its system. In light of the sheriff's persistent notice that there was no warrant for [the defendant] in the system, FC Surety's bail agent elected to seek exoneration of the bond under section 980, subdivision (b), which gives the trial court discretion to set aside a bail forfeiture if the defendant's warrant is not entered into the national system and if the court finds that this failure to enter the warrant prevents the fugitive from being arrested. [Citation.] Unfortunately, the court concluded the bail agent failed to make the showing required under section 980 and its motion was denied on April 27, 2015, after the appearance period expired. FC Surety then replaced counsel, sorted out the discrepancies regarding the warrant, filed a motion to reconsider, and asserted other available grounds to vacate the forfeiture or toll the appearance period." (*FC&S, supra*, 14 Cal.App.5th at pp. 316–317.)

Based on those facts, the court concluded, "Since there was a colorable basis to vacate the forfeiture under the section 980 motion based on the information originally supplied to the bail agent, and because it had filed this motion within the appearance period, FC Surety proceeded reasonably." (*FC&S, supra*, 14 Cal.App.5th at p. 317.)



Thus, in contrast with the surety in *Accredited*, the surety in *FC&S* took “proactive steps” to vacate the forfeiture, including filing a colorable motion for relief during the appearance period and making multiple attempts to have the warrant served on the defendant when he was in another county. In distinguishing *FC&S* from *Accredited*, the *FC&S* court stated: “In *Accredited*, the surety’s conduct reflected a laissez-faire approach with the operating assumption that bail would eventually be exonerated through the normal course of events. Also, unlike FC Surety, the surety in *Accredited* never attempted to file a motion for relief within the appearance period on any basis. The proactive steps undertaken by FC Surety’s bail agent are enough to distinguish our case from *Accredited*.” (*FC&S, supra*, 14 Cal.App.5th at p. 318.)

We conclude the facts of this case are more akin to the facts of *FC&S* than to the facts of *Accredited*.<sup>2</sup> Here, as in *FC&S*, appellant and its agent took reasonable and proactive steps during the appearance period to vacate the forfeiture. For example, over the course of approximately five months, appellant’s agent not only made repeated efforts to locate the defendant but also made multiple calls to court personnel, who consistently informed the agent that the bond remained forfeited and the bench warrant remained active. And when the appearance period was coming to a close and it became clear more time was needed to retrieve the necessary documents and potentially to apprehend the defendant, appellant’s agent filed a

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<sup>2</sup> We note that, at the time of its decision below, the trial court did not have the benefit of *FC&S, supra*, 14 Cal.App.4th 308, which was decided well over a year after the trial court’s decision here.

colorable and timely motion for relief within the appearance period, namely a section 1305.4 motion for an extension of the appearance period. Indeed, although that motion was denied, the trial court at the hearing on appellant's later section 1305.6 motion mused that perhaps appellant's earlier section 1305.4 extension motion could have been granted.

The trial court and respondent's counsel below both agreed, appellant could not have brought a successful section 1305, subdivision (c)(3) motion to vacate the forfeiture within the appearance period. We need not, however, decide that question because it is not before us. Regardless, appellant acted reasonably in trying to get the best evidence to support its request.

Respondent argues appellant could have and should have done more during the appearance period to secure relief from forfeiture and exoneration of the bond. In particular, instead of simply making phone calls, respondent states appellant or its agent either should have sent written requests to court personnel seeking proof of the defendant's arrest and promise to appear, or should have traveled to the out-of-county courthouse to acquire the documentation in person. Although it may be true appellant could have "done more," we are not persuaded that necessarily means appellant acted unreasonably in not taking those particular steps. As the court in *FC&S* explained: "In hindsight, [appellant's] approach to resolve the matter was easily capable of improvement. . . . [However], [b]ased on the information it received . . . , it pursued a viable avenue for relief that it believed would result in relief from forfeiture and exoneration of bail. We are not convinced [appellant] proceeded unreasonably in doing so,

especially because forfeitures are disfavored.” (*FC&S, supra*, 14 Cal.App.5th at p. 317.)

Moreover, it appears the trial court here may have applied an incorrect standard to appellant’s section 1305.6 motion. At the conclusion of the hearing on the motion, when the court stated its final ruling, it held appellant “did not exercise *due diligence* and act reasonably.” (Italics added.) Due diligence is not required for a successful section 1305.6 motion and is a higher standard than the applicable reasonableness standard. To the extent the trial court applied a higher due diligence standard, that was error.

Thus, in contrast to the “laissez-faire” approach of the surety in *Accredited*, “[t]he proactive steps undertaken by [appellant’s] bail agent are enough to distinguish our case from *Accredited*” (*FC&S, supra*, 14 Cal.App.5th at p. 318) and to support our conclusion that appellant acted reasonably in not filing its motion for relief from forfeiture until after the appearance period.

#### **4. Relief from forfeiture should have been granted.**

Because appellant’s motion to set aside summary judgment, to vacate forfeiture, and to exonerate bail was timely and we have concluded it also was supported by good cause, we must next determine whether appellant should have been granted relief under section 1305, subdivision (c)(3). As noted, that provision provides that a court “shall vacate the forfeiture and exonerate the bail” “[i]f, outside the county where the case is located, the defendant is surrendered to custody by the bail or is arrested in the underlying case within the 180-day period.” (§ 1305, subd. (c)(3).) The record shows that on February 24, 2015, within the 180-day appearance period, the defendant was

arrested in Solano County (i.e., a county outside Los Angeles County) on the underlying case. The next day, the defendant was released on a promise to appear in court on the underlying case. These undisputed facts require the summary judgment be set aside, the forfeiture vacated, and the bond exonerated. (See *FC&S, supra*, 14 Cal.App.5th at p. 319.)

In light of our conclusion, we need not and do not reach appellant's remaining arguments on appeal.

### **DISPOSITION**

The order is reversed. On remand, the trial court is directed to enter a new and different order setting aside the summary judgment, vacating the forfeiture, and exonerating all liability on bond No. FCS50-1413158. Financial Casualty & Surety, Inc. is entitled to its costs on appeal.

NOT TO BE PUBLISHED.

LUI, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.