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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

COUNTY OF LOS ANGELES,

Plaintiff and Appellant,

v.

LEXINGTON NATIONAL  
INSURANCE CORPORATION,

Defendant and Respondent.

B277853

(Los Angeles County  
Super. Ct. No. BV031241)

APPEAL from an order of the Superior Court of  
Los Angeles County, David Fields, Judge. Reversed.

Mary C. Wickham, County Counsel, Brian T. Chu,  
Joanne Nielsen, Principal Deputy County Counsel, and  
Lindsay Yoshiyama, Deputy County Counsel for Plaintiff and  
Appellant.

No appearance for Defendant and Respondent.

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## INTRODUCTION

Lexington National Insurance Corp. (Surety) posted a bail bond for a criminal defendant who did not appear for a pretrial conference, and so the trial court ordered the bail forfeited. The Surety successfully moved to vacate the forfeiture and exonerate the bond. The County of Los Angeles appeals. Based on *People v. Safety National Casualty Corp.* (2016) 62 Cal.4th 703 (*Safety National*), we conclude that the trial court erred as a matter of law in vacating the forfeiture and exonerating the bond. Accordingly, we reverse the order.

## FACTUAL AND PROCEDURAL BACKGROUND

Surety posted a \$20,000 bail bond on February 19, 2013, to secure the release of defendant Pablo Sanchez Renteria, who was charged with one count of possession of marijuana for sale, in violation of Health and Safety Code section 11359, a felony.

Renteria appeared at his arraignment on June 19, 2013. On that date, the trial court scheduled a pretrial conference for July 18, 2013. Renteria failed to appear at the pretrial conference and so the court ordered the bail forfeited. (Pen. Code, § 1305.)<sup>1</sup>

The appearance period, which had been extended, expired without forfeiture having been set aside and so the trial court entered summary judgment against Surety on the bond.

Surety timely moved to set aside the summary judgment, discharge the forfeiture, and exonerate the bail. Surety argued that the trial court lacked jurisdiction to order the bail forfeited on July 18, 2013 because defendant's presence was not lawfully required by section 1305, subdivision (a). The County opposed

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<sup>1</sup> All further statutory references are to the Penal Code.

the motion on the ground that section 977, subdivision (b) mandated Renteria's presence. Both parties acknowledged that the question of the interplay between sections 977 and 1305 was under review by the Supreme Court in *Safety National, supra*, 62 Cal.4th 703.

The trial court granted Surety's motion and ordered the forfeiture set aside and the bond exonerated. The County's timely appeal followed. Surety has not filed an appellate brief.

### DISCUSSION

"The purpose of bail and its forfeiture is to ensure a criminal defendant's appearance in court and adherence to court orders. [Citation.]" (*People v. Lexington National Ins. Corp.* (2016) 1 Cal.App.5th 1144, 1147.) Although orders granting or denying a motion to set aside a bail forfeiture are reviewed for abuse of discretion (*ibid.*), when we are asked to review a trial court's interpretation of a statute on undisputed facts, the issue involves a question of law and our review is de novo. (*People v. Fairmont Specialty Group* (2009) 173 Cal.App.4th 146, 151.)

When a criminal defendant is released on bail and thereafter fails to appear as ordered or as otherwise required, without sufficient excuse, the trial court must declare the bail bond forfeited. (§ 1305, subd. (a).) Required appearances for criminal defendants include arraignment, trial, judgment, and, "[a]ny other occasion" where the "defendant's presence in court is lawfully required." (*Id.*, subd. (a)(1)(D).) Although it does not expressly govern bail forfeitures, section 977 provides that defendants charged with a felony "shall be personally present" at five listed proceedings, and at "*all other proceedings*" unless they properly executed a written waiver. (*Id.*, subd. (b)(1), italics added.)

After the trial court made the challenged ruling in this case, our Supreme Court issued its opinion in *Safety National*, *supra*, 62 Cal.4th 703, and we conclude it is controlling. Analyzing the interaction between sections 1305, subdivision (a) and 977, subdivision (b)(1) (*Safety National*, at p. 707), the Supreme Court held that the nonappearance at a scheduled pretrial proceeding by a felony defendant, who did not execute a written waiver, constitutes a basis to forfeit bail under section 1305, subdivision (a). (*Safety National*, at pp. 707-708.) The court explained that the requirement of section 977, subdivision (b)(1) of personal presence at “all other proceedings” “gives rise to a ‘lawfully required’ appearance under section 1305[, subd.] (a).” (*Safety National*, at p. 708.) The court reasoned that the “broadly phrased term” “at all other proceedings” in section 977, subdivision (b)(1) “suggests the provision’s reach is inclusive, i.e., subsuming those court proceedings not specifically listed in section 977.” (*Safety National*, at p. 712.) Specifically, pretrial hearings that are to be held in open court are those that fall within the scope of the phrase “other proceeding[]” in section 977, subdivision (b)(1). (*Safety National*, at pp. 716-717.)

Renteria failed to appear at the July 18, 2013 pretrial conference scheduled in open court when he was present. He did not execute a written waiver of his right to be present at that hearing, and he did not offer a “sufficient excuse” for his absence pursuant to section 1305, subdivision (a). Nor does anyone claim that Renteria had no actual notice of the scheduled July 18, 2013 hearing. (See *Safety National*, *supra*, 62 Cal.4th at p. 717.) The trial court properly ordered bail forfeited under section 1305, with the result it erred as a matter of law in setting aside the forfeiture and exonerating the bond.

**DISPOSITION**

The order is reversed. The County is awarded its costs on appeal.

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ALDRICH, J.

We concur:

EDMON, P. J.

JOHNSON (MICHAEL), J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.