

Case No. S260209

**IN THE SUPREME COURT OF THE STATE OF CALIFORNIA**

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**MICHAEL GOMEZ DALY and INLAND EMPIRE UNITED,**  
*Plaintiffs and Respondents,*

v.

**BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY;  
ROBERT A. LOVINGOOD; JANICE RUTHERFORD;  
CURT HAGMAN; and JOSIE GONZALES,**  
*Defendants and Appellants,*

**DAWN ROWE,**  
*Real Party in Interest and Appellant.*

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After an Order by the Court of Appeal of the State of California,  
Fourth Appellate District, Division Two  
Case No. E073730

Appeal from the Superior Court of the State of California,  
County of San Bernardino, Department 29, Honorable Janet M. Frangie  
Case No. CIVDS1833846

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**RESPONDENTS' MOTION TO AUGMENT RECORD ON REVIEW**

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## MOTION TO AUGMENT RECORD ON REVIEW

If the Court grants the Motion to Augment the Record on Review (Appellants' Motion) filed by defendants and appellants Board of Supervisors of San Bernardino County (Board), Robert A. Lovingood, Janice Rutherford, Curt Hagman, and Josie Gonzales, and real party in interest and appellant Dawn Rowe (collectively, Appellants), then plaintiffs and respondents Michael Gomez Daly and Inland Empire United (Respondents) hereby move the Court to further augment the record on review, as provided below. (See Cal. Rules of Court, rule 8.155(a).) Although Respondents do not, as a general matter, oppose the Court's consideration of any of the documents identified in Appellants' Motion or any other documents that were duly filed in this case, Respondents do not agree with Appellants that the existing record should be "conform[ed] to the truth of the case" on the basis of selectively chosen documents reflecting an incomplete and inaccurate portrayal of proceedings below. (Appellants' Motion at p. 12.) Thus, to the extent that the Court determines that the existing record is insufficient to decide the legal issues presented for review, and grants Appellants' Motion, then Respondents move the Court to further augment the record with the documents contained in the following exhibits to the accompanying Declaration of Juhyung Harold Lee (Lee Decl.), which relate to several of the documents selectively identified by Appellants as "provid[ing] further context" to the instant dispute (Appellants' Motion at p. 11):<sup>1</sup>

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<sup>1</sup> The Court may also consider, pursuant to California Rule of Court 8.512(a) or any other applicable rule or procedure, requesting transmittal of the entire record on appeal from the Court of Appeal, which was filed after this Court granted review. (Lee Decl., Exh. F.) The Court of Appeal record contains all of the documents identified in Appellants' and Respondents' respective motions, with the exception of Appellants' Exhibits G and H. (See *id.*, Exh. E.)

- **Exhibit A:** Petitioners’ Opposition to County Respondents’ and Real Party in Interest’s Demurrer to First Amended Verified Petition for Writ of Mandate, dated May 15, 2019;
- **Exhibit B:** Video Transcription of San Bernardino County Board of Supervisors, Meeting of December 18, 2018, Agenda Item 102 with Public Comment;
- **Exhibit C:** Reply in Support of Petitioners’ Motion for Peremptory Writ of Mandate, dated June 14, 2019;
- **Exhibit D:** Reporter’s Transcript of Oral Proceedings, Thursday, November 21, 2019, San Bernardino, California.

Respondents’ motion is based on the instant motion, the attached Memorandum of Points and Authorities, the attached Declaration of Juhyung Harold Lee, and all other papers and proceedings in the above-entitled action.

DATED: July 20, 2020

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## MEMORANDUM OF POINTS AND AUTHORITIES

If the Court determines that the existing record is insufficient to decide the legal questions presented by this case, and therefore grants Appellants' Motion, then Respondents move the Court to further augment the record with Exhibits A, B, C, and D to the attached declaration, which relate directly to several of the documents that Appellants seek to add to the appellate record, and will help provide a more complete and accurate "context" to the instant dispute. (Appellants' Motion at p. 11.)

Appellants' Motion aptly illustrates the problems inherent with their proposed selective approach to augmenting the record. Appellants first seek to add a "Fair Statement of Proceedings" and "Video Transcription" of the Board's December 11, 2018 meeting for the alleged purpose of "conform[ing] the record to the truth of the background context giving rise to this dispute." (Appellants' Motion at pp. 5, 15; see *id.*, Exhs. A, B.) According to Appellants, these documents "provide this Court with an example of the kind of public proceedings involved in the appointment process." (*Id.* at p. 15.) Tellingly, however, Appellants decline to seek the addition of the transcript of the Board's December 18, 2018 meeting (see Lee Decl., Exh. B [transcript of December 18, 2018 Board of Supervisors meeting]), which the superior court relied extensively upon in its statement of decision as evidence of the unlawful nature of the Board's appointment (see Exhibits to Petition for Writ of Supersedeas, Exh. 12, pp. 296-299, 306-308 (hereafter Supersedeas Exhs.)).

Appellants further seek to add "Petitioners' Ex Parte Application For Order Enforcing November 8, 2019 Judgment and Peremptory Writ of Mandate or, in the Alternative, Order to Show Cause re Contempt dated January 9, 2020" and a "Certified Reporter's Transcript of Oral Proceedings for hearing [on such application] on January 13, 2020." (Appellants' Motion at pp. 6, 13-14; see *id.*, Exhs. G, H.) Appellants

contend that these documents “reflect[] that [Appellants] sought to immediately enforce the Judgment” and “provide the Court with evidence of the kind of confusion that arose from abandoning quo warranto’s exclusivity.” (Appellants’ Motion at pp. 13, 14.) But Appellants’ Motion does not mention that it was Appellants—and not Respondents—who first sought ex parte relief as to the superior court’s November 9, 2019 judgment and who created any arguable confusion by challenging the prohibitory nature of the superior court’s judgment. (See Supersedeas Exhs., *supra*, Exhs. 25, 26, 27 28; Lee Decl., Exh. D [transcript of November 21, 2018 ex parte hearing].) It was only after the Board made clear its refusal to comply with the superior court’s judgment and peremptory writ of mandate—despite the superior court’s ruling that such orders were not stayed pending appeal—that Respondents sought to enforce the judgment and peremptory writ of mandate on January 9, 2020, *two months* after the superior court’s orders were issued.

Appellants also misleadingly suggest that several of “[t]hese Exhibits are not already included in the record before this Court because ... the record before this Court was prepared in support of [their] Petition for Writ of Supersedeas,” which “focused on the issue of whether an automatic stay on appeal is in place.” (Appellants’ Motion at p. 12.) Appellants’ Motion omits any mention of the fact that their supersedeas petition also sought a discretionary writ of supersedeas on the ground that “[t]here is a substantial likelihood of reversal of the Judgment because Appellants will raise significant legal questions on the merits,” including the quo warranto issue presently before this Court. (Petn. for Writ of Supersedeas at p. 52.) Accordingly, Appellants’ supersedeas petition squarely addressed the quo warranto issue (see *id.* at pp. 52-55), and the record that Appellants compiled in support of their supersedeas petition contained numerous superior court documents regarding that issue (see,

e.g., Supersedeas Exhs., *supra*, Exhs. 3, 4, 5, 8, 17). Appellants thus had ample reason and opportunity to include documents relating to Appellants' demurrer to Respondents' first amended petition or Appellants' opposition to Respondents' motion for peremptory writ (see Appellants' Motion, Exhs. C, D, E, F), which were based largely on the same grounds as their first demurrer (see Supersedeas Exhs., *supra*, Exhs. 3, 4, 5, 8). Moreover, and in any event, to the extent that Appellants purport to add such documents to "conform to the truth of the proceedings in the superior court" (Appellants' Motion at p. 15), there is no reasonable basis for not also seeking to add the documents filed by Respondents in response (see Lee Decl., Exhs. A, C).

In light of Appellants' efforts to misrepresent and otherwise skew the proceedings below, if the Court determines that the existing record is insufficient to resolve the legal issues presently before the Court,<sup>2</sup> then Respondents move the Court to further augment the record with Exhibits A,

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<sup>2</sup> Although, as noted, Respondents do not generally object to the Court's consideration of any documents filed in the superior court that are not already part of the record in this Court, Respondents respectfully submit that the existing appellate record is sufficient to decide the questions presented for review. Contrary to Appellants' suggestion otherwise (see Appellants' Motion at pp. 12-14), that Respondents sought to prevent the Board from circumventing the superior court's nullification of the Board's appointment by representing to the public that Rowe was the incumbent Third District Supervisor is irrelevant to whether the purported availability of quo warranto forecloses the Brown Act's express statutory remedy (see, e.g., Answer Brief on the Merits at pp. 36-37). Nor does appellants' purportedly "forceful and continuous opposition to the superior court proceeding via writ of mandate" shed any light on the proper resolution of either of the issues presented in this case. (Appellants' Motion at pp. 14-15.) Finally, the initially public nature of the Board's appointment process does not inoculate its subsequent secret ballot or improper reliance on that ballot, and in any event, the merits of the superior court's conclusion that the Board violated the Act are not before this Court. (See *id.* at p. 15.)

B, C, and D to the attached declaration. Alternatively, the Court may consider requesting transmittal of the entire record on appeal from the Court of Appeal, which was filed after this Court granted review (see Lee Decl., Exh. F), and which contains all of the documents identified in Appellants' and Respondents' respective motions, except for Appellants' Exhibits G and H (see Lee Decl., Exh. E). (See Cal. Rules of Court, rule 8.512(a).)

DATED: July 20, 2020

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## **DECLARATION OF JUHYUNG HAROLD LEE**

I, Juhyung Harold Lee, declare as follows:

1. I am an attorney at law duly licensed to practice before all courts of the State of California, and an associate of the law firm Rothner, Segall & Greenstone, one of the counsel of record for Respondents in the above-entitled action. I have personal knowledge of the facts set forth in this declaration, and if called as a witness, I could and would testify competently to them.
2. On May 15, 2019, Respondents filed an opposition to Appellants' demurrer to Respondents' first amended verified petition for writ of mandate. A true and correct copy of this opposition is attached hereto as **Exhibit A**.
3. On June 5, 2019, I was served with a copy of the "Records of Proceedings" before the Board, which were prepared for purposes of the superior court proceedings in the above-entitled action. A true and correct copy of Tab No. 31 of the Records of Proceedings, which contains a video transcription of relevant portions of the Board's December 18, 2018 meeting, is attached hereto as **Exhibit B**.
4. On June 14, 2019, Respondents filed a reply in support of their motion for a peremptory writ of mandate. A true and correct copy of this reply is attached hereto as **Exhibit C**.
5. On November 21, 2019, I attended a hearing on Appellants' ex parte application to vacate the superior court's show-cause hearing and to confirm the mandatory injunction and stay pending appeal. A true and correct copy of a transcript of such hearing is attached hereto as **Exhibit D**.
6. On November 22, 2019, I was served with an "(Amended) Appellant's Notice Designating Record on Appeal." A true and correct copy of this notice is attached hereto as **Exhibit E**.



7. On June 4, 2020, I was served with a “Notice to Appellant” by the Court of Appeal in the above-entitled action. A true and correct copy of this notice is attached hereto as **Exhibit F**.

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

Executed in South Pasadena, California on July 20, 2020.

/s/ Juhyung Harold Lee  
JUHYUNG HAROLD LEE

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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **FOR THE COUNTY OF SAN BERNARDINO**

16 MICHAEL GOMEZ DALY and INLAND  
17 EMPIRE UNITED,

18 Petitioners,

19 v.

20 BOARD OF SUPERVISORS OF SAN  
21 BERNARDINO COUNTY; ROBERT A.  
22 LOVINGOOD, as First District Supervisor  
23 and Chair of the Board of Supervisors;  
24 JANICE RUTHERFORD, as Second District  
25 Supervisor and Vice Chair of the Board;  
26 CURT HAGMAN, as Fourth District  
27 Supervisor of the Board; and JOSIE  
28 GÓNZALES, as Fifth District Supervisor of  
the Board,

25 Respondents.

26 DAWN ROWE,

27 Real Party in Interest.

Case No. CIVDS1833846

**PETITIONERS' OPPOSITION TO  
COUNTY RESPONDENTS' AND REAL  
PARTY IN INTEREST'S DEMURRER  
TO FIRST AMENDED VERIFIED  
PETITION FOR WRIT OF MANDATE**

Date: May 29, 2019

Time: 8:30 a.m.

Dept.: S29

Judge: Hon. Janet M. Frangie

Action Filed: December 31, 2018

Trial Date: None Set

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## INTRODUCTION

In this traditional mandamus action arising under the Ralph M. Brown Act (“Brown Act” or “Act”); Gov. Code, § 54950 et seq.; all undesignated statutory references are to this code), Michael Gomez Daly and Inland Empire United (“Petitioners”) allege that the Board of Supervisors of the County of San Bernardino (“Board”) violated the Act by conducting a secret, serial vote to narrow the list of eligible candidates for a vacant seat on the Board. The Board and Real Party in Interest Dawn Rowe (collectively, “Respondents”), whom the Board appointed to the vacant seat as a direct result of its unlawful vote, now demur to Petitioners’ First Amended Verified Petition for Writ of Mandate (“First Amended Petition”) on the ground that it fails to state facts sufficient to state a Brown Act claim. Respondents also continue to argue that Petitioners must proceed in quo warranto rather than through the procedure set forth in the Act.

The demurrer should be overruled. As an initial matter, Respondents improperly raise new arguments that they could have raised in their earlier demurrer. These arguments, in any event, lack merit: Petitioners complied with all applicable procedural requirements before initiating this action, and the fact that the Board may have nominally rescinded its prior actions and appointed Rowe at a public meeting does not absolve the Board of its previous violations of the Act. To the contrary, the Board’s open and continued reliance on its unlawful actions demonstrates the extent to which it failed to cure or correct its violations, despite Petitioners’ timely request that the Board do so. Pursuant to the remedy expressly set forth in the Act, Petitioners have sufficiently stated a Brown Act claim.

22

## ARGUMENT

23

### **I. PETITIONERS HAVE ALLEGED SUFFICIENT FACTS TO STATE A BROWN ACT CLAIM.**

24 “The policy underlying the Brown Act is that public boards and agencies exist to aid in  
25 the conduct of the people’s business.” (*Page v. MiraCosta Community College Dist.* (2009) 180  
26 Cal.App.4th 471, 505 (*Page*)). The Brown Act is thus intended “to facilitate public participation  
27 in all phases of local government decisionmaking and to curb misuse of the democratic process  
28 by secret legislation of public bodies.” (*International Longshoremen’s and Warehousemen’s*

1 *Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 293 (*ILWU*).

2 Consistent with these purposes, the Act “ ‘may push beyond debatable limits in order to block  
3 evasive techniques.’ ” (*Stockton Newspapers, Inc. v. Members of Redevelopment Agency* (1985)  
4 171 Cal.App.3d 95, 102 (*Stockton Newspapers*).

5 **A. Respondents Improperly Demur To The First Amended Petition On**  
6 **Grounds That Could Have Been Raised In Their Demurrer To The Original**  
7 **Petition.**

8 Under Code of Civil Procedure section 430.41, “[a] party demurring to a pleading that  
9 has been amended after a demurrer to an earlier version of the pleading was sustained shall not  
10 demur to any portion of the amended [pleading] on grounds that could have been raised by  
11 demurrer to the earlier version of the [pleading].” (Code Civ. Proc., § 430.41, subd. (b).)  
12 Despite the plain applicability of this provision, Respondents’ demurrer to the First Amended  
13 Verified Petition for Writ of Mandate (“First Amended Petition”) raises new arguments that  
14 could have been raised in their demurrer to the earlier-filed Verified Petition for Writ of Mandate  
15 (“Original Petition”). The Court should not consider these untimely arguments in ruling on the  
16 instant demurrer.

17 Specifically, Respondents now contend that Petitioners were required to send a *second*  
18 notice to cure or correct, after the Board’s appointment of Rowe on December 18, 2018, and that  
19 Petitioners’ failure to do so is “fatal” to their claims. (Demurrer to First Amended Petn., at  
20 pp. 11–12.) Although Respondents are mistaken (see *post*, at pp. 16–17), they could have made  
21 this argument in their demurrer to the Original Petition. The Original Petition and the First  
22 Amended Petition contain the same allegations and exhibits with respect to the notice that  
23 Petitioners sent to the Board regarding its violations of the Act. (Compare Original Petn., at p. 8,  
24 ¶ 35; *id.*, Exh. A, with First Amended Petn., at p. 9, ¶ 37; *id.*, Exh. A.) The Board also cannot  
25 plausibly argue that it was unaware of the notice it had received from Petitioners at the time the  
26 Original Petition was filed. Thus, in light of Respondents’ failure to raise this argument in their  
27 demurrer to the Original Petition, they may not do so in demurring to the First Amended Petition.

28 Respondents also newly argue that the Board’s process of appointing Rowe was in  
“substantial compliance with the statutory requirements” and thus cannot be invalidated.

1 (Demurrer to First Amended Petn., at p. 14, citing § 54960.1, subd. (d)(1).) But Respondents  
2 could likewise have raised this statutory argument — which, in any event, lacks merit (see *post*,  
3 at pp. 15–16) — in their demurrer to the Original Petition. Indeed, to the extent that this  
4 argument turns on the Board’s actions in appointing Rowe, the Board had firsthand knowledge  
5 of all relevant facts at the time that Petitioners filed their Original Petition. This argument is thus  
6 foreclosed by Respondents’ failure to raise it in their earlier demurrer.

7 In demurring to the Original Petition, Respondents made the tactical decision to focus on  
8 particular arguments that the Court properly rejected. (See Demurrer to Original Petn., at  
9 pp. 12–16.) The Code of Civil Procedure does not allow Respondents to revisit that decision  
10 now. (See Code Civ. Proc., § 430.41, subd. (b).)

11 **B. The Board Violated The Brown Act By Conducting A Secret, Serial Vote To**  
12 **Narrow The List Of Candidates For The Third District Supervisor Seat.**

13 The Brown Act requires that “[a]ll meetings of the legislative body of a local  
14 agency . . . be open and public.” (§ 54953, subd. (a).) For purposes of the Act, “[t]he concept of  
15 ‘meeting’ . . . comprehends informal sessions at which a legislative body commits itself  
16 collectively to a particular future decision concerning the public business.” (*Stockton*  
17 *Newspapers, supra*, 171 Cal.App.3d at p. 102.) Accordingly, the Act provides that “[n]o  
18 legislative body shall take action by secret ballot, whether preliminary or final” (§ 54953,  
19 subd. (c)(1)), and that “[t]he legislative body . . . shall publicly report any action taken and the  
20 vote or abstention on that action of each member present for the action” (*id.*, subd. (c)(2)). The  
21 Act further establishes that “[a] majority of the members of a legislative body shall not, outside a  
22 meeting authorized by [the Act], use a series of communications of any kind, directly *or through*  
23 *intermediaries*, to discuss, deliberate, or take action on any item of business that is within the  
24 subject matter jurisdiction of the legislative body.” (§ 54952.2, subd. (b)(1), italics added.)

25 Respondents do not dispute that members of the Board secretly and serially conveyed the  
26 names of their preferred candidates to an intermediary — the Clerk of the Board — for the  
27 common purpose of winnowing the pool of candidates for the vacant Board seat. Nor do  
28 Respondents dispute that the Clerk, acting upon the Board’s direction and the Board’s votes,



1 invited the selected candidates to interview with the Board and thereby advance in the process.  
2 Nevertheless, Respondents contend that the “communication of candidate interview lists to the  
3 Clerk w[as] neither a serial meeting nor a secret ballot as alleged,” because the Act does not  
4 prohibit “individual contacts or conversations between a member of a legislative body and any  
5 other person.” (Demurrer to First Amended Petn., at pp. 14–15.)

6 The Court of Appeal considered and rejected a similar argument in *Stockton Newspapers*,  
7 *supra*, 171 Cal.App.3d 95, and this Court should do the same here. *Stockton Newspapers*  
8 involved “a series of nonpublic telephone conversations, each between a member of the  
9 governing body of a local agency and its attorney, for the commonly agreed purpose of obtaining  
10 a collective commitment or promise by a majority of that body concerning public business.” (*Id.*  
11 at p. 98.) In concluding that this series of one-on-one conversations between individual members  
12 of the governing body and the body’s attorney was a meeting under the Brown Act, the court  
13 emphasized that there was no meaningful distinction between “conversations . . . conducted  
14 serially as opposed to simultaneously as in the case of a ‘speaker phone’ conference call among a  
15 majority of the members.” (*Id.* at p. 102.) So long as the “series of nonpublic contacts” is  
16 “‘planned by or held with the collective concurrence of a quorum of the body to privately  
17 discuss the public’s business’ either directly *or indirectly through the agency of a nonmember*,”  
18 the Brown Act’s open meeting requirements apply. (*Id.* at p. 103, italics added.)

19 The instant case presents almost an identical scenario to *Stockton Newspapers*.  
20 Respondents concede that “each Supervisor . . . independently notified the Clerk of the  
21 individuals that he or she would like to interview” for the common purpose of obtaining a  
22 collective commitment by the Board to interview specific candidates for the vacant Board seat.  
23 (Demurrer to First Amended Petn., at p. 9.) The Board does not dispute that the matter of filling  
24 that vacancy involves the public’s business, or that its communications to the Clerk did not occur  
25 in an open meeting. The Board’s communications with the Clerk thus violated the Act.

26 Respondents also contend that even if these communications were unlawful, “the mere  
27 fact that a Brown Act violation occurred with respect to a matter will not support invalidation of  
28 action properly taken in a meeting noticed consistently with the Act.” (Demurrer to First

1 Amended Petn., at p. 16.) In support of this argument, Respondents rely primarily on *Centinela*  
2 *Hospital Association v. City of Inglewood* (1990) 225 Cal.App.3d 1586 (*Centinela*). But that  
3 case is inapposite: In *Centinela*, the plaintiff alleged that “a series of ‘private meetings’ between  
4 the . . . City Attorney and members of the city council earlier in the day before the public  
5 hearing . . . in which the City Attorney discussed his interpretation of [a statutory provision],  
6 violated the Brown Act.” (*Id.* at p. 1597.) The petition “d[id] not allege that in such discussions  
7 any action was taken within the meaning of section 54960.1,” and “[i]t [was] without dispute that  
8 all ‘actions taken’ . . . were at duly noticed public hearings.”<sup>1</sup> (*Id.* at p. 1599.) Accordingly, the  
9 court concluded that the petition failed to state grounds for relief under section 54960.1. (*Ibid.*)

10 Here, Petitioners do not merely allege that the Board engaged in “discussions” regarding  
11 the vacant Board seat, after which the Board took a public vote. Rather, Petitioners allege that  
12 the Board’s communications to the Clerk constituted a secret, serial vote “by which the Board  
13 took action on the selection of a Third District Supervisor and was conducted in violation of  
14 §§ 54952.2 and 54953.” (First Amended Petn., at p. 14, italics added; see also *id.*, Exh. I [tally  
15 sheet reflecting the outcome of the secret, serial vote on December 10].) In light of the absence  
16 of any such allegations in *Centinela*, that case does not bear on Petitioners’ claims here.<sup>2</sup>

17  
18 <sup>1</sup> *Centinela* is also unpersuasive because it appears to employ an unduly narrow definition  
19 of “action taken.” (See *Stockton Newspapers, supra*, 171 Cal.App.3d at p. 102 [“ ‘[T]he Brown  
20 Act is applicable to collective investigation and consideration short of official action.’ ”].)

21 <sup>2</sup> Respondents do not expressly argue, as they did in their demurrer to the Original Petition,  
22 that Petitioners cannot obtain relief under section 54960.1 without showing that they were  
23 prejudiced by the Board’s unlawful actions. Instead, Respondents state that *Centinela*  
24 necessarily follows from “the requirement that the challenger must show prejudice as a result of  
25 the alleged violation to prevail on a Brown Act claim for nullification.” (Demurrer to First  
26 Amended Petn., at p. 16.) To the extent that Respondents thereby renew their argument  
27 regarding prejudice under the Brown Act, that argument would fail. First, nothing in section  
28 54960.1 suggests that Petitioners must make some separate showing of prejudice in order to  
prevail under that provision. Second, the few cases cited by Respondents as recognizing such a  
requirement all rely on a footnote from an opinion that predates section 54960.1’s enactment.  
(See *Griffis v. County of Mono* (1985) 163 Cal.App.3d 414, 427, fn. 15 [“[W]hile a decision  
made in violation of the [Act] may subject the decisionmakers to criminal liability, the decision  
is not void.”].) And recent decisions omit any discussion of this alleged requirement. (See, e.g.,  
*Page, supra*, 180 Cal.App.4th at pp. 500–505; *Morrison v. Housing Authority of the City of Los*  
*Angeles Bd. of Comrs.* (2003) 107 Cal.App.4th 860, 870–877.)

Even if some separate showing of prejudice were required, Petitioners have made such a  
showing here. As noted, the Brown Act is intended “to facilitate public participation in all  
phases of local government decisionmaking.” (*ILWU, supra*, 69 Cal.App.4th at p. 293, italics

1           **C.     Despite Receiving Ample Notice That It Had Violated The Act, The Board**  
2           **Failed To Cure Or Correct Its Violations.**

3           Before seeking relief under section 54960.1, subdivision (a), “the district attorney or  
4 interested person shall make a demand of the legislative body to cure or correct the action  
5 alleged to have been taken in violation of [the Act].” (§ 54960.1, subd. (b).) The purpose of  
6 providing this notice is to give the legislative body “an opportunity to cure or correct [its]  
7 action . . . before judicial relief may be obtained.” (78 Ops.Cal.Atty.Gen. 327 (1995) 1995 WL  
8 681210, at p. \*1, fn. 3.) If the legislative body fails to remedy its violation, then “[t]he district  
9 attorney or interested person may commence an action by mandamus.” (§ 54960.1, subd. (a).)

10           On December 18, 2018, Petitioners timely sent a written demand to the Board to cure or  
11 correct the secret, serial vote it conducted on December 10, 2018. (See First Amended Petn.,  
12 Exh. A.) By that point, the Board had already acted on its unlawful vote by eliminating 35  
13 candidates from consideration, interviewing the remaining 13 candidates, and further narrowing  
14 the field to five finalists on the basis of those interviews. Because the Board had thereby given  
15 13 candidates a significant advantage in the selection process by allowing them to interview and  
16 provide additional information to the Board about their candidacies, Petitioners demanded that  
17 the Board not only “[d]eclare null and void the secret, unlawful ballot,” but also “allow all 43  
18 candidates to participate in interviews with the Board” as a way of eliminating the “taint[]”  
19 caused “by the Board’s past, unlawful actions.” (*Ibid.*) Petitioners further stated that “any  
20 appointment of a Third District Member that is not preceded by providing an equal opportunity  
21 for all candidates to interview with the Board will be insufficient to cure the Board’s past  
22 unlawful actions.” (*Ibid.*) But rather than cure or correct its violations as Petitioners requested,  
23 the Board *nominally* rescinded its “prior actions” and continued on essentially the same course.

24  
25           added.) Accordingly, the Act protects the public’s right “to monitor and provide input” on the  
26 Board’s collective decisionmaking, deliberation, and acquisition of information. (*Page, supra*,  
27 180 Cal.App.4th at p. 505.) The Board denied Petitioners this right by secretly narrowing the list  
28 of eligible applicants for the vacant Board seat; to this day, Petitioners still do not know which  
candidates each Supervisor selected to advance in the selection process. And, as the Board’s  
own conduct makes clear, the unlawful vote materially affected the balance of the appointment  
proceedings. (See *post*, at pp. 12–13.) In light of the Act’s established purposes, Petitioners have  
pled sufficient facts to allege that they have suffered harm prohibited by the Act.

1           The Board’s purported cure was plainly insufficient. As Petitioners’ written demand  
2 expressly pointed out (First Amended Petn., Exh. A), a curative or corrective action must be  
3 more than “ ‘ceremonial’ ” (*Morrison v. Housing Authority of the City of Los Angeles Bd. of*  
4 *Comrs.* (2003) 107 Cal.App.4th 860, 876 (*Morrison*)) and must reach “all phases” of the  
5 decisionmaking process (*ILWU, supra*, 69 Cal.App.4th at p. 293). This is to prevent the  
6 “ ‘crystallization of secret decisions’ ” during “ ‘the collective inquiry and discussion stages’ ”  
7 (*Stockton Newspapers, supra*, 171 Cal.App.3d at p. 102), and to protect the public’s right “to  
8 monitor and provide input on [its local leaders’] collective acquisition and exchange of facts”  
9 (*Page, supra*, 180 Cal.App.4th at p. 505).

10           In *Morrison, supra*, 107 Cal.App.4th 860, the commissioners of a municipal housing  
11 authority unlawfully convened a closed session to discuss an arbitrator’s findings regarding a  
12 terminated employee. (*Id.* at p. 871.) The minutes of the closed session stated that the  
13 commissioners “ ‘took no action . . . with regard to the [employee’s] matter.’ ” (*Ibid.*) Months  
14 later, the commissioners met in open session, “heard extensive argument from attorneys for the  
15 housing authority management and [the employee],” and voted to uphold the termination. (*Ibid.*)

16           The Court of Appeal concluded that “[t]he fact the commissioners gave [the employee]  
17 notice of a subsequent meeting ‘to make a determination in the matter’ and held such meeting in  
18 public at her request d[id] not cure the previous violation.” (*Morrison, supra*, 107 Cal.App.4th at  
19 p. 876.) “To hold otherwise,” the court reasoned, “would eviscerate the Brown Act because it  
20 would allow the agency to make finding[s] of fact in secret which ought to be made in public and  
21 then conduct a mere ‘ceremonial’ hearing to satisfy the open meeting requirement.” (*Ibid.*)  
22 Accordingly, the Court of Appeal ordered the trial court “to issue a writ commanding respondent  
23 to set aside its decision upholding appellant’s discharge, [and] to reconsider the case in light of  
24 [the Court of Appeal’s] opinion.” (*Id.* at p. 877.)

25           The Court of Appeal reached a similar conclusion in *Page, supra*, 180 Cal.App.4th 471.  
26 There, the board of a community college district reached a settlement agreement with an  
27 employee in an unlawful closed session. (*Id.* at pp. 481–482.) The board subsequently  
28 attempted to cure its violation by “notic[ing] and plac[ing] on its agenda another hearing

1 pertaining to [the matter],” during which “the Board was presented with and approved the  
2 settlement.” (*Id.* at p. 482.) As in *Morrison*, the court rejected this end run around the Brown  
3 Act: “We conclude issuance of a notice . . . and minutes showing the Board had reconsidered  
4 and approved [the] settlement agreement, do not establish a cure of the Board’s acts . . . . The  
5 policy underlying the Brown Act is that public boards and agencies exist to aid in the conduct of  
6 the people’s business; the law is intended to mandate open and public actions and deliberations.  
7 [Citations.] Thus, the public is entitled to monitor and provide input on the Board’s collective  
8 acquisition and exchange of facts [citation] in furtherance of a mediation or resolution of [the  
9 employee’s] claims.” (*Id.* at p. 505.)

10 *Morrison* and *Page* thus make clear that if a legislative body violates the Brown Act at an  
11 intermediate stage leading to the adoption of a final decision in a matter, the body cannot simply  
12 state that it is rescinding the intermediate, unlawful aspects of its decisionmaking process, and  
13 then make the same final decision in a meeting that complies with the Act. Rather, the body  
14 must begin the deliberation process anew, as if the unlawful actions had never occurred.

15 The Board failed to do that here. To the contrary, the Board openly acted as if it had not  
16 rescinded its unlawful vote or interviews at all. At the December 18 meeting, shortly after voting  
17 with his colleagues to “rescind” the Board’s prior actions, Chairperson Robert Lovingood  
18 announced that he still believed the Board’s actions had been consistent with what was “stated in  
19 the policy” and the Board’s “obligations.” (First Amended Petn., at pp. 9–10, ¶ 42.) He  
20 subsequently moved to appoint Rowe to the Board without any further proceedings or  
21 discussion, on the basis of the secret, serial vote and interviews that the Board had supposedly  
22 rescinded. (See *ibid.*) After Chairperson Lovingood’s motion failed two votes to two, the Board  
23 voted to adopt Supervisor Curt Hagman’s proposal that each Supervisor “put two or three names  
24 [of candidates] in the hat” so the Board could ask “*further*” questions of those candidates. (*Id.* at  
25 pp. 9–10, ¶¶ 41, 43, italics added.) Upon Supervisor Josie Gonzales’s request, the Board agreed  
26 to interview any candidates who received at least one vote, as opposed to the two votes they had  
27 required for the December 10 vote. (*Id.* at p. 10, ¶ 43.) Despite establishing this lower threshold  
28 for selection, the Board proceeded to select only six candidates to be interviewed: the previously

1 selected five finalists, and Christopher Carrillo, who had received only one vote on December  
2 10, but who received a vote from Supervisor Gonzales at the December 18 meeting and therefore  
3 met the newly lowered selection threshold. (*Id.* at p. 10, ¶ 45.) Clearly then, other than for  
4 perhaps Supervisor Gonzales — who had opposed the unlawful secret ballot that Petitioners now  
5 challenge — the Board’s rescission was nothing more than an empty, ceremonial gesture.

6         The Board’s conduct during the ensuing interviews further reflects the degree to which it  
7 improperly relied on the allegedly rescinded December 10 vote and December 11 interviews.  
8 For example, Supervisor Janice Rutherford and Supervisor Gonzales explicitly referred to  
9 answers given by candidates during their December 11 interviews. (First Amended Petn., at  
10 pp. 11–12, ¶ 49.) Similarly, Supervisor Hagman asked one candidate what he had done “from  
11 last interview to this interview” to garner additional public support. (*Id.* at p. 11, ¶ 49.) Neither  
12 Chairperson Lovingood nor Supervisor Hagman asked Carrillo any questions, and Supervisor  
13 Rutherford asked him only one question: whether he had the endorsement of James Ramos, who  
14 had previously occupied the vacant seat. (*Ibid.*) In fact, Chairperson Lovingood did not ask any  
15 questions of *any* of the candidates. (*Id.* at p. 13, ¶ 51.) And Supervisor Hagman openly  
16 acknowledged that he was relying on the preferences of the other Supervisors as expressed in the  
17 unlawful December 10 vote. (*Id.* at p. 12, ¶ 50 [“Supervisor Hagman observed, with respect to  
18 Rowe: ‘how you came up highly on everyone’s list.’ ”].)

19         Even the candidates understood the December 18 interviews to be a continuation of the  
20 Board’s purportedly rescinded selection process. Two candidates declined to make any opening  
21 statements to the Board, instead referring to their previous remarks and inviting questions. (First  
22 Amended Petn., at p. 11, ¶ 49.) And Rowe took advantage of the second interview to clarify an  
23 answer she had previously given on December 11, and to address comments that members of the  
24 Board had made during the December 11 interviews. (*Id.* at p. 12, ¶ 49.) Because the Board’s  
25 unlawful actions clearly continued to taint the appointment process, the Board’s nominal  
26 rescission of its prior actions did not cure or correct its violations of the Act.

27         Respondents attempt to obfuscate the ceremonial nature of the December 18 hearing by  
28 noting that the Board was not legally required to interview every qualified applicant for the job.

1 (Demurrer to First Amended Petn., at p. 13.) This contention is beside the point: Petitioners  
2 have never alleged that the Act specifically mandates their requested cure; the Brown Act does  
3 not prescribe any specific curative actions. Rather, Petitioners maintain that their requested cure  
4 provided an effective way for the Board to remedy the violations at issue in this case. Although  
5 that may not have been the only possible cure for the Board’s violations, it is clear from the  
6 Board’s continued reliance on its unlawful actions that the Board’s purported cure was wholly  
7 ineffective, and the Board made no attempt to tailor a cure to the nature of its violations.

8 Likewise, Petitioners do not dispute that, in the event of a Board vacancy, the County’s  
9 charter initially authorizes the remaining members of the Board to fill the vacant Board seat.  
10 (See Demurrer to First Amended Petn., at p. 13.) But in doing so, the Board must comply with  
11 the Brown Act’s requirements — and the Board failed to do that in appointing Rowe.

12 Respondents further suggest that “Petitioners’ logic . . . would effectively prevent any  
13 legislative body from ever effectively curing an alleged Brown Act violation as the alleged  
14 ‘taint’ could never be purged from the deliberative process.” (Demurrer to First Amended Petn.,  
15 at p. 13.) This contention also misses the mark. Arguably, the Board’s rescission may have been  
16 effective had it occurred prior to interviewing the 13 semifinalists and selecting the five finalists  
17 based on those interviews. But once the Board took these additional actions and thereby  
18 irretrievably manipulated the selection process, the Board had to take more substantial action to  
19 restore the previous status quo. Petitioners proposed an effective and reasonable way for the  
20 Board to accomplish this end, which the Board refused to implement. And the Board’s conduct  
21 after its purported rescission shows that the “ ‘taint’ ” in this case was hardly contrived.

22 In short, allowing the Board to cure its violations of the Act by nominally rescinding its  
23 prior actions while continuing to rely on the same unlawful actions would render the Brown  
24 Act’s protections meaningless. This is precisely what the Court of Appeal in *Morrison* sought to  
25 prevent. (See *Morrison, supra*, 107 Cal.App.4th at p. 876 [“To hold otherwise would eviscerate  
26 the Brown Act because it would allow the agency to make finding of fact in secret which ought  
27 to be made in public and then conduct a mere ‘ceremonial’ hearing to satisfy the open meeting  
28 requirement.”].) Because “[i]t is the job of the courts in enforcing the Brown Act to block, not

1 facilitate, such evasive techniques” (*ibid.*), the Court should reject the Board’s attempt to evade  
2 the Act’s requirements through its nominal rescission.

3 **D. Because Rowe’s Appointment Was A Direct Consequence Of The Board’s**  
4 **Violations Of The Act, The Appointment Is Null And Void, And Petitioners**  
5 **Were Not Required To Send A Successive Cure-or-Correct Notice.**

6 The foregoing discussion establishes that the Board violated the Brown Act; that  
7 Petitioners duly notified the Board of its violations and demanded an effective and reasonable  
8 cure of these violations; that the Board nevertheless failed to remedy its unlawful actions; and  
9 that therefore, Petitioners have alleged sufficient facts to state a claim under the Act.  
10 Respondents attempt to escape this straightforward conclusion by suggesting, for the first time in  
11 the course of this litigation, that Rowe’s appointment cannot be invalidated because it was made  
12 in “substantial compliance” with the Brown Act. (Demurrer to First Amended Petn., at p. 14.)  
13 As noted (see *ante*, at pp. 6–7), this argument is foreclosed by Respondents’ failure to raise it in  
14 their demurrer to the Original Petition. But even if Respondents had properly raised this  
15 argument, it would fail on its merits: Respondents cannot disentangle the Board’s unlawful vote  
16 from its appointment of Rowe.

17 *Hernandez v. Town of Apple Valley* (2017) 7 Cal.App.5th 194 (*Apple Valley*) is  
18 instructive on this point. In *Apple Valley*, a town council adopted several resolutions to schedule  
19 and establish rules for a special election on a proposed ballot measure. (*Id.* at p. 197.) At the  
20 same meeting, the town council also adopted a memorandum of understanding (“MOU”)  
21 authorizing the acceptance of funds from a private entity to pay for the special election. (*Ibid.*)  
22 The council included a description of the special-election resolutions in a packet attached to the  
23 posted meeting agenda, but failed to include any information regarding the MOU in either the  
24 agenda or the agenda packet. (*Id.* at p. 209.) Residents of the town subsequently voted to  
25 approve the ballot measure. (*Id.* at p. 196.)

26 The Court of Appeal affirmed the trial court’s conclusion that the council’s adoption of  
27 the MOU violated the Brown Act. (*Apple Valley, supra*, 7 Cal.App.5th at pp. 206, 208.) The  
28 Court of Appeal also affirmed the trial court’s nullification of not only the council’s approval of  
the MOU, but also the council’s “action of putting the [measure] on the ballot” and the



1 electorate’s subsequent adoption of the measure. (*Id.* at p. 209 [“Here, Town’s action of putting  
2 the Initiative on the ballot was properly found null and void by the trial court as the Town  
3 council’s decision to put the Initiative on the ballot was made in violation of the Ralph M. Brown  
4 Act.”].) In doing so, the Court of Appeal noted that the council’s violation as to the MOU was  
5 “troublesome as it is conceivable this was a major factor in the decision to send the matter to the  
6 electorate.” (*Id.* at p. 208.)

7           Similarly, in *Morrison, supra*, 107 Cal.App.4th 860, the court did not merely invalidate  
8 the housing commissioners’ unlawful discussion of the arbitrator’s findings regarding the  
9 employee’s termination. Even though “the commissioners did not make their final decision on  
10 the [termination] until after considering the matter at an open meeting in which they heard  
11 argument from the agency and [the terminated employee],” the court concluded that nullification  
12 of the commissioners’ unlawful discussion also required nullification of the commissioners’ later  
13 decision to uphold the termination. (*Id.* at pp. 867, 876.)

14           These authorities make clear that nullification of an action taken in violation of the  
15 Brown Act does not only nullify that action; it also nullifies actions that result as a direct  
16 consequence of the violative action, regardless of whether those subsequent actions were taken in  
17 “substantial compliance” with the Act. Because the Board’s appointment of Rowe on December  
18 18 resulted directly from the Board’s secret, serial vote on December 10, nullification of the  
19 unlawful December 10 vote also requires nullification of Rowe’s appointment. This outcome is  
20 consistent with the principle that a legislative body may not evade the Act’s requirements in the  
21 course of taking some final action; nominally rescind its unlawful, intermediate actions; and then  
22 simply take the same final action anyway. (See *ante*, at pp. 11–12.)

23           For similar reasons, Respondents’ belated claim (see *ante*, at p. 6) that Petitioners were  
24 required to send a successive cure-or-correct notice also fails. (See Demurrer to First Amended  
25 Petn., at p. 12.) As noted, a legislative body must have the opportunity to cure or correct a  
26 violation of the Act before judicial intervention may be obtained. The Board cannot plausibly  
27 argue that it lacked such an opportunity here: The Board had ample notice that its secret, serial  
28 vote on December 10 violated the Act. (See First Amended Petn., Exh. A [letter to Board from

1 Daly]; *id.*, Exh. J [letter and email to Board from Ruth Musser-Lopez].) The Board also had  
2 ample notice that it could have meaningfully cured its violations by interviewing the 43  
3 applicants who were eliminated from further consideration. (See *ibid.*) Not only did the Board  
4 decide against taking this curative action, but it also continued to act in reliance on the December  
5 10 vote and the information it gathered as a direct consequence of that vote. (See *ante*, at pp.  
6 12–13.) The Board then informed Petitioners, in a letter dated December 20, that it would not  
7 take any further steps to cure the violations Petitioners had identified, clearly establishing the  
8 Board’s position as to the alleged lawfulness of its December 18 action. (See First Amended  
9 Petn., Exh. A.) Nothing in the Act suggests that Petitioners were required to send successive  
10 cure-or-correct notices after the Board refused to cure its violations as Petitioners had requested.<sup>3</sup>

11 *Apple Valley, supra*, 7 Cal.App.5th 194, is again instructive. There, the petitioner sent a  
12 cure-or-correct notice only after the meeting at which the town council failed to provide proper  
13 notice regarding discussion of the MOU. (*Id.* at p. 198.) Nevertheless, the court invalidated not  
14 only the council’s adoption of the MOU, but also the council’s subsequent action of putting the  
15 ballot measure before the town’s voters, as well as the voters’ actual adoption of the ballot  
16 measure. (*Id.* at pp. 196, 213–214.) Similarly here, both Petitioners and Musser-Lopez sent the  
17 Board a cure-or-correct notice after the secret, serial vote on December 10. Because that  
18 unlawful vote forms the basis of Petitioners’ challenge to the Board’s appointment of Rowe,  
19 Petitioners were not required to send an additional — and redundant — cure-or-correct notice.

20  
21  
22 <sup>3</sup> To the contrary, Respondents’ position that a second notice was required would allow for  
23 manipulation of section 54960.1’s strict filing deadlines. Interested persons are required to  
24 commence an action against a legislative body within 15 days of receiving notice that the body  
25 does not intend to cure and correct the alleged violation *or* 45 days after the body has received  
26 the demand letter, if the body does not take any action. (See § 54960.1, subs. (c)(3), (4).) Here,  
27 the Board notified Petitioners on December 20 that it declined to adopt their requested cure.  
28 (See First Amended Petn., Exh. B.) Had Petitioners sent a successive demand letter immediately  
following the December 18 meeting, and Respondents declined to respond to that successive  
demand letter, Petitioners might have believed they were required to wait 30 days — until  
January 17, 2019 — to file suit. But the statute of limitations to act on the *original* demand letter  
would have ran on January 4, 2019, 15 days after the Board notified Petitioners that it would not  
take the requested curative action. In such a scenario, Respondents could then argue that the  
action taken in violation of the Brown Act occurred on December 10, so that Petitioners had  
missed the 15-day statute of limitations to file suit.

1 **II. QUO WARRANTO IS NOT THE EXCLUSIVE VEHICLE FOR RESOLVING**  
2 **PETITIONERS' CLAIMS.**

3 Although this Court properly overruled Respondents' demurrer on the basis of quo  
4 warranto, Respondents contend that they must "reassert this argument because the Amended  
5 Petition makes clear that Supervisor Rowe's title to office is not merely incidental to Petitioners'  
6 claims."<sup>4</sup> (Demurrer to First Amended Petn., at p. 17, fn. 4.) Respondents also note that the  
7 Attorney General recently issued an opinion in which he stated that " 'there is no requirement [in  
8 quo warranto actions] that the . . . allegedly invalid title deprived the relator of office.' " (*Ibid.*)

9 Neither of these grounds warrants revisiting the Court's decision on quo warranto. First,  
10 contrary to Respondents' argument otherwise, the First Amended Petition casts the primary  
11 nature of Petitioners' Brown Act claims into even sharper focus. As the foregoing discussion  
12 makes clearer still, Petitioners challenge solely the Board's process of appointing Rowe to the  
13 vacant Board seat rather than Rowe's eligibility for the seat or any actions taken by Rowe. Thus,  
14 Petitioners' claims fall squarely within the statutory remedy set forth in section 54960.1.

15 Second, the Attorney General's opinion announces no new interpretation of law that  
16 might bear on the outcome of this case. The fact that a relator in a quo warranto action need not  
17 seek title to the defendant's office does not show that Petitioners, who similarly do not seek title  
18 to office, may proceed only in quo warranto. Indeed, the Attorney General's opinion expressly  
19 notes that quo warranto is often available *in addition* to applicable statutory remedies.

20 (Ops.Cal.Atty.Gen. No. 18-202 (Apr. 19, 2019), 2019 WL 1876833, at p. \*3 ["[I]t is well  
21 established that a party may challenge an election by means of an election contest *or* a quo  
22 warranto complaint." (italics added)].) Respondents' continued failure to grapple with the  
23 additional statutory remedy established by the Brown Act dooms their quo warranto claim.

24 Respondents also point to a footnote in the Attorney General's opinion stating that "a  
25 public official's actions prior to his or her ouster by quo warranto remain valid and binding if

26 \_\_\_\_\_  
27 <sup>4</sup> Respondents also suggest they must address quo warranto in order to preserve that issue  
28 for appeal. Respondents are mistaken: It is well established that "[r]aising an issue by an  
unsuccessful demurrer is enough to preserve the issue for appeal." (*McCauley v. Howard Jarvis  
Taxpayers Assn.* (1998) 68 Cal.App.4th 1255, 1264, citing Code Civ. Proc., § 647.)

1 done within the scope and apparent authority of office.” (Ops.Cal.Atty.Gen. No. 18-202, *supra*,  
2 2019 WL 1876833, at p. \*6, fn. 56, citing, inter alia, *In re Redevelopment Plan for Bunker Hill*  
3 *Urban Renewal Project 1B* (1964) 61 Cal.2d 21, 42 (*Bunker Hill*) [describing “[t]he de facto  
4 doctrine in sustaining official acts”].) Respondents rely on this footnote to renew their claim that  
5 “[d]eclaring the appointment of a county supervisor null and void . . . would potentially render  
6 all of the Board’s actions during the last four months in which the *de facto* supervisor  
7 participated vulnerable to uncertainty and challenge.” (Demurrer to First Amended Petn., at p.  
8 19.) As an initial matter, if Respondents were truly concerned that the Board’s actions since  
9 Rowe’s appointment may be vulnerable to challenge, then they would not have proposed a  
10 briefing schedule on the peremptory writ motion that defers a decision on that motion until the  
11 end of this year. (See County Respondents’ and Real Party in Interest’s Status Conference  
12 Report, at p. 5.) Moreover, the cited “de facto doctrine” may well apply under section 54960.1.  
13 (See *Bunker Hill*, at p. 42 [“ ‘The lawful acts of an officer *de facto*, so far as the rights of third  
14 persons are concerned, are, if done within the scope and by the apparent authority of office, as  
15 valid and binding as if he were the officer legally elected and qualified for the office and in full  
16 possession of it.’ ”].) Although Petitioners seek a declaration that the actions of the *Board* in  
17 appointing Rowe are null and void, that declaration does not necessarily extend to the actions  
18 taken by *Rowe* while in office. Because Petitioners do not seek any relief as to Rowe’s actions  
19 on the Board, Respondents’ argument is purely hypothetical, and the Court need not consider it.

20 **CONCLUSION**

21 For the foregoing reasons, Petitioners respectfully request that the demurrer be denied.

23 DATED: May 15, 2019

24 STACEY M. LEYTON  
MEGAN WACHSPRESS  
ALTSHULER BERZON LLP

25 GLENN ROTHNER  
26 JUHYUNG HAROLD LEE  
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27 By Glenn Rothner by Juhyung Harold Lee  
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PROOF OF SERVICE

Daly, et al. v. Bd. of Supvrs. of San Bernardino County, et al., San Bern. Sup. Ct. Case No. CIVDS1833846

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action; my business address is 510 South Marengo Avenue, Pasadena, California 91101.

On May 15, 2019, I served the foregoing document described as **PETITIONERS' OPPOSITION TO COUNTY RESPONDENTS' AND REAL PARTY IN INTEREST'S DEMURRER TO FIRST AMENDED VERIFIED PETITION FOR WRIT OF MANDATE** on the interested parties in this action as described below:

Deborah J. Fox T. Steven Burke, Jr. Meyers, Nave, Riback, Silver & Wilson 707 Wilshire Blvd., 24th Floor Los Angeles, CA 90017 E-mail: dfox@meyersnave.com; tsburke@meyersnave.com	Attorneys for Respondents/ Real Party in Interest
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Ruth Musser-Lopez 420 E Street Needles, CA 92363-2932 E-mail: ruthmusserlopez@gmail.com	In Pro Per ( <i>Musser-Lopez v. Board of Supervisors of San Bernardino County, Case No. CIVDS1901773</i> )
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Jerry Cohen

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3 VIDEO TRANSCRIPTION OF  
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5 SAN BERNARDINO COUNTY BOARD OF SUPERVISORS  
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7 MEETING OF DECEMBER 18, 2018  
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18 AGENDA ITEM 102 WITH PUBLIC COMMENT  
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A P P E A R A N C E S

ROBERT A. LOVINGOOD  
CHAIR

MICHELLE D. BLAKEMORE  
COUNTY COUNSEL

PATRICK OBERG  
PUBLIC COMMENTER

TREASURE ORTIZ  
PUBLIC COMMENTER

DANA ROCHAT  
PUBLIC COMMENTER

LUPE NAVARRO  
PUBLIC COMMENTER

JANICE HAUSER  
PUBLIC COMMENTER

RUTH MUSSER-LOPEZ  
PUBLIC COMMENTER

BARBARA BABCOCK  
PUBLIC COMMENTER

DAN ODOWD  
PUBLIC COMMENTER

SETH SHTEIR  
PUBLIC COMMENTER

UNIDENTIFIED FEMALE SPEAKERS

1 UNIDENTIFIED MALE SPEAKERS  
2  
3 SARA LEE  
PUBLIC COMMENTER  
4  
5 TOM O'KEY  
PUBLIC COMMENTER  
6  
7 GAYLE AUSTIN  
PUBLIC COMMENTER  
8  
9 DAVID FICK  
PUBLIC COMMENTER  
10  
11 PAT FLANAGAN  
PUBLIC COMMENTER  
12  
13 LAURA H. WELCH  
CLERK OF THE BOARD  
14  
15 REBECA UNGER  
PUBLIC COMMENTER  
16  
17 PAULA DURRANT  
PUBLIC COMMENTER  
18  
19 ERIC MUELLER  
PUBLIC COMMENTER  
20  
21 PAUL SMITH  
PUBLIC COMMENTER  
22  
23 STEVE BARDWELL  
PUBLIC COMMENTER  
24  
25 ROBERT FURST  
PUBLIC COMMENTER



1 SARAH KENNINGTON  
PUBLIC COMMENTER

2

3 CURT HAGMAN  
VICE CHAIR

4

5 JOSIE GONZALES  
SUPERVISOR

6

7 JANICE RUTHERFORD  
SUPERVISOR

8

9 CHRIS CARILLO  
INTERVIEWEE

10

11 RHODES RIGSBY  
INTERVIEWEE

12

13 WILLIAM EMMERSON  
INTERVIEWEE

14

15 SEAN FLYNN  
INTERVIEWEE

16

17 WILLIAM JAHN  
INTERVIEWEE

18

19 DAWN ROWE  
INTERVIEWEE

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SAN BERNARDINO COUNTY  
SAN BERNARDINO COUNTY BOARD OF SUPERVISORS  
MEETING OF DECEMBER 18, 2018  
AGENDA ITEM 102 WITH PUBLIC COMMENT

CHAIR LOVINGOOD: Okay. Sorry that the break went a little longer than we planned. We're going to go ahead and resume the meeting, Madam Clerk, and my peers, and to the public, and we're going to start with Item 102. And Item 102 is to rescind the prior action and amend the process for the selection of the Third District Member Board of Supervisors. Presentation.

Michelle, would you want to just move forward, or any - add any comments now, or I'll, I'll just finish with the presentation?

MICHELLE BLAKEMORE: You can go ahead and finish the --

CHAIR LOVINGOOD: Okay.

MICHELLE BLAKEMORE: -- presentation if you want.

CHAIR LOVINGOOD: Absolutely.

MICHELLE BLAKEMORE: Just want to add that when you're action One and - Recommendations One and Two --

CHAIR LOVINGOOD: Yes.

1 MICHELLE BLAKEMORE: -- will be done together.

2 CHAIR LOVINGOOD: Okay. Thank you, Michelle.

3 I appreciate it. So when the Board of Supervisors  
4 started this process, they took great lengths to  
5 ensure an open process, by having ads placed in  
6 multiple newspapers, soliciting to fill the vacancy.  
7 We went far and wide to make sure the known - that  
8 this would be known. At the close of the application  
9 period, 52 had expressed interest in the, in the  
10 position, of which 48 were actually qualified as  
11 electors.

12 As a supplement request of materials for a  
13 response to questions garnered a reply by 43 of the  
14 original applicants. The supervisors chose to  
15 interview, interview 13, and established the list of  
16 five finalists. Following written and email  
17 correspondence received on the 12th and 13th challenging  
18 the process undertaken by the Board, it is recommended  
19 that we establish - establishment - the interview list  
20 of 13, and the finalist list of five be rescinded, and  
21 the process amended for the selection of the Third  
22 District Member of the Board.

23 The recommended actions will cure and correct  
24 any alleged procedural errors, and afford the Board an  
25 opportunity at this meeting to move forward in the

1 discussion process.

2 Is there any discussion from Board members  
3 before I call for public comment? No? Okay. I'm  
4 going to now ask for public comment. Madam Clerk?  
5 Excuse me. (sound fades out for a moment) ...speakers  
6 in order, and if they've arrived - so the first is  
7 Patrick Oberg - Oberg; and then Treasure Ortiz,  
8 followed by Randall Coats (phonetic) - if I have that?  
9 So if you're here, please?

10 PATRICK OBERG: Thank you, Board of  
11 Supervisors. I live in the Third District over in  
12 Highland, and I appreciate everybody's tenacity to be  
13 around all day. I, I, I don't do this; I've never  
14 done this. This is my first experience saying this -  
15 for just because of the story that I'm going to tell,  
16 I'm going to say that I'm a Republican because it's  
17 pertinent to the end of the story.

18 So the beginning of the story is, I'm watching  
19 TV, a sporting event, probably Bears and Packers, and  
20 my doorbell rings. And this is two or three years  
21 ago, and I said, 'God, who - (unintelligible) get a  
22 knock on my door with this going on?' Well, a  
23 gentleman said, 'I want to come in and talk to you  
24 about running for the Water Board.' And I said, 'Oh,  
25 boy, this better be good.' It - under - to myself.

1 You know. So being a Republican, I, I kind of  
2 strategically looked in the - towards my TV so I could  
3 pay attention to the game while this gentleman spoke.  
4 The longer he spoke, I turned the game off in my head,  
5 and I listened to him. He was able to make a lot of  
6 common sense. He's a Democrat, too. And I've never  
7 voted for a Democrat, and I did for the first time in  
8 my life. And Chris Carrillo is a fantastic man, and  
9 I'll tell you what - he's got a lot of common sense.  
10 And he was able to convince me to do this today, and  
11 I've never done it before. And I just appreciate the  
12 good man that he is, and what a good County Supervisor  
13 he will be. I appreciate the time, and have a great  
14 day.

15 CHAIR LOVINGOOD: Thank you for your public  
16 comment. Treasure Ortiz is next, followed by Randall  
17 Coats. Treasure?

18 TREASURE ORTIZ: Good afternoon. My name is  
19 Treasure. I am an applicant for the Supervisor  
20 position, but most importantly a resident of the Third  
21 District. And I'm here because I'm extremely  
22 disappointed in how it's being conducted. I super  
23 agree with you - you guys outreached to the community  
24 for the applicants to apply. But in that, you, you  
25 decided not to put forth a process that was completely

1 transparent, and you knew it, and you continued with  
2 it. And Counsel told you not to set criteria, but you  
3 did it anyways. You didn't tell us what it was. You  
4 just called the Clerk of the Board and told her who  
5 you wanted. You want to rectify it, but you're  
6 breaking - in the, in, in the midst of breaking the  
7 law. You're bound by an Act. So to say, 'Mea culpa,  
8 We're sorry. Now we're going to wipe this clean,' -  
9 you need to go above and beyond that. You have a  
10 responsibility to the 400,000 people in this district  
11 who voted for James Ramos, voted for an agenda, and  
12 now want to see that that's adhered to. And everybody  
13 that applied needs to be publicly shown to the voters.  
14 It affects your district; it affects our district.  
15 And to do anything less is disrespectful; it's wrong.  
16 You know, we - we come here today to do our civic  
17 duty, to be a part of the process. And to be denied  
18 that, myself or anybody - we have large shoes to fill.  
19 We have to make sure that we stand by, by what people  
20 are asking of us - without a vote. This is - this is  
21 the worst case of taking away democracy from people,  
22 and then shoving it in their face and saying, 'We're  
23 going to make jokes. Give me resumes, and I'll vet  
24 through.' Well, that's exactly what you did. After  
25 Hagman asked specifically, 'How do we fill this

1 vacancy, if, if Ramos were to vacate?' nobody wanted  
2 to talk about that, but then days later you appointed  
3 a field rep to be a point of, a point of contact -  
4 without any public discussion. We submitted letters,  
5 resumes, and answers to questions that you guys asked,  
6 never available to the public. This is supposed to be  
7 open. I ask that you today, interview everybody.  
8 This should be a long and arduous task. This should  
9 take days, because this is a big, big decision for you  
10 to make on behalf of people that you don't represent.  
11 Thank you.

12 CHAIR LOVINGOOD: Our next speaker is Ronald  
13 Coats, followed by Dana Rochat. Ronald? No? Dana?  
14 Please. I'll hold that in case he comes back. Good  
15 afternoon.

16 DANA ROCHAT: Good afternoon.

17 CHAIR LOVINGOOD: Yeah.

18 DANA ROCHAT: Thank you very much for the  
19 opportunity to speak today. I'd like to tell you my  
20 personal and professional experiences I've had over  
21 the past 10 years with the Third District candidate,  
22 Christopher Carrillo. I first met Chris when he was a  
23 Senior Aide to a senator here in California. I spent  
24 many hours on the phone, and through emails,  
25 coordinating our bosses' schedules, and meeting with

1 him over the future over the delicate desert  
2 environment. We discussed at length our community,  
3 businesses in the area, and how we could work together  
4 for the benefit of the public. At all times, I found  
5 Chris Carrillo to be a man of great integrity,  
6 dependable, honest, courteous, and professional.  
7 Chris is always looking out for the community through  
8 outreach, and his humility is something you do not see  
9 much of these days. Nobody knows the district like  
10 Chris does, and he has so much support in each of the  
11 communities within his district. I believe Chris  
12 Carrillo would be a great asset to the communities he  
13 would serve, and the San Bernardino County as the  
14 Third District Supervisor. Thank you.

15 CHAIR LOVINGOOD: Thank you for your comments.  
16 Our next speaker is Lupe Navarro, followed by Janice  
17 Hauser. Is that right?

18 LUPE NAVARRO: Okay. Members of the Board,  
19 Supervisors, thank you for letting me speak. It is  
20 with great prospect - can you hear me okay? It is  
21 with great prospect that you will consider Sean Flynn  
22 to replace Mr. Ramos. Sean has shown to be a person  
23 of principled commitments that are needed in the  
24 community. Because he is an economist, he looks at  
25 the - at the economic growth of an area, along with



1 solving the needs of that area, in unemployment,  
2 health care, crime, housing, education, and such.  
3 Sean gives much thought and attention to issues from  
4 start to finish. It is his eye for detail that is  
5 needed to make a good community grow into a more  
6 successful one - a community that showcases  
7 attributes, with Sean guiding the way the first day in  
8 office. Sean manages to make the time to listen to  
9 others. It is his patient and logic that demonstrate  
10 his attention is on the subject at, at hand. He is  
11 open to other people's ideas, and suggestions, and  
12 willing to meet them halfway. He is kind and good  
13 natured, and has a positive personality that allow  
14 others around him to excel. This is a valued  
15 attribute in a person such as Sean. I saw this  
16 firsthand when I volunteered on his US Congress  
17 campaign over the past year. Sean cares about his  
18 community, the Third District, and how much more of it  
19 there is to offer to its residents. I've lived in the  
20 Third District, and would be honored to have Sean  
21 Flynn fill in the vacancy of the Board of Supervisors.  
22 Thank you.

23 CHAIR LOVINGOOD: Thank you. Our next speakers  
24 is Janet Hauser, followed by Ruth Musser-Lopez -  
25 Musser-Lopez.

1           JANET HAUSER: Hi. I'm here, hoping that  
2 you'll vote to support Sean Flynn to replace James  
3 Ramos - who I think is a pretty good guy, too. I  
4 moved here recently. I've been here a year and a  
5 half. I moved from Los Angeles County. I was very  
6 involved in my community in Los Angeles County. I was  
7 at - and I decided I was going to be involved here,  
8 too. And I was at some meeting, and met Sean. And I,  
9 I, I'm just telling you, I'm a Chatty Cathy, you know.  
10 And I like, cornered this guy and talked - la-la-la-  
11 la-la. And he just was very quiet, listened to me.  
12 Then I went back and looked on his website, where he  
13 was running for Congress. And I went, 'Oh, my gosh,  
14 this man has real substance. He has real ideas.' And  
15 so I started working in his campaign.

16           I've always thought, after meeting him, that he  
17 would serve our community better on the local level.  
18 He has some innovative ideas in how to solve the  
19 problems that we have here in San Bernardino,  
20 including homelessness, jobs, healthcare, senior  
21 issues - I have a degree in gerontology, so I got that  
22 part figured out - the environment, crime, and  
23 infrastructure, just to name a few. These issues are  
24 better resolved here at this level, and not in  
25 Washington, D.C.

1           He has put serious thought into these local  
2 concerns, and be ready on Day One to help our county  
3 continue to grow and improve. He's a person willing  
4 to compromise, but he will have a strong voice for his  
5 side when called to do so. He is thoughtful,  
6 compassionate, a hard worker, and a great listener.  
7 All these qualities - are these the kind of qualities  
8 that are respected in Washington, D.C.? Or perhaps  
9 here at this level of government is a better place for  
10 a person as accomplished as Sean Flynn. I know he  
11 will be a great addition to this Board, and we all  
12 know, an economist is a unique resource for any level  
13 of government.

14           I was once a professional staffer for the  
15 member of the Board of Supervisors in San Diego. So I  
16 know the kind of person that is needed to work so  
17 closely with the other four members of this Board. I  
18 live in the Third District, and I will feel so blessed  
19 to have Sean Flynn as my Supervisor. Thank you.

20           CHAIR LOVINGOOD: Thank you. Our next speaker  
21 is Ruth Musser-Lopez.

22           RUTH MUSSER-LOPEZ: Ruth Musser-Lopez.  
23 Supervisors, I'm requesting that you please direct me  
24 to the person, or persons, or provide the name of the  
25 person or persons' names, who verified the Assertions

1 of Fact on the applications and the resumes of those  
2 who applied for the Third District Supervisor position  
3 vacated by James Ramos. I object that there was  
4 problematic fact checking, and some of your candidates  
5 may not even live in the Third District.

6 Your unlawful elimination process began with a  
7 prohibited serial meeting, and secret ballot vote on  
8 December 10th, and was designed to winnow down the  
9 field of candidates to an obvious outcome. Due to  
10 this prohibited polling, the Republicans on the Board  
11 now have knowledge as to how to vote to achieve a  
12 desired, preplanned vote in unison by three members.  
13 This was not a merit based selection process based on  
14 qualifications, skills, and knowledge, or who the  
15 people of the Third District, who had selected a  
16 Democrat before, wanted to represent them.

17 This is purely politics - how to keep the  
18 appointment from being decided by the Democratic  
19 Governor. Along the way, the, the Board violated the  
20 1st and 14th US Constitutional rights of the people to  
21 redress their government and speech rights.  
22 Applicants of color were not provided the same right  
23 or opportunity to make their case as the white country  
24 club Republicans. The cure would be to offer to  
25 interview, or give equal time and treatment to those

1 applicants you earlier shunned. But this is not being  
2 done. Instead, the Board has on their agenda the plan  
3 to quote, unquote, "rescind" - or as your Public  
4 Affairs guy, David Wert calls it - dial back your  
5 unlawful acts, as if just your say-so cures and  
6 corrects the situation. Where in law can you undo a  
7 murder? You can't just wave a magic gavel, rescind,  
8 erase, or dialed back an act that has already done.  
9 This list has already been made. It's already on your  
10 minds, firmly planted. You can pretend that the  
11 finalists list you've obtained through cheating is  
12 erased from your brains, but the high five is still  
13 firmly planted in your minds.

14           You might be able to rescind a prohibited  
15 process, but you can't rescind the act of engaging in  
16 a prohibited process. The Brown Act is really a set  
17 of rules based on Constitutional rights. I object to  
18 the vote today without taking into consideration all  
19 the candidates. We have First Amendment, and 14th  
20 Amendment rights, not just the Brown Act. Different  
21 rules apply to litigating civil matters pertaining to  
22 the violation of the Constitutional rights. You - I  
23 hope your attorneys explained that to you. And again,  
24 I object to your violation of the rights, and your  
25 failure to fact check the candidates' resumes and

1 applications to make certain they really qualify.  
2 There is a criminal element to this, too, that could  
3 potentially be taken to the District Attorney, or  
4 perhaps the Attorney General. And by the way, I  
5 recommend that your public relations guy, David Wert,  
6 get dino (phonetic) points for his imaginative dial  
7 back explanation, however fanciful its legality might  
8 be.

9 CHAIR LOVINGOOD: Our next speaker is Barbara  
10 Babcock. Ms. Babcock - welcome back.

11 BARBARA BABCOCK: It's Babcock - B-A-B --

12 CHAIR LOVINGOOD: Babcock - yep --

13 BARBARA BABCOCK: -- C-O-C-K.

14 CHAIR LOVINGOOD: -- Babcock - yes, Ma'am.  
15 Please.

16 BARBARA BABCOCK: Thank you for letting me  
17 speak for the second time today.

18 CHAIR LOVINGOOD: Absolutely.

19 BARBARA BABCOCK: I brought - I was going to  
20 bring some Hundred Grand bars, because it's not cheap  
21 to buy off effective administrators and politicians.  
22 So I have today some Ferrero Rocher - it only cost me  
23 \$7.99 at Dee Dee's this morning. I say do not vote  
24 for my former elected person. Do not vote for Carey  
25 Davis. Do not vote for Chris Mann - oh, Chris is down

1 here. Do not vote for Chris Carrillo. Do not even  
2 vote for the person that I probably should be most  
3 indebted to - that's Bill Emmerson. He had the  
4 gracious ability to vote me as a Woman of Distinction  
5 10 or 12 years ago. Don't vote for anybody. You had  
6 13 good people. I personally thought Chris should  
7 have been back on that list.

8           However, comma, maybe there are 15 that should  
9 be on that list. Open the proceedings for just a few  
10 days. Everybody knows what's going on. This is San  
11 Bernardino. A lot of stuff on the paper; lots of  
12 stuff in the newspaper. Open it up for a few days.  
13 We do not want Jerry Brown to put in a liberal, far  
14 left person for him. We want to get this resolved  
15 quickly. Give people an opportunity to simply have  
16 their say, and I think our city and our county will be  
17 far better for it. Thank you.

18           CHAIR LOVINGOOD: Thank you for your comments.  
19 That concludes our public comment here in the  
20 chambers. We're going to go to Joshua Tree. I think  
21 - and again, as we turn, our first speaker is Dan  
22 Odowd, followed by Seth Shteir, if I have that  
23 correct, and then Sara Lee. Go ahead, Dan, good  
24 morning - or good afternoon, I should say.

25           DAN ODOWD: Good afternoon. I'm here,

1 obviously, for the Ramos successor debate. I run a  
2 bunch of social media, Facebook pages that all pertain  
3 to Joshua Tree's wellbeing and future, from tourism to  
4 Joshua Tree Village, to the Joshua Tree National Park  
5 gateway communities. And we have about 25,000 that  
6 care about what's going on with, with you guys right  
7 now, and I'm hearing back from them. So I'm here  
8 today. I think Ruth said it all, about what you  
9 should be doing. I think, after reading over many  
10 times the, the Brown Act, that this is really a  
11 clandestine, illegal - and I've got some notes written  
12 right, right here - you can read them, probably better  
13 than I am. But I don't know why Chris Carrillo's name  
14 is on there, if you did any research at all. And  
15 let's see - I think it's unethical, honestly, with  
16 what's happening. You should have had this cleared up  
17 last week, if you did it right the first time. But  
18 you have to come back now, and have all these good  
19 people wasting their time while you're late for lunch.  
20 And that, that pisses me off. So Ruth, you nailed it,  
21 and you guys better realize that you work for us.

22 (applause)

23 CHAIR LOVINGOOD: Okay. Our next speaker,  
24 then, is Seth Shteir, followed by Sara Lee, then Tom  
25 O'Key.



1           SETH SHTEIR: (sounds fades out) --  
2           FEMALE SPEAKER: (unintelligible) hold on.  
3           CHAIR LOVINGOOD: No, we're not quite  
4 connected. Hold on just one minute. We're - yeah, we  
5 can't - sounds not connected, please, Seth. No?  
6 Still not? Hmm. Still not. If you'll hold just a  
7 minute, we're going to correct the sound. Go ahead  
8 and try that, see if it works - Seth? No. Hmm. Give  
9 us just a minute. We'll be back.  
10          MALE SPEAKER: We broke it.  
11          CHAIR LOVINGOOD: Yeah. Well --  
12          FEMALE SPEAKER: (unintelligible).  
13          MALE SPEAKER: Go ahead (unintelligible).  
14          CHAIR LOVINGOOD: There we go.  
15          SETH SHTEIR: Seth, Seth Shteir - Seth Shteir -  
16 -  
17          CHAIR LOVINGOOD: Shteir - yes.  
18          SETH SHTEIR: -- a resident of --  
19          CHAIR LOVINGOOD: Yes.  
20          SETH SHTEIR: -- Joshua Tree.  
21          CHAIR LOVINGOOD: We can hear you. You're,  
22 you're (unintelligible).  
23          SETH SHTEIR: Well, I --  
24          CHAIR LOVINGOOD: Please, Seth, we can hear  
25 you.

1           SETH SHTEIR: Great. Thank you so much.

2           CHAIR LOVINGOOD: (unintelligible)

3           SETH SHTEIR: Thank you so much for having  
4 public comment about this important issue. We  
5 recognize that the Board of Supervisors have an  
6 extremely important decision to make about the new  
7 Third District Supervisor, and I'd respectfully  
8 request the Board of Supervisors to appointment Chris  
9 Carrillo as the new Third District Supervisor.

10           Chris is extremely knowledgeable about the  
11 Morongo Basin, where I'm from, and actually the whole  
12 Third District, and is an expert in local, state, and  
13 federal policy. Over the years, Chris has spent a  
14 great deal of time in the high desert communities, and  
15 knows them well. He's spent a great deal of time  
16 interacting with businesses, stakeholders,  
17 organizations, and nonprofits. And over those years,  
18 he's had significant contributions in helping us with  
19 a number of issues, ranging from fraudulent cases  
20 against local businesses, to renewable energy, to land  
21 conservation.

22           I'm currently a member of the Third District  
23 Dark Skies Committee that was convened by Supervisor  
24 James Ramos, and Chris has really helped, and been  
25 instrumental in helping provide guidance and

1 perspective on how to approach a new night sky  
2 ordinance for San Bernardino County.

3 So in closing, I'd urge you to appoint Chris  
4 Carrillo as the new Third District Supervisor. Thank  
5 you very much.

6 CHAIR LOVINGOOD: Thanks, Seth. Sara Lee is  
7 our next speaker, followed by Tom O'Key, and Claudia  
8 Sall (phonetic).

9 FEMALE SPEAKER: Claudia's gone.

10 FEMALE SPEAKER: Claudia's gone.

11 FEMALE SPEAKER: Okay.

12 SARA LEE: Ah, do I start?

13 CHAIR LOVINGOOD: Are you Sara Lee? Please.

14 SARA LEE: I am.

15 CHAIR LOVINGOOD: Good afternoon.

16 SARA LEE: My name is Sara Lee, and I - good  
17 afternoon. I am a voter in San Bernardino's Board of  
18 Supervisors Third District. I am also an organizer in  
19 San Bernardino County.

20 When duly elected Third District Supervisor  
21 James Ramos - Ramos - stepped down this month, my  
22 understanding was he recommended that his Deputy Chief  
23 of Staff, Chris Carrillo, be appointed to finish his  
24 term. As an elected official himself, and I believe  
25 the number two person in Ramos' office, Mr. Carrillo

1 made a logical, a - made a logical and legitimate  
2 candidate to be considered to replace Ramos.

3           However, I believe the Republican three San  
4 Bernardino Supervisors, Janice Rutherford, Curt  
5 Hagman, and Robert Lovingood, allegedly violated the  
6 Brown Act, and behind closed doors allegedly illegally  
7 excluded Mr. Carrillo from being interviewed for this  
8 position. In fact, even though the people of the  
9 Third District voted in Democrat Ramos, Republicans  
10 Rutherford, Hagman, and Lovingood did not include a  
11 single Democrat in the final 13 candidates to be  
12 considered for interview. After threats of lawsuits,  
13 and illegal maneuvers, the Supervisors are now, quote,  
14 unquote, "opening up the process" to interview all  
15 candidates, including Mr. Carrillo. Since Rutherford,  
16 Lovingood, and Hagman have already secretly called the  
17 list to 13, culled the list to 13, and have given  
18 those candidates extended time, this process has been  
19 tainted, and in my opinion, still violates a fair and  
20 transparent replacement process, as required under the  
21 Brown Act.

22           The similarities to the recent illegal North  
23 Carolina and Wisconsin Republican State Legislature  
24 power grabs against the will of the people has not  
25 gone unnoticed. The people of the Third District will

1 fight this injustice in the courts. We will fight  
2 this in the press, and at the polls, to ensure that  
3 the rule of law, and open and transparent governance  
4 is restored. Thank you.

5 CHAIR LOVINGOOD: Thank you for your comments.  
6 Our next speaker is Tom O'Key, followed by Claudia  
7 Sall.

8 TOM O'KEY: Supervisors, Chairman - I'm back  
9 again, a week later from before. And, and new news,  
10 eh? And a change of plan. I wanted Chris Carrillo to  
11 be our supervisor in, in replacement for James. I  
12 think that was the hope. We didn't know, here in the  
13 Third District, we would lose every single  
14 representative we have. We, we have nobody in our  
15 office here, in our regional representatives' office  
16 of Mark Lundquist - he's gone; Christina's gone. They  
17 may come back; they may not. Pretty much everything  
18 that has been known and familiar to us is gone right  
19 now, and it's a, it's a, it's a - up to the new  
20 supervisor to decide who's going to be new, or who's  
21 going to be retained. It's like the whole family just  
22 vaporized on us.

23 I have a terrific relationship with Mark  
24 Lundquist on dealing with just our roads around here.  
25 And I'd say, 'Hey, we got a bunch of sand out here,

1 and the Babes Ride Out is coming, and all those girls  
2 on motorcycles are going to find all this sand on the  
3 road that happened from the last flood.' And Mark got  
4 right on it, and had the street sweepers movin', and  
5 made the roads here safe for those girls, and he knew  
6 who to call, and he knew how to be able to move right  
7 into action and, and get it all done - and pretty much  
8 across the board, all these people. And I, I am - I'm  
9 the Chairman of the Dark Sky Committee, as Seth had  
10 mentioned earlier. And, and we met with Chris, and we  
11 were able to share our concerns about where we're  
12 going with our Dark Sky Committee. We've got eight  
13 years of trying to draft up something just to get  
14 people to turn the lights off. And there's a lot of  
15 science in knowing this. We've got the National Park  
16 designated as International Dark Sky Park, and you all  
17 signed a, the proclamation congratulating David Smith,  
18 with the new, new accolade, and it was wonderful.

19 Well, we, we - we need to continue this work.  
20 We need to finish these things. And everybody in the  
21 staff of Supervisor Ramos' office is familiar with us,  
22 we've worked together, and we have no guarantee those  
23 people are going to be held together. We want Chris  
24 Carrillo as our supervisor, please.

25 You know, we had a, a meeting. I met with Sean

1 Flynn. He took the time to come out and meet some of  
2 us here in the desert. The guy doesn't really know  
3 much about our, our district - but I'll tell you what,  
4 he was asking all the right questions. And short of,  
5 you know, getting what we really want, then I'm going  
6 to say that at least he took the move to come out, and  
7 ask the right people the right questions about what  
8 our concerns were, and what we're doing, and how he  
9 can be a helpful person. And, and so I'm going to  
10 just ask you - you know - what do you want for the  
11 people? Well, you should want what we want. And when  
12 James Ramos came out here as a candidate, I asked him  
13 two questions. I said, 'Do you think you'll get along  
14 with the other supervisors?' And I - he said, 'I  
15 think so.' I said, 'Well, that's good, because you  
16 need to, because our previous supervisor did not.'  
17 And then I asked him, I says, 'Well, if they're annex,  
18 annex us from Yucca Valley, what would you say?' He  
19 goes, 'I'll do what the people say. That's what I'll  
20 do.'

21 CLERK LAURA WELCH: That's time.

22 TOM O'KEY: And we elected him. Thank you.

23 CHAIR LOVINGOOD: Thank you for our speaker.

24 The next one's Claudia Sall, followed by Gayle Austin.

25 CLERK LAURA WELCH: Claudia Sall had to leave.

1 CHAIR LOVINGOOD: She had to leave?

2 CLERK LAURA WELCH: Um-hmm.

3 CHAIR LOVINGOOD: So Gayle Austin, and then  
4 David Fick.

5 GAYLE AUSTIN: Good afternoon, Supervisors. My  
6 name is Gayle Austin. I'm a resident of Joshua Tree,  
7 with friends and family all over the Third District.  
8 I want to thank you for opening our video conferencing  
9 center for this meeting again - it's a godsend.

10 Ten days ago, I thought that Chris Carrillo was  
11 the perfect choice for Third District Supervisor,  
12 based on the fact that he has worked at county, state,  
13 and federal levels of government, and the fact that he  
14 was Deputy Chief of Staff. I knew that he could step  
15 into the job, and hit the ground running. So I wrote  
16 a statement endorsing Chris Carrillo. I collected and  
17 handed in 34 letters of endorsement for him, from  
18 residents of the Third District, which I hope you all  
19 have seen, because each letter is just like a person  
20 speaking.

21 Then, six days ago, after hearing the  
22 interviews and learning who the five candidates were,  
23 Chris was out. So I started researching them, and  
24 decided that I would really like to have Sean Flynn  
25 represent me as my supervisor. I liked that he didn't



1 have a strong relationship with any particular part of  
2 the Third District, because I think that Dawn Rowe is  
3 tied too closely with the City of Yucca Valley, and  
4 that Bill Jahn is too close with Big Bear. I like the  
5 fact that Sean Flynn is young and at the beginning of  
6 his career in public service, unlike William Emmerson,  
7 who is closer to the end of his career. I agree with  
8 Sean Flynn when he says that the people who live in a  
9 district should have strong voice about what happens  
10 in their district. While I was listening to Rhodes  
11 Rigsby's interview last Tuesday, I got the feeling  
12 that he's not necessarily in favor of constituents  
13 calling the shots.

14 So I came to the conclusion that Sean Flynn was  
15 the best person for the job, and I emailed my thoughts  
16 to the supervisors. Supervisor Gonzales, I had a hard  
17 time getting through on your website again, so I had  
18 to go through Facebook.

19 Today we are starting over. So I have to start  
20 over again. So I want to ask you again to strongly  
21 consider Chris Carrillo for this position. And if it  
22 can't be Chris Carrillo, please look at Sean Flynn for  
23 the open seat on the Board. Thank you very much.

24 CHAIR LOVINGOOD: Thank you. David Fick is  
25 next, followed by Laurie Portillo (phonetic), then Pat

1 Flanagan.

2 DAVID FICK: Good afternoon, dear, honorable  
3 Supervisors. My name is David Fick. I have been a 33  
4 year resident of Joshua Tree. And I started my, or  
5 engaged in county politics, of participating in county  
6 politics since 1959. My father - that's 60 years. My  
7 father was Mayor of Montclair in 1958, and I was  
8 slinging a political rag newspaper from the back of a  
9 '56 Pontiac station wagon in 1959.

10 Of the original about 48 candidates, Chris  
11 Carrillo was clearly the best fit, by merit. When you  
12 got it down to the - of the lucky 13, Dennis  
13 Hansberger was the best fit. Both were experienced at  
14 stepping into a county, well, that's rather in  
15 disarray, but the Third District, he's been there five  
16 terms. He would have been the best one to make it to  
17 the magic high five. Of the magic high five - it's a  
18 - what - well, a WTF. I don't understand that,  
19 because it was scuttling a lot of experience, and  
20 getting rid of lot of experience. Now you're starting  
21 over - although your, your majority's agenda has been  
22 exposed, and that's kind of embarrassing.

23 Please do the right thing, and choose Chris  
24 Carrillo for Third District Supervisor. It's the  
25 dominant person of merit in this from - for the Third

1 District, by far. And it'll also restore your  
2 integrity a bit. Thank you.

3 CHAIR LOVINGOOD: Thank you. Our next speaker  
4 is Laurie Portillo, and then Pat Flanagan.

5 PAT FLANAGAN: Good afternoon. My name is Pat  
6 Flanagan. I have spoken before to this group as a  
7 member of the Morongo Basin MAC. And as a member of  
8 the MAC, I've also attended meetings throughout the  
9 Third District, in the unincorporated areas. And it's  
10 true that those of us that live in the unincorporated  
11 communities of the Third District are not all of the  
12 same political party, but we are all of the same  
13 persuasion, that we need to work together to protect  
14 our economy, our quality of life, and community  
15 values. We know Chris Carrillo. We've worked with  
16 Chris Carrillo. And he has shown that he respects,  
17 and will cherish those things that we do.

18 The issues that we have before us are very  
19 intense at the moment, and he's familiar with them.  
20 We have the Utility Scales Solar Development. We have  
21 the Renewable Energy Ordinance, and the Retchy  
22 (phonetic) Ordinance 410. We have Airbnb and Short  
23 Term Rental Ordinance under development for desert  
24 communities. We have the FP 5 Fire Tax lawsuit. We  
25 have the Night Sky Ordinance under construction. The

1 countywide and community plans are in process. We  
2 have illegal off road vehicle issues. We have illegal  
3 shooting issues; Highway 227 designation for the State  
4 Scenic Highway. All of these are issues - these are  
5 big issues, and these are on our table. And we don't  
6 need to have somebody that we need to bring in and  
7 educate about all this. Chris knows it, and he was  
8 chosen by Ramos, and he was in a position to learn all  
9 of our needs.

10 Summing up, I'm going to use the words of Chuck  
11 Bell, from Lucerne Valley, who's a resident there, and  
12 whom you know. And he says, 'With the process  
13 starting again, please select Chris Carrillo. He is  
14 the most qualified; knows desert issues from working  
15 with Senator Feinstein, and his time with the Third  
16 District, Chris and Supervisor Ramos' choice, which  
17 should be honored.' We have too many critical issues  
18 facing us that need to be worked on by someone  
19 experienced with our desert communities, solar  
20 projects, etc., that I just named. This is not the  
21 time to bring in an outsider.' So I'm speaking here  
22 from Joshua Tree, but I'm bringing in the voice from  
23 the Lucerne Valley areas, as well. The unincorporated  
24 communities would really like to see you choose Chris  
25 Carrillo. Thank you.

1 FEMALE SPEAKER: (unintelligible) --  
2 CHAIR LOVINGOOD: The next speaker is --  
3 FEMALE SPEAKER: She's not here.  
4 CHAIR LOVINGOOD: -- Pat Flanagan, followed by  
5 Susan Burnett (phonetic), then Rebecca Unger.  
6 CLERK LAURA WELCH: That was Pat Flanagan  
7 CHAIR LOVINGOOD: Oh, that was. Excuse me, I'm  
8 --  
9 CLERK LAURA WELCH: I think --  
10 CHAIR LOVINGOOD: -- (unintelligible)  
11 CLERK LAURA WELCH: -- then Laurie, Laurie  
12 Portillo, I think is --  
13 FEMALE SPEAKER: (unintelligible).  
14 CHAIR LOVINGOOD: Laurie, yeah, Portillo --  
15 FEMALE SPEAKER: (unintelligible)  
16 CHAIR LOVINGOOD: -- we've already asked.  
17 FEMALE SPEAKER: So Laurie Portillo left, and -  
18 -  
19 CHAIR LOVINGOOD: Yeah.  
20 FEMALE SPEAKER: -- Susan left.  
21 CLERK LAURA WELCH: Susan left.  
22 CHAIR LOVINGOOD: Okay. So Rebecca Unger,  
23 then, would be the next speaker, followed by - and  
24 again, if there's going to be a Paula Durrant -  
25 Durrant would be next, and then Eric Mueller. Hello,

1 Rebecca.

2 REBECCA UNGER: Thanks. Hi there, Rebecca  
3 Unger, Joshua Tree. Thank you so much for responding  
4 to the complaint, and opening back up this process, as  
5 you've heard from many speakers, just how important  
6 this is to us. We have so much at stake in the Third  
7 District. We are - we're not like a lot of other  
8 places in San Bernardino County. From Morongo Valley,  
9 up through Pioneertown, all the way up to Lucerne,  
10 coming back down all the way down to, to Arizona  
11 border, and back through Joshua Tree. We are very  
12 different. We are kind of an urban rural community,  
13 and the things that we value, our qualities of life,  
14 don't have anything to do with big development. We do  
15 not want to be a sacrifice zone for projects like big  
16 industrial scale solar, dumps, giant housing  
17 development - we cannot sustain that out here, and  
18 that, that's frankly not why we have tourism out here.  
19 We, we have tourism because we have dark skies that  
20 we're trying to protect; that we have open spaces;  
21 that we have wildlife. And this is, this is so  
22 important.

23 You've heard a lot of people support Chris  
24 Carrillo. I, I would add myself in that, as well.  
25 Chris has been a public servant for many years. And

1 he's somebody I think who really understands the  
2 suburban, the city, the rural parts of this Third  
3 District, and I think he would respect everybody in  
4 this. Yes, we all have problems with, you know,  
5 crime, and homelessness, and, and the - our roads and  
6 everything else that we need. But we are so different  
7 out here in the Morongo Basin, that we need someone  
8 who really gets that for us, to - someone who  
9 understands that we support the federally created  
10 Monuments. Those are very important to us out here.  
11 And I just, I just really hope that you will consider  
12 - since he was James Ramos' choice, that you should  
13 respect that. And, and please, respect, respect all  
14 of us who have asked for Chris. I haven't had a  
15 chance to meet Sean Flynn. People who have, spoke  
16 highly of him. So please - once again, thank you very  
17 much. And, and please consider this very special area  
18 of the Third District. Thank you.

19 CHAIR LOVINGOOD: Thank you. Our next speaker  
20 is Paula Barrant, if she's back. If not, then Eric  
21 Mueller.

22 PAULA DURRANT: I'm Paula Durrant.

23 CHAIR LOVINGOOD: Oh - Durrant - hi, Paula.

24 PAULA DURRANT: And I - how do you do? Thank  
25 you for this opportunity. I am here to speak for

1 myself, asking you please to have a transparent and  
2 fair process, and to hire, or appoint the person based  
3 on qualifications and experience, and nothing else.

4 I have before me a letter written to you from  
5 Matthew Campos (phonetic), who was one of the 48  
6 applicants, one of the 43. And I'd like to read this  
7 now.

8 'My name is Matthew Campos. I submitted my  
9 name for consideration for appointment to the Third  
10 District Supervisor's seat. My application, cover  
11 letter, resume were accepted, as were my responses to  
12 the 10 questions. I proudly serve as an elected  
13 member of the Morongo Valley Community Services  
14 District. I am the Fire Commissioner serving Morongo  
15 Valley. I'm active in my community, and love living  
16 in the Morongo Basin. It is a blessing to call the  
17 Basin home. That's why I applied for the Third  
18 District seat. We need a representative who knows and  
19 understands the unique characteristics of the region.

20 However, I am called to serve my community in  
21 other ways, and am wholeheartedly supporting Mr. Chris  
22 Carrillo for Third District Supervisor, and the Board  
23 of Supervisors. Mr. Carrillo is a man of integrity,  
24 passion, intelligence, training, and experience. He  
25 was born in Victorville, and I believe he possesses a



1 great understanding of the needs, diversity, and  
2 complexity of the Third District. He is a dedicated  
3 and tireless public servant. Chris knows how to  
4 listen to all sides of an issue, and is very pragmatic  
5 in making a decision. Having served as the Chief of  
6 Staff for Supervisor Ramos gives him the experience  
7 and the working knowledge to step into the office and  
8 get to work.

9 The Third District needs a supervisor with  
10 vision and ideas, and a willingness to help the people  
11 of the district. Our people and our natural resources  
12 need to live together in harmony, and Chris Carrillo,  
13 as our supervisor, understands that harmony. The  
14 people of the Morongo Basin support Chris. Please  
15 appoint him our supervisor.'

16 CHAIR LOVINGOOD: Thank you. Our next speaker  
17 --

18 PAULA DURRANT: Thank you.

19 CHAIR LOVINGOOD: -- is Eric, Eric Mueller.  
20 And then we're going to go to - well, that's still  
21 with Joshua Tree.

22 CLERK LAURA WELCH: It will be - Paul Smith is  
23 after Eric.

24 ERIC MUELLER: I'm here today to support Chris  
25 Carrillo's appointment to James Ramos' vacant seat on

1 the Board of Supervisors. My name is Eric Mueller,  
2 and I'm a 45 year resident of the high desert. I'm a  
3 prominent small business owner who has employed  
4 hundreds of people here in my high end custom cabinet  
5 and architectural business. I'm a commercial property  
6 developer, and am also in the hospitality business,  
7 which depends heavily on our tourist economy.

8 The appointment of Chris Carrillo to this  
9 nonpartisan seat is very important to me, and many of  
10 my fellow citizens for these reasons:

11 One, Chris Carrillo was born and raised in this  
12 community, and knows it as a native to the area. But  
13 knowing the district is not a unique criterion amongst  
14 the 40-plus applicants for the position. What  
15 distinguishes is this: Chris Carrillo cares about  
16 this region. The prime evidence of this care is his  
17 work as Diane Feinstein's Field Representative,  
18 running through the adoption of the Desert Protection  
19 Act, as well as its expansion. That particular Act,  
20 along with the recent designation of expanded National  
21 Monuments is what has established the long term  
22 viability of our tourist economy here on the eastern  
23 side of the Third District.

24 Two - in recently discredited action by you,  
25 Members of the Board of Supervisors, there was an

1 obvious partisan slant to your process. You selected  
2 13 semifinalists, and then five finalists, who are all  
3 obviously of a particular party persuasion. Why was  
4 that? Among those finalists was a discredit former  
5 Board member. Why do you think we as citizens of the  
6 district, would want to be represented by someone who  
7 has shade on their ethical record? Among your  
8 finalists is a current Field Representative for  
9 Congressman Paul Cook. Paul Cook did what he could do  
10 block the conservation efforts of this community. He  
11 opposed the expansion of our local National Monuments.  
12 He is backing corporate raiding of our precious  
13 groundwater resources at Cadiz. Why the heck do you  
14 think we would want this Field Representative  
15 ostensibly representing this district?

16 Three - this community has known Chris  
17 Carrillo's service and expertise here for a long time.  
18 Former Supervisor Ramos also recognized that service  
19 and expertise. That is why Chris Carrillo is  
20 presently holding the Deputy - Deputy Chief of Staff  
21 position in Mr. Ramos' office. Mr. Ramos entrusted  
22 his office's continuity to Chris Carrillo. Why Chris  
23 Carrillo did not even show up on your previously and  
24 discredited selection process disturbs this community  
25 deeply.

1 Four - it is time for you, in this selection  
2 process, to recognize the obvious through path to  
3 Chris Carrillo's appointment. The taint of your  
4 duplicitous actions will remain on this process -  
5 process, if Chris Carrillo is not appointed.

6 CLERK LAURA WELCH: That's time.

7 ERIC MUELLER: The Morongo Basin wants this --

8 CHAIR LOVINGOOD: We'll --

9 ERIC MUELLER: -- man to serve out the  
10 remainder --

11 CHAIR LOVINGOOD: We'll move to our next  
12 speaker --

13 ERIC MUELLER: -- of Mr. Ramos' term.

14 CHAIR LOVINGOOD: -- Paul Smith. Thank you  
15 very much. And then followed by Steve Bardwell.

16 CLERK LAURA WELCH: Mr. Smith is gone.

17 CHAIR LOVINGOOD: Mr. Smith is gone? Mr.  
18 Bardwell, followed by Robert Furst.

19 MALE SPEAKER: (unintelligible)

20 CLERK LAURA WELCH: Just put your name, Sir.

21 PAUL SMITH: Okay. My name is Paul Smith.

22 CHAIR LOVINGOOD: Oh.

23 PAUL SMITH: And my wife and I have two hotels  
24 that we own and run in Twentynine Palms, so we're very  
25 involved in the Tourism Agency. I also served on the

1 Planning Commission, was appointed by Mr. Ramos, so I  
2 have experience there, substantial experience with  
3 county matters.

4 I'm here really to express a strong wish that  
5 you appoint Chris Carrillo to this position. I'm not  
6 going to repeat all of his, you know, attributes that  
7 people have talked about because you've - you've  
8 worked hard today, and I expect you to do a good job,  
9 and I'm sure that you will. I don't have that same  
10 apprehension of the others.

11 So I would like to point out a few things that  
12 are very different, and illustrate Chris Carrillo's  
13 strengths. One - he's very, very familiar with the  
14 biology and geomorphology of the industrial solar  
15 facilities that have been planned, and some of them  
16 installed in the desert. This is called basic  
17 science. And he gets down into the facts, works very  
18 hard, and knows it. He's very familiar with the above  
19 ground and below the ground biology, how - as to how  
20 they affect our, our lives here, and is, is organized,  
21 and would like to make sure that we don't become  
22 another Owens Valley, blowing dust all the way into  
23 the Midwest.

24 Chris is also, in, in his zeal for learning, is  
25 very familiar with the studies going on at the

1 University of California at Riverside, on how the big  
2 solar industrial facilities in fact, may very well be  
3 emitting more carbon gasses than they are offsetting,  
4 under the rules, you know, as alternative energy.  
5 Those studies are now being put together, and that's  
6 their - at least their preliminary conclusions. And  
7 Chris is one of those which is right out in front, and  
8 understands that.

9 He also knows something, and has worked - and  
10 is starting to work with something which will be very  
11 helpful to you. The Department of Energy came out  
12 with a plan on January 1st, for unifying the grid  
13 throughout the country, and it will have an effect on  
14 how we site and, and use our alternative energy  
15 facilities. Chris is very familiar with the current  
16 status of that Department of Energy recommendation for  
17 a nationwide plan that would be put in to unify the  
18 grid by 2045. Chris would tell you, this is kind of  
19 a, a reverse science thing, because Tesla - they're,  
20 they're, they're looking to the Tesla versus Thomas  
21 Edison's solution, and they will be using a lot of  
22 direct current communication facilities to speed  
23 things up and avoid line loss.

24 That - and then certainly, being an, being an  
25 innkeeper and actively in the tourism industry, we are

1 very, very pleased to see Chris out there. He, he is  
2 very much a booster of this, this industry that  
3 produces over a billion dollars in annual income for  
4 the desert regions. So he's right there, protecting  
5 dollars, and not, and not wasting them.

6 So then I would have to say this, that in  
7 working with Chris substantially over the last few  
8 years, it, it appears to me that he has a really, kind  
9 of really nice ability to work with people, and no  
10 matter what side anybody is on, they all like him. So  
11 I think you'll find that he's an, he's an enjoyable  
12 person to have sitting up there, at that same dais --

13 CLERK LAURA WELCH: That's time.

14 PAUL SMITH: -- with you guys. So thank you  
15 very much.

16 CHAIR LOVINGOOD: Thank you for your comments.  
17 Now we'll have Steve Bardwell, and then Robert Furst.

18 STEVE BARDWELL: Good afternoon, Supervisors.  
19 Thank you for the opportunity of speaking with - here  
20 with you today. My name is Steve Bardwell. I live in  
21 Pioneertown, in the Third District.

22 I would like to encourage you as a Board, that  
23 you can do better - you can, you can do a better job  
24 than you're doing now. And this process that you've  
25 just gone through, it really - this, this is not good.

1 You can do better. Please, please do better. I would  
2 like to encourage you to appoint Chris Carrillo to  
3 replace - for the Supervisor for the Third District,  
4 primarily because, as people have said here before,  
5 this question of continuity. It - just with so many  
6 important issues on the Board now, out before you and  
7 being considered now, it's really important to have  
8 this continuity of, of, of, of - within that position.  
9 So please, please consider and, and vote for Chris  
10 Carrillo as, as the next Supervisor.

11 I am a signatory to a letter that we sent to,  
12 to you, Chairman Lovingood, along with 27 other people  
13 in support of Chris Carrillo. So I - as, as you can  
14 hear from the people that you've, you've - that have  
15 spoken today, there are many, many people that are in  
16 favor of this, this individual.

17 I'd also like to thank you for this video  
18 conference center here in Joshua Tree. As I look at  
19 the wasted time and carbon that was expended in  
20 getting people to the County last week in our effort  
21 to get people in front of you so you could see how  
22 much we - how important this issue is to us - the idea  
23 of having this video conferencing center, which can -  
24 really - it saves carbon, and it saves time, and both  
25 of things are very important things to think about.



1 Chairman Lovingood, you talked about the  
2 effects of the, this job program being felt within 10  
3 to 20 years, when students start to come out. Well, I  
4 encourage the Board to think about what climate change  
5 is going to be. The changes will be coming from that  
6 within 10 to 20 years. Those are severe things, and  
7 you need to start thinking about it, and acting on it  
8 accordingly. Thank you.

9 CHAIR LOVINGOOD: Thank you, thank you, Mr.  
10 Bardwell. Our next speaker is Robert Furst.

11 ROBERT FURST: Good afternoon. Back again, one  
12 week later. Surprised to be here, but actually, kind  
13 of - I'm happy that at, at least in some way your  
14 mindset changed in what we were dealing with last  
15 week, going from 43 to 13 handpicked people, down to  
16 five. Hopefully, this is just not a repeat of the  
17 process that happened last week, and you're really  
18 going to consider our community, and its support of  
19 Chris Carrillo. He's been working with us for a  
20 number of years, with Ramos, who our community, not  
21 just in Joshua Tree, but beyond, elected to be sitting  
22 in the row next to you. So - and since Chris is his  
23 choice, Chris is our choice, and I don't see how you  
24 can choose anyone else, personally. I did meet one of  
25 the five, Sean Flynn. I thought he was an

1 intelligent, open minded, nice person. He drove all  
2 the way up to Joshua Tree. A group of us met, spoke  
3 for almost two hours. And even though at that time he  
4 was one of the five, I still want to support Chris  
5 Carrillo, and I think most people in our community,  
6 which is the whole Morongo Basin, from Wonder Valley,  
7 to Twentynine Palms, to Joshua Tree, to Morongo, to  
8 Yucca Valley, to Landers, to Pioneertown, to Flamingo  
9 Heights, Johnson Valley, and - I hope you at least  
10 consider it. Thank you.

11 CHAIR LOVINGOOD: Okay. Our next speaker is  
12 Sara Kensington.

13 SARA KENNINGTON: Good afternoon, Supervisors.  
14 I'm Sara Kennington. I live in Pioneertown, and have  
15 some thoughts about Chris Carrillo, again. The  
16 Morongo Basin and Homestead Valley, gateways to Joshua  
17 Tree National Park, are a magnet for international  
18 visitors. Tourism is a major driver of our economy.  
19 Visitors come to experience the majestic long,  
20 uninterrupted vistas, the Mojave Desert's unique flora  
21 and wildlife; and residents cherish our rural quality  
22 of life. These qualities are endangered by climate  
23 change, and industrial scale renewable energy  
24 development. Chris Carrillo knows the high desert,  
25 its issues, and he knows the constituents. He's

1 qualified, measured, and ready to work the Third  
2 District.

3 I'd also like to take a moment to read a  
4 letter from Mark Butler, who is the now retired  
5 Superintendent of Joshua Tree National Park. 'I'm  
6 writing to you,' - he submitted this letter earlier,  
7 but I'd like to read it to everybody here today. 'I'm  
8 writing to you as a San Bernardino County resident,  
9 and property owner from the Twenty - city - Twentynine  
10 Palms, about the initiative to appoint a replacement  
11 for former Supervisor James Ramos, who was recently  
12 elected to California's State Assembly. Former  
13 Supervisor Ramos successfully represented the  
14 residents of San Bernardino County's Third District  
15 for several years, because his qualifications,  
16 philosophy, values, and ideology were consistent with  
17 those held by a majority of the district's voters.  
18 This was why he was originally elected, and then  
19 reelected. Consequently, it is my belief that you  
20 have a duty and responsibility to appoint a  
21 replacement for former Supervisor Ramos, who has a  
22 consistent point of view, and who has - who has  
23 similar qualifications, values, and ideology. This is  
24 simply the right thing to do. As a former and now  
25 retired Superintendent of Joshua Tree National Park,

1 I've had several opportunities to interact and work  
2 closely with the former Supervisor, Supervisor Ramos.  
3 I've also had many opportunities to interact and act  
4 with, with Chris Carrillo. When studying the list of  
5 the more than 45 applicants for the Third District  
6 Supervisor's position, I can say with confidence that  
7 Chris Carrillo possesses the best qualifications, and  
8 holds a very similar set of values as those held by  
9 former Supervisor James Ramos. Furthermore, Chris  
10 served as the most recent Chief of Staff to former  
11 Supervisor Ramos, so he has a clear understanding of  
12 the most important, contemporary, and active  
13 challenges, concerns, and issues happening right now  
14 in the Third District. Therefore, he is absolutely  
15 the best qualified and most appropriate candidate for  
16 the position of San Bernardino County Supervisor for  
17 the Third District. Therefore, I humbly request you  
18 appoint Chris Carrillo to the position of County  
19 Supervisor for the Third District. Best Regards, Mark  
20 Butler.'

21 Thank you for your time today, and the  
22 opportunity to speak to you from Joshua Tree.

23 CHAIR LOVINGOOD: Thank you. I appreciate it.  
24 That concludes our public comments. At this time, I'm  
25 going to ask for a motion for Recommendation One and

1 Two to rescind the prior actions.

2 SUPERVISOR HAGMAN: I move that, Mr. Chair.

3 SUPERVISOR GONZALES: Second.

4 CHAIR LOVINGOOD: Okay. I have motion and a  
5 second. All in favor?

6 (Chorus of Ayes)

7 CHAIR LOVINGOOD: Aye. Carries unanimously.

8 Supervisor Hagman now - now, we're now in the - to  
9 proceed to the discussion to consider the, amending  
10 the process. Are there any questions or comments from  
11 any Board members?

12 SUPERVISOR HAGMAN: Mr. Chair, I'll take a stab  
13 at it. Some people talked today about process and how  
14 it wasn't open, yet the same people who are talking  
15 about how it wasn't open was encouraging to pick - one  
16 person's pick of this. And I find that kind of at  
17 odds with each other, as far as the logic goes.

18 I don't know what else we could have done, even  
19 more open than this. I know part of my initial list  
20 were all parts and parties. Some of our five members  
21 that we've ended up with, and some of the 13, at  
22 least, were of different parties, three different  
23 parties. And the accusations that it wasn't was  
24 something different. I spent my whole, entire weekend  
25 looking over 44, 45 whatever packets of 10 questions

1 each. So I'm a little put off by some of the comments  
2 today by some of the residents.

3 We took the guidance of our Counsel, the  
4 process we could do, because we know the time  
5 constraints before Christmas, could be hard to whittle  
6 down for as many applicants as we got to start off  
7 with, without doing some reading at home, and looking  
8 at the stuff, and coming back with some answer. Now,  
9 I understand we're, we're, we're pretty much starting  
10 over. I'd like to, Mr. Chair, put up - either put two  
11 or three names in a hat right now, each, from the  
12 total list, and then we can - if we want to follow up  
13 with questions, we can. If we don't, we can make a  
14 motion - whatever the case may be.

15 CHAIR LOVINGOOD: I - any other comments from  
16 my peers?

17 SUPERVISOR RUTHERFORD: I, I would just - I, I  
18 like what Supervisor Hagman's suggesting. We've all  
19 done a thorough review of all 43 applications,  
20 including people that we've interviewed, all of the  
21 reading that we've done, and the background work that  
22 each of us and our staffs did individually. I would  
23 be prepared to offer a handful of names also, that  
24 then we could decide to either further question if we  
25 have questions, or, or move on today.

1 SUPERVISOR GONZALES: I agree with the comments  
2 being made. I'd like to add a couple of additional  
3 ones. First of all, beyond a shadow of a doubt, and  
4 I'm speaking for myself right now, it is an extremely  
5 serious and difficult responsibility and obligation to  
6 do the most diligent work that we can, that I can, in  
7 casting my vote to appoint the Third District  
8 Supervisor. And I recognize that this is the final  
9 opportunity to ask some tough questions. If there  
10 were an election, candidates would be asked questions  
11 about their position on various issues. They would be  
12 asked questions about their voting record. Residents  
13 would have time to learn about each candidate's  
14 background, and their political affiliations,  
15 priorities, goals, and all those kinds of things.  
16 There would be time for all of that.

17 In the absence of a campaign, I believe that I  
18 owe it to the residents to ask difficult questions,  
19 and I would like that opportunity, and I have stated  
20 this to my colleagues already - so that there may be  
21 an opportunity for the residents to hear honest  
22 answers, and have those answers be on the record  
23 before we make a selection.

24 I don't want this moment to pass without me  
25 identifying that all of the concerns that have been

1 stated here are the reason why it is an extremely  
2 serious situation to create a vacancy of any seat  
3 midterm or at any point in the timeline of a term.  
4 This process has been difficult. It has not been  
5 easy. And I had not intended to ask or to consider  
6 going in a different direction, other than wanting to  
7 have interviews with each and every candidate, as you  
8 all know. I want you to know that I respect, I love  
9 our, our government structure, and that when the  
10 majority of my colleagues voted against me, I honor  
11 that. We all have to honor that. I think it's  
12 important. There's value in adhering to a process.

13 I want to be able today to look at all the  
14 applicants, and be able to say this is an open  
15 process. I am considering each and every one. I,  
16 too, have spent my, my days, and my evenings, and my  
17 weekends looking over the applications, and wanting to  
18 weigh one way or the other how best I can attribute  
19 value to my vote.

20 So as has been stated, if I understood  
21 correctly, there is a proposal to perhaps nominate  
22 three names - is that correct what I heard? And is  
23 there --

24 CHAIR LOVINGOOD: Two or three names.

25 SUPERVISOR GONZALES: Two or three names.



1 CHAIR LOVINGOOD: But not everyone's spoken  
2 yet, so --

3 SUPERVISOR GONZALES: All right. I would, I  
4 would at this point wait to finish, to hear what all  
5 the comments are, and also would like to commend those  
6 that came to speak, or spoke on the teleconference in  
7 regards to Chris Carrillo.

8 CHAIR LOVINGOOD: Okay. Any additional  
9 comments? Janice Rutherford? And I see this in a  
10 very different light than everyone in this room. And  
11 when I say that, I think that with the exception of  
12 what we're moving forward today is our responsibility,  
13 and it's clearly stated in the, in the policy, and our  
14 responsibility and what our obligations are.

15 So I see that we've gone through, I think, more  
16 - as my peers have all said - a very lengthy - nights,  
17 weekends, holidays - you've touching it all as to what  
18 we've gone forward. I think in myself, I've held  
19 myself in a position away from a, a multitude of  
20 communications, other than just seeking and reading  
21 the information that's been provided to me.

22 So with that, at this time, unless there's a  
23 preference, I'm prepared to make a motion.

24 SUPERVISOR HAGMAN: (unintelligible) can make a  
25 motion.

1 CHAIR LOVINGOOD: Okay. I'll make a motion.  
2 And I will do that, to nominate Dawn Rowe as the  
3 replacement for the Third District. Do I have a  
4 second?

5 SUPERVISOR RUTHERFORD: Instead of doing the  
6 narrowing down - were --

7 CHAIR LOVINGOOD: Yes. Just to move forward.

8 SUPERVISOR RUTHERFORD: Sure. I'll second  
9 that.

10 CHAIR LOVINGOOD: I have a first and a second.  
11 All in favor? Okay. And the motion is now 2-2. So  
12 it does not move forward. Okay. With that, we'll go  
13 to the name cast, then. And with that, we're just  
14 going to hand out the slips, Madam Clerk, and we'll  
15 write the names in.

16 SUPERVISOR HAGMAN: How many are we doing? We,  
17 we made a motion for that - (unintelligible)

18 CHAIR LOVINGOOD: Well, we need a --

19 SUPERVISOR HAGMAN: (unintelligible) the  
20 process here.

21 CHAIR LOVINGOOD: To the number, I would say if  
22 we're going to have the process, limit it to two  
23 names. If you want, would you care for more? I mean,  
24 I'm - two or three. I mean, I'm, I'm, I'm back where  
25 I was. So I mean, how do you feel? Do you want two,

1 or do you want three names? I'll --

2 SUPERVISOR HAGMAN: I'm okay with either. I'm  
3 just - I mean --

4 CHAIR LOVINGOOD: Okay. Well --

5 SUPERVISOR HAGMAN: -- Josie's the  
6 (unintelligible).

7 SUPERVISOR GONZALES: Mr. Chair?

8 CHAIR LOVINGOOD: Um-hmm.

9 SUPERVISOR GONZALES: If I might, I would - I  
10 would like the opportunity to ask questions of  
11 whatever nominees are, whoever they are.

12 CHAIR LOVINGOOD: Okay. Well, then --

13 SUPERVISOR GONZALES: I, I'm not prepared to  
14 vote without asking some, you know, serious questions  
15 that I have formatted.

16 CHAIR LOVINGOOD: Okay. All right. So we'll  
17 vet - each of us will submit three names to the Clerk.  
18 She will then bring those people forward for  
19 questions, as long as that --

20 CLERK LAURA WELCH: Yeah.

21 CHAIR LOVINGOOD: -- person receives --

22 SUPERVISOR HAGMAN: Are you, are you making  
23 that motion, Mr. Chair?

24 CHAIR LOVINGOOD: Yeah, I'm making a motion.  
25 And I'll need a second.

1 SUPERVISOR HAGMAN: I'll second that, for three

2 --

3 CHAIR LOVINGOOD: All - yeah.

4 SUPERVISOR HAGMAN: So --

5 CHAIR LOVINGOOD: All in favor? We'll go  
6 through the process again. Aye.

7 SUPERVISOR GONZALES: Aye.

8 CHAIR LOVINGOOD: Carries unanimously. Please,  
9 if you'll hand those slips back out, Madam Clerk.

10 SUPERVISOR RUTHERFORD: We're doing three?

11 SUPERVISOR HAGMAN: Three.

12 CHAIR LOVINGOOD: Yes.

13 SUPERVISOR HAGMAN: Thank you. I can't even  
14 read my writing.

15 CHAIR LOVINGOOD: Well, they're going to read  
16 them so --

17 SUPERVISOR HAGMAN: Yeah.

18 CHAIR LOVINGOOD: Yeah.

19 SUPERVISOR RUTHERFORD: Thank you.

20 SUPERVISOR HAGMAN: I stole the one pen, and it  
21 keeps breaking on me every time I use it. Thank you.  
22 You want the pieces back? I don't think you should  
23 recycle that one.

24 FEMALE SPEAKER: Probably not.

25 SUPERVISOR GONZALES: Is it two or three?

1 CHAIR LOVINGOOD: Three. (unintelligible) the  
2 same, so (unintelligible). They really are.

3 SUPERVISOR GONZALES: It's all right.

4 CHAIR LOVINGOOD: Yeah.

5 SUPERVISOR HAGMAN: Mr. Chair, may I make a  
6 suggestion to staff while they're looking at that?

7 CHAIR LOVINGOOD: Certainly.

8 SUPERVISOR HAGMAN: I'm sure this doesn't  
9 happen too often, but it's our obligation to pick  
10 within 30 days of the vacancy. And so we don't have  
11 to go through this again, can we maybe bring some  
12 recommendations back of a process that is clear, and  
13 maybe some ideas back to the Board at some point in  
14 the future - hopefully, ever - for - well, we won't  
15 need to use it, but if we do, at least we have some  
16 guidelines.

17 MICHELLE BLAKEMORE: All right, we can  
18 certainly bring back a policy.

19 SUPERVISOR RUTHERFORD: Exactly.

20 CHAIR LOVINGOOD: Yes.

21 SUPERVISOR GONZALES: We need a, a formatted  
22 process, along with a policy that clearly identifies  
23 said process, so that we can avoid many of the  
24 misunderstandings or misinterpretations of our  
25 actions.

1 SUPERVISOR HAGMAN: I, I'm just reading them  
2 (unintelligible).

3 CHAIR LOVINGOOD: Okay.

4 SUPERVISOR HAGMAN: And Mr. Chairman, while the  
5 Clerks are doing whatever they're doing --

6 CHAIR LOVINGOOD: Um-hmm.

7 SUPERVISOR HAGMAN: I also make a motion that  
8 after we get this list, if we - whoever's on the list,  
9 we bring up one at a time and ask questions? Is --

10 CHAIR LOVINGOOD: (unintelligible)

11 SUPERVISOR HAGMAN: And, then we'll just --

12 CHAIR LOVINGOOD: And we'll - we're - if there  
13 is --

14 SUPERVISOR HAGMAN: Make a --

15 CHAIR LOVINGOOD: Yeah.

16 SUPERVISOR HAGMAN: -- decision  
17 (unintelligible).

18 CHAIR LOVINGOOD: We'll do - we'll move in the  
19 same (unintelligible) to people on the list to be  
20 brought forward for questions. Do we have that?

21 MICHELLE BLAKEMORE: If they're here.

22 CHAIR LOVINGOOD: Okay. Well.

23 MICHELLE BLAKEMORE: Mr. Chair, if we can ask  
24 for, for a clarification on the motion of the  
25 submittal of two to three names each. There was no

1 discussion about candidates would have to have two  
2 votes, or three votes to get on that list. It's just  
3 two to three names each, correct?

4 CHAIR LOVINGOOD: Correct.

5 MICHELLE BLAKEMORE: Okay.

6 SUPERVISOR HAGMAN: Yeah.

7 MICHELLE BLAKEMORE: I think that's, that's  
8 been clarified --

9 SUPERVISOR HAGMAN: And it's the tally --

10 MICHELLE BLAKEMORE: -- then.

11 SUPERVISOR HAGMAN: -- is just --

12 CHAIR LOVINGOOD: Yeah, that - we're just going  
13 to --

14 MICHELLE BLAKEMORE: Correct.

15 CHAIR LOVINGOOD: -- go ahead and read the  
16 names off, and bring them back, and --

17 MICHELLE BLAKEMORE: I just wanted to make sure  
18 that was --

19 CHAIR LOVINGOOD: Yeah.

20 MICHELLE BLAKEMORE: -- for the record.

21 CHAIR LOVINGOOD: You can tell us, if - I mean,  
22 for a matter of record, that the - actually - who  
23 received multiple votes, if you would, please read  
24 them off in that order. But we're all going to ask  
25 all questions.

1 CLERK LAURA WELCH: Okay. So I'll read the,  
2 the names, and then how many votes they got.

3 CHAIR LOVINGOOD: Yes, please.

4 CLERK LAURA WELCH: Okay.

5 CHAIR LOVINGOOD: Thank you, Madam Clerk.

6 CLERK LAURA WELCH: Bill Jahn received three  
7 votes. Dawn Rowe received four votes. Chris Carrillo  
8 received one. Sean Flynn received two. Rhodes Rigsby  
9 received one, and Bill Emmerson received one.

10 CHAIR LOVINGOOD: Thank - thank you, Madam  
11 Clerk. So - and I'm going to start with my peers.

12 MICHELLE BLAKEMORE: Oh --

13 CHAIR LOVINGOOD: Who would you like to have --

14 MICHELLE BLAKEMORE: Mr. Chair, if I might  
15 interject --

16 CHAIR LOVINGOOD: Okay.

17 MICHELLE BLAKEMORE: Laura, I think you need to  
18 read the names of, you know, each supervisor.

19 CHAIR LOVINGOOD: Oh, of who voted for each  
20 person.

21 CLERK LAURA WELCH: (unintelligible)

22 CHAIR LOVINGOOD: Please go ahead and read the  
23 supervisor, so that's (unintelligible) questions.

24 CLERK LAURA WELCH: I'm sorry. For Supervisor  
25 Lovingood, Bill Jahn, Dawn Rowe, and Rhodes Rigsby.



1 For Supervisor Rutherford, Dawn Rowe, Sean Flynn, and  
2 Bill Emmerson. Supervisor Hagman - Bill Jahn, Dawn  
3 Rowe, and Sean Flynn. Supervisor Gonzales - Bill  
4 Jahn, Dawn Rowe, and Chris Carrillo.

5 CHAIR LOVINGOOD: Okay. Thank you. So each of  
6 my peers, if I will, let's start with the folks that  
7 had - received one vote, and ask them to come up first  
8 for questions.

9 DAWN ROWE: Chris Carrillo.

10 CHAIR LOVINGOOD: Chris Carrillo. Mr.  
11 Carrillo, if you'd please come up for questions.  
12 Chris, I'm going to step in the back, but please make  
13 yourself comfortable. I'll be right back.

14 CHRIS CARRILLO: Good afternoon.

15 SUPERVISOR GONZALES: Good afternoon. I - it'd  
16 be polite to wait for the Chair.

17 SUPERVISOR HAGMAN: Okay.

18 SUPERVISOR RUTHERFORD: If you've got any dance  
19 moves, this --

20 CHRIS CARRILLO: I'm not good at dancing. You  
21 don't want to see that, I promise. Good afternoon,  
22 Chairman.

23 CHAIR LOVINGOOD: Chris, how are you? Please -  
24 Josie, would you like to start with a question?

25 SUPERVISOR GONZALES: Well, first of all I'd

1 like to give Mr. Carrillo a bit of an opportunity to  
2 introduce himself and, and then open it up for  
3 questions.

4 CHAIR LOVINGOOD: Questions from there.

5 SUPERVISOR GONZALES: Yes.

6 CHAIR LOVINGOOD: Please. Chris, go ahead, if  
7 you'll just provide your opening statement - kind of  
8 very similar to the process you were - we were here  
9 last time. So please.

10 CHRIS CARRILLO: Okay. Thank you very much.  
11 Thank you, Chairman Lovingood, members of the Board,  
12 for your time today. For the past 12 years, I've  
13 dedicated my career to public service, in this county,  
14 in the Third District. I have worked on issues,  
15 fighting for B&SF Rail Yard, Advanced Technology, when  
16 there was a cancer risk there with the community, I  
17 fought for that issue when I worked for Senator  
18 Feinstein. I've worked to protect, and fight - to  
19 protect small business owners from the ADA frivolous  
20 lawsuits that was affecting our Inland Empire, and our  
21 statewide small business community. I've worked on  
22 renewable energy, land conservation, nonprofit giving  
23 campaigns. I am the Chairman of the East Valley Water  
24 District Board for Highland and San Bernardino, and  
25 I've worked on water policy for over 100,000 residents

1 in the Third District.

2 But beyond those issues, I got to meet the  
3 people behind those issues - amazing people.  
4 Community leaders that I've gotten to know very well,  
5 and community leaders who are supporting me to take  
6 that seat and make decisions on their behalf. As you  
7 know, I've worked for this body. I've worked in the  
8 Third District as Supervisor Ramos' Deputy Chief of  
9 Staff. I've helped run that office recently, the past  
10 six months, as well. I've managed staff. I've worked  
11 on County budget cycles. I'm very familiar with that.  
12 I've made policy recommendations for the Third  
13 District, and countywide. And I think, between my  
14 knowledge of the inner workings of County government,  
15 and my longstanding relationships with the community,  
16 I think I'm in a very unique position to take that  
17 seat from Day One, and hit the ground running.

18 I'm also very active in my community. And I'll  
19 just end with this. My wife and I have settled down;  
20 and I grew up in this community of the Third District.  
21 I have volunteered hundreds of hours to the Mock Trial  
22 Program for Redlands High and Citrus Valley High. I'm  
23 a former Redlands Rotarian. I sit on the Redlands  
24 Bull (phonetic) Board, and I've given a lot of my time  
25 to my community, because I care a lot about them. And

1 I know you've got a lot of applicants. And I'll just  
2 end with this. Nobody cares more about this community  
3 than I do. And nobody will work harder to represent  
4 them than I will. Thank you very much.

5 CHAIR LOVINGOOD: Questions?

6 SUPERVISOR GONZALES: All right. I will, I  
7 will wait. I'll ask my colleagues if they have any  
8 questions, and reserve my question for the end.

9 SUPERVISOR RUTHERFORD: Chris, I, I have a  
10 great deal of respect for you, and I appreciate the  
11 additional information you've given us here today.  
12 You did have an impressive application, and I commend  
13 your community spirit, and all the work that you've  
14 done. And I have no doubt that someday you are very  
15 likely to be sitting up here, or in another elected  
16 office, and that you will serve our County with honor  
17 and integrity, and I commend you for that.

18 We heard from a lot of folks, from out in  
19 Joshua Tree specifically, today and last week, many of  
20 them mentioning that you were the choice of our former  
21 colleague, Supervisor Ramos. I don't have any  
22 communication from him to that effect. Do you have a  
23 letter of support from him, or any official  
24 endorsement that you can share, or that, that I didn't  
25 get, that perhaps my colleagues have?

1           CHRIS CARRILLO: I don't. I can only tell you,  
2 and I won't speak for him; he can speak for himself.  
3 I've got a good relationship with the Supervisor,  
4 former Supervisor, now Assemblyman. As you know, I  
5 worked for him from 2012 to 2014 as his Deputy Chief  
6 of Staff. I came on board to help him in that  
7 capacity when he had first gotten elected, after  
8 working for Senator Feinstein for almost seven years,  
9 representing our community to our senior United States  
10 Senator. He asked me to come back six months ago to  
11 help him run the office, and he strongly encouraged me  
12 to seek this seat, in the event that he did get  
13 elected. And so that's as far as I can go. But thank  
14 you for the question.

15           SUPERVISOR RUTHERFORD: Thank you for  
16 clarifying that.

17           CHAIR LOVINGOOD: Thank you.

18           CHRIS CARRILLO: Yeah.

19           CHAIR LOVINGOOD: Curt, any questions?

20           SUPERVISOR HAGMAN: (unintelligible) Mr. Chair.

21           CHAIR LOVINGOOD: No? Josie, please.

22           SUPERVISOR GONZALES: All right. You are in,  
23 in a very unique position, being that you are the  
24 immediate past Chief of Staff for former Supervisor  
25 James Ramos. You are also uniquely situated to know

1 many of the intricate details of the Third District,  
2 via the Third District Office, and via your past  
3 employer, Senator Feinstein, and the number of years  
4 that you have lived in the District.

5           What projects that are currently in play, that  
6 have been left behind, would you prioritize to work  
7 on, should there be an opportunity to appoint you?

8           CHRIS CARRILLO: Sure. Thank you for the  
9 question. I'll give you four. First, up in Big Bear,  
10 as you know, the lake, with the drought, the historic  
11 drought, it's at an historic low. Currently, up in  
12 the Big Bear Valley, they are pushing for a water  
13 recycling sustainability project that'll bring that  
14 lake back up to healthy, normal, sustainable levels.  
15 With that lake going, so does the tourism economy, and  
16 everything up there in the Big Bear Valley. So, you  
17 know, taking this seat, that's one of my priority that  
18 I would make sure. And I've got, you know, a  
19 background in water, as well - but to try to do what I  
20 can to engage this county, and this county government,  
21 to do everything we can to support their economy up  
22 there on the mountain.

23           You guys are very familiar with the Renewable  
24 Energy RES (phonetic) 410 that will be coming very  
25 soon. You know, and I think it's very important to

1 look at what the Planning Commission recommended, in  
2 terms of balancing - you know, of finding places where  
3 we can put renewable energy, but also making sure that  
4 we protect community areas, and community plan areas.  
5 I think it's very, very important. It's a hot topic,  
6 as you guys are all very familiar with.

7 Short Term Rental Ordinance, another one that's  
8 definitely a top priority, in terms of preserving the  
9 rural character or quality of life up there, but also  
10 trying to find opportunities to protect the tourism  
11 economy. You know, remember, up there the military  
12 base and the National Park are the two main drivers of  
13 the economy in the Morongo Basin. And I think that we  
14 need to do everything we can to make sure that we  
15 prioritize that.

16 And then finally, I think that, you know, there  
17 are projects - I know in working with Kevin Blakesley  
18 (phonetic), Flood Control, he's looking at a, you  
19 know, a project in Yucaipa, trying to bring more  
20 residential development to the area. There's - in the  
21 incorporated areas, it's very important that we look  
22 at finding partnerships with our city municipalities,  
23 and doing everything we can to try to make sure, you  
24 know, that we do what we can to protect and increase  
25 residential development when we're in the middle of a

1 housing crisis that we're in right now.

2 If I could just add, you know, obviously  
3 homelessness is a big issue countywide. And Third  
4 District is no exception. So I would do everything I  
5 can to try to promote what the County can do, and  
6 continue with your efforts to try to reduce our  
7 homelessness issues.

8 SUPERVISOR GONZALES: Right. And your issues,  
9 your priorities are commendable. You have good  
10 insight. I think there is great opportunity before  
11 you. I wanted to give you, at a bare minimum, this  
12 opportunity that you might come forward, and that the  
13 residents of the Third District would see the  
14 potential - no different than they saw the potential  
15 in other candidates, in other applicants previously  
16 last week. I wish that, that things were different.  
17 You, you heard that you got one vote. I, I wanted  
18 that for you, no different than I wanted it for Chris  
19 Mann; not different than I wanted it for other  
20 applicants. It is an extremely difficult situation,  
21 as I said before, and I really support you young  
22 people being able to, to shine, to come forward, and  
23 have an opportunity. So unless there are any other  
24 questions, Mr. Chair, that is it.

25 CHAIR LOVINGOOD: No there - I, I thank you,



1 Supervisor Gonzales. And Chris, I will - I think one  
2 - and, and I say this - we hadn't spoken at any point  
3 about this issue. But I think based on the history,  
4 and knowledge, and relationship, and not only that,  
5 because I think it extends - part of your life into  
6 part - folks that I've known for a long time. And  
7 when I say that, it's an extremely difficult task to  
8 kind of go through that. And it's - and so it's not  
9 one anybody ever treasures. And I, I know - I'm just  
10 going to leave it with that. I don't have any direct  
11 questions, but just to understand, it's, it's not  
12 something that's ever been taken lightly. And I think  
13 as Janice said, long term, I think there's been a  
14 number of people that have made their statement that  
15 they are going to be looking for this opportunity.  
16 And then, I say, then go forth, run a campaign, and,  
17 and, and have the chance that way. But I thank you  
18 for being a part of the process.

19 SUPERVISOR GONZALES: Yes.

20 CHAIR LOVINGOOD: So thank you.

21 CHRIS CARRILLO: Thank you, Chairman. Thank  
22 you --

23 CHAIR LOVINGOOD: Thank you.

24 CHRIS CARRILLO: -- members of the Board. I  
25 appreciate your consideration.

1 CHAIR LOVINGOOD: Thank you. All right.

2 SUPERVISOR GONZALES: Thank you, Chris.

3 CHRIS CARRILLO: Yep.

4 SUPERVISOR GONZALES: Thank you for serving.

5 CHAIR LOVINGOOD: With that, Madam Clerk?

6 CLERK LAURA WELCH: Mr. Rhodes Rigsby?

7 CHAIR LOVINGOOD: Dr. Rigsby? Dusty, if you'll  
8 join us, please. (unintelligible)

9 SUPERVISOR HAGMAN: I - Mr. Chair, I'm not  
10 advocating for questions for every member. It's --

11 CHAIR LOVINGOOD: Well, I - we're giving you  
12 some, and --

13 SUPERVISOR HAGMAN: It's just - yeah.

14 CHAIR LOVINGOOD: So Doctor, as you come back,  
15 if you will again just kind of do your - step forward  
16 with your thoughts today. You were here before, and  
17 then we'll move forward, see if there's any additional  
18 questions. Thank you.

19 RHODES RIGSBY: So no sequestration this time,  
20 for the candidates?

21 CHAIR LOVINGOOD: No, it's not - you, you have  
22 your smart phone and your tablet.

23 RHODES RIGSBY: Yeah. This process has, has  
24 become a lot more troubled than I had hoped. I think  
25 it's - I think it's interesting that there's, there

1 seems to be a split, and that the District is like,  
2 almost it feels like they're two different districts  
3 completely. And I think that's, I think that's  
4 unfortunate.

5           You know, the one gentleman was talking about  
6 the Dark Skies, and you know, this application process  
7 doesn't let him know that I believe in Dark Skies; I'm  
8 an astronomer. That's one of the things that I really  
9 believe in. The biggest value for a lot of people, of  
10 the non-Valley areas of California is it's a great  
11 place to go and be an astronomer.

12           There are people who are always interested in  
13 the side of where the money is, and I'm not one of  
14 those guys. I'm the guy who, who would like to take  
15 the, the needs of the people, and enact them into  
16 government policy. I have a strong resentment for the  
17 power of money in politics. I think it's corrupting.  
18 But it's necessary to get to word - your word out.  
19 But when you're in local government, you don't have to  
20 get the word out by using money. You can get it out  
21 by using grassroots. And I really admire the people  
22 in this county who have developed grassroots  
23 coalitions to press their candidacies, and don't rely  
24 entirely on, on big checks from powerful people who  
25 have something to gain from their votes on the, on

1 the, on the Board.

2 I, I look at this - you know - that - if you  
3 look at my CV, it's different from everyone else's.  
4 You know, I've taken a, a path that's been academic,  
5 involved in medicine, and to me, my practice of  
6 medicine is taking care of the individual. But I've  
7 also been involved in administration in medicine,  
8 which is taking care of populations. And to me,  
9 that's a great model for government. A well run  
10 government is the one that takes into account the  
11 doctor-patient relationship, the politician-  
12 constituent relationship, as paramount. That is the  
13 biggest job we have, is answering the needs of  
14 individuals. And in our government, in its idealism,  
15 in, in the founding of our society, the - the unit of  
16 currency in our politics is an individual. It's not a  
17 group. But we all come together, we the people - we  
18 as the group - people are the things that make up a  
19 group. Without the people, then the government coming  
20 together goes astray. So when I hear these comments  
21 from, from people from the, from the high desert, and  
22 from the Morongo Basin, from, from different areas in  
23 the district that, that they're different -  
24 absolutely, they're different. And they need to have  
25 somebody who will go up there and steep themselves in

1 their culture.

2 Chris Carrillo is not the only one. He's  
3 already done it. Those of us who, who contend for  
4 this office, we're going to do it. Any one of us will  
5 do it, and we need to know what they really stand for,  
6 because we can't guess what they, what they want. So  
7 I look at this, and I say, 'Look, I come to you with  
8 the skills of a physician. I can see through a lot of  
9 symptoms, and come up with a diagnosis.' Same thing,  
10 and apply it to government. I always take care of the  
11 individual first, but I also feel that there's a very  
12 strong need for government to be correctly wielded so  
13 that there is no harm to one group over the other.  
14 And - I don't know - just go ahead and ask me some  
15 questions, and we'll see what, what you come up with.  
16 I don't want to repeat myself.

17 CHAIR LOVINGOOD: All right. Any questions?

18 RHODES RIGSBY: Yeah.

19 CHAIR LOVINGOOD: Janice?

20 SUPERVISOR RUTHERFORD: One of the things  
21 that's changed in the last couple days since we did  
22 this was a, a court ruling that seems to threaten the  
23 Affordable Care Act, and obviously, that would have  
24 significant implications for the county, and our  
25 budget. So this is a little bit of an unfair

1 question, but have you given that any consideration,  
2 or do you have any thoughts for how, we as a county,  
3 would need to - what we would need to consider moving  
4 forward, if that became a reality and there was no  
5 more ACA.

6 RHODES RIGSBY: Yeah, without the ACA - and  
7 the, the biggest effect on our local medical economy  
8 would be the reversal of the Medicaid expansion,  
9 because that would throw the responsibility for, for  
10 rescuing people who are uninsured, squarely on the  
11 shoulders of the county government, which is the way  
12 it was before the, the Medicaid expansion. So it  
13 would have profound influence on us, if it's, if it's  
14 eliminated in toto. But of course, the courts are  
15 going to have to see if there's some kind of a  
16 severability clause - you know, can, can they just  
17 dump the whole thing. I happen to agree with the  
18 judge when he says that the underpinnings of the  
19 individual mandate are, are required in order to get  
20 a, a marketplace that would be correct. But I think  
21 he's incorrect in throwing in the Medicaid expansion  
22 into the deal. So you know, there's a, there's a  
23 legal argument to be made in, in both directions.  
24 But, but it would be a huge shift in the  
25 responsibility. But then, of course, the state

1 government is toying with the concept of single payer,  
2 which would throw everything on its ear. So I don't  
3 really know where that's going to go. But I'm  
4 certainly equipped to deal with it when the time  
5 comes.

6 CHAIR LOVINGOOD: Well, just on that topic, I  
7 think we could spend another couple hours, but we  
8 won't do it here today.

9 RHODES RIGSBY: Yeah.

10 CHAIR LOVINGOOD: Anyway, so I'm going to thank  
11 you for participating in the process. And, and --

12 RHODES RIGSBY: Thank you.

13 CHAIR LOVINGOOD: And I know it's been an  
14 arduous task for everyone involved, but I do  
15 appreciate your participation and willingness.

16 RHODES RIGSBY: Okay.

17 CHAIR LOVINGOOD: So I want to thank you,  
18 Dusty.

19 RHODES RIGSBY: Thank you.

20 CHAIR LOVINGOOD: Madam Clerk --

21 CLERK LAURA WELCH: Mr. Bill Emmerson.

22 CHAIR LOVINGOOD: Mr. Emmerson. Bill, the same  
23 - if you'll come down and greet us, and share with us  
24 your thoughts, and your position again.

25 WILLIAM EMMERSON: Thanks very much.

1 Appreciate being here. My comments that I gave last  
2 time, I stand by them. And I want to say that I think  
3 one of the most important aspects of being in public  
4 office is the ability to listen. And we heard a lot  
5 of different viewpoints here today on how people think  
6 about this, this district. This district's a very  
7 diverse district. We have urban areas. We have the  
8 high desert areas, and we just need to listen to  
9 individuals. And I, I was a good listener while I was  
10 in the Legislature. And we're, we're not Republicans,  
11 excuse me, and we're not Democrats. We're here as  
12 citizens of San Bernardino County. And I think that's  
13 what led to the fact that I was successful in getting  
14 legislation signed by a Republican, and a Democratic  
15 Governor, because I was - I was able to listen, and,  
16 and figure out solutions to problems.

17 So I think that I have the ability to be a  
18 thoughtful, collaborative individual on this Board,  
19 and I look forward to working with you if I'm  
20 selected.

21 CHAIR LOVINGOOD: Okay. Well, thank you. Are  
22 there any questions from any of my peers? Josie?

23 SUPERVISOR GONZALES: Go ahead, Janice.

24 CHAIR LOVINGOOD: Janice?

25 SUPERVISOR RUTHERFORD: Same as I asked Dr.



1 Rigsby. Obviously, there are some new implications  
2 for us to consider as the Affordable Care Act moves  
3 through the courts. And clearly, you have some  
4 expertise and interest in that. Do you have thoughts  
5 you could share with us?

6 WILLIAM EMMERSON: Yeah. I, I agree with Dr.  
7 Rigsby's comments. I think the Affordable Care Act  
8 had many areas that needed to be corrected. The  
9 problem is now it's become the big political football.  
10 We have people who are going to be kicked off of  
11 health plans, which was a public-private partnership,  
12 and I think that with a safety net hospital such as we  
13 have at Arrowhead Regional Medical Center, we have the  
14 potential for increased costs, because many of those  
15 people are going to be put off of, of the healthcare  
16 system because of the Medicaid expansion.

17 So we, we need to be prepared for that, and  
18 determine how, how best to, to, to solve that problem  
19 - major problem for us, though.

20 CHAIR LOVINGOOD: Josie.

21 SUPERVISOR HAGMAN: I've got one.

22 CHAIR LOVINGOOD: Oh.

23 SUPERVISOR HAGMAN: I'm sorry. Just one, Mr.  
24 Chair. And thanks for coming back --

25 WILLIAM EMMERSON: Yeah.

1 SUPERVISOR HAGMAN: -- Bill. You got a letter  
2 - you got - congratulations, you got appointed to the  
3 Little Hoover Commission.

4 WILLIAM EMMERSON: Thank you.

5 SUPERVISOR HAGMAN: And I just wanted to state  
6 for the record that that was recently, so - but you  
7 checked there is no conflicts of doing multiple  
8 duties.

9 WILLIAM EMMERSON: Yeah. I, I do not see any.  
10 I, I've, as I - I sent a letter to each one of you  
11 yesterday. I have asked for a Legislative Counsel  
12 opinion. They were supposed to come back with it  
13 yesterday. But I, I will get that as soon as I can.  
14 But I do not see any conflicts. It's a, a board that  
15 does not make decisions, other than does an oversight  
16 - has an oversight committee - portion to it.

17 SUPERVISOR HAGMAN: Thank you, Bill.

18 CHAIR LOVINGOOD: Josie?

19 SUPERVISOR GONZALES: Thank you very much.  
20 Good afternoon.

21 WILLIAM EMMERSON: Good afternoon.

22 SUPERVISOR GONZALES: You were my Senator;  
23 still consider you in very high regard. Today brings  
24 us to a bit of a different playing field. And in the  
25 conversations that I've had with you, I've worked hard

1 to be very straight with you. And I have to put my  
2 personal feelings aside, and I have to focus on what I  
3 believe to be, as I said earlier, my main  
4 responsibility, and that is to the residents, and the  
5 voters of the Third District. So the following  
6 question is very important that I make, and I will be  
7 listening to your answer. I - I like what you said in  
8 regards to being a thoughtful collaborator. I think  
9 that element, that principle is extremely important,  
10 in lieu of the many, the diverse issues that we, that  
11 we face on this Board.

12 So with that, I will say - you resigned from  
13 the California State Senate in December of 2013. In  
14 your announcement, you stated, 'I have always felt  
15 that one had to be passionate about their work. In  
16 these past few months, my passion has waned, and my  
17 constituents deserve a senator with the level of  
18 commitment that I once had.' What would you say to  
19 the constituents of the Third District today, some of  
20 which are in your former Senate district, to convince  
21 them that you have found your passion once again for  
22 public service?

23 WILLIAM EMMERSON: Well, the temperament and  
24 the temperature of Sacramento is incredibly partisan.  
25 It would - became very difficult to work in, in that

1 system. And I lost my passion because of that. This  
2 is a different situation, that we can all work  
3 together in a collaborative manner, as I said in my  
4 opening statement today. This is not about  
5 Republicans and it's not about Democrats. This is  
6 about working on problems, solving problems for the  
7 constituents. And I am very committed to doing that.  
8 It was just the partisan rancor of Sacramento. And if  
9 you look at what it's become since I left, it's not  
10 gotten any better.

11 SUPERVISOR GONZALES: Yes.

12 SUPERVISOR HAGMAN: I just want to say - I was  
13 there. I thought several times about leaving, myself.  
14 So I understand.

15 WILLIAM EMMERSON: Yeah.

16 MALE SPEAKER: It's gotten worse.

17 SUPERVISOR HAGMAN: It's not better.

18 WILLIAM EMMERSON: It, it has gotten very bad,  
19 so - so I, I, I don't - I, I don't regret that I, I  
20 left. I went into healthcare policy, which I'm very  
21 passionate about, and I was there a full five years  
22 with - doing that position with the California  
23 Hospital Association. I believe that we have some  
24 potential problems facing us that we need to sit down  
25 and address. And I'm very passionate about working on

1 those problems.

2 SUPERVISOR GONZALES: All right. Thank you for  
3 answering that so straightforwardly. I know this  
4 process is not easy. However, I, I, I believe that  
5 the constituents of the Third District deserve to hear  
6 your straightforward answer. Thank you so much.

7 WILLIAM EMMERSON: Yes, thank you.

8 SUPERVISOR GONZALES: Thank you, Mr. Chair.

9 CHAIR LOVINGOOD: Well, Dr. - I mean - and I  
10 said as Senator - but quickly, my comments, just to  
11 round it out - I think if you and Dr. Rigsby I got  
12 together, we'd have a world conversation on affordable  
13 healthcare. Being a businessperson, it's, it's - I  
14 think we have a challenge within healthcare,  
15 nationally. Obviously, those that don't. But this  
16 has done nothing but force it on the back really, of  
17 the real true middle class that we have left. I mean,  
18 you, you have exorbitant premium increases to  
19 families, deductibles, and the whole nine yards. And  
20 we've shifted it from a tax deductible situation for  
21 really healthcare providers on a large scale, and  
22 shifted it back. But I'm not gonna - sorry. That's  
23 just --

24 WILLIAM EMMERSON: Yeah.

25 CHAIR LOVINGOOD: -- something that really -

1 anyway --

2 WILLIAM EMMERSON: No, it is --

3 CHAIR LOVINGOOD: -- it is a passion.

4 WILLIAM EMMERSON: There were numerous problems  
5 with it; it needed to be corrected. And  
6 unfortunately, we never got to that part of it.

7 CHAIR LOVINGOOD: Well, maybe, we might now -  
8 open it up.

9 WILLIAM EMMERSON: Yeah, we, we  
10 (unintelligible)

11 CHAIR LOVINGOOD: Anyway - we'll, we'll do  
12 that. I want to appreciate, one, your service. I met  
13 you back - I'm, I'm not even sure if you even recall,  
14 but back in the mid-90s.

15 WILLIAM EMMERSON: I do.

16 CHAIR LOVINGOOD: And, and you know, from that  
17 time, you have provided a great, great deal of  
18 service, and to be commended as a professional, and  
19 then again, coming back into this opportunity, I do -  
20 and I think even, well, with Curt's acknowledgment,  
21 you just have to take a trip up to Sacramento to kind  
22 of see what it's like. And I'll remember, and not  
23 forget what you said when we had breakfast in my first  
24 term. So I can concur with you. I think I - it's, it  
25 was a hard decision, but a right decision to --

1 WILLIAM EMMERSON: The, the only two people in  
2 this room with big smiles on their faces are Curt and  
3 myself. We're out of town.

4 CHAIR LOVINGOOD: All right.

5 SUPERVISOR HAGMAN: (unintelligible) James.  
6 (unintelligible)

7 CHAIR LOVINGOOD: Thank you very much, though,  
8 for participating.

9 WILLIAM EMMERSON: All right.

10 CHAIR LOVINGOOD: Thank you, Senator.

11 SUPERVISOR GONZALES: Yeah, you did.

12 CHAIR LOVINGOOD: Madam Clerk, next person,  
13 please.

14 CLERK LAURA WELCH: Sean Flynn.

15 CHAIR LOVINGOOD: Ah, Mr. Flynn. Good  
16 afternoon, Sean.

17 SEAN FLYNN: Good afternoon. Good afternoon,  
18 Mr. Chairman, thank you.

19 CHAIR LOVINGOOD: You have the same opportunity  
20 to open up with some statements to share with us, and  
21 then it'll be followed if there's questions. So  
22 please.

23 SEAN FLYNN: Oh - okay. Sure. Thank you. So  
24 we've, you know, had good questions, I think, about  
25 people's passion for the job. Let me begin by saying

1 everyone before you today is highly qualified, in  
2 various different ways. We bring a lot of background.  
3 Chris Carrillo obviously made a strong case; Dusty  
4 Rigsby on healthcare; these things. My strengths are  
5 in economics and in education, where I've - you know,  
6 could bring a lot to the County in terms of  
7 perspective.

8 But let me address the passion issue, and why I  
9 want to do this. We're all shaped by our backgrounds,  
10 what our families have been through, what we've been,  
11 been through. And you know, I was raised by two  
12 parents who had it very hard, and would not have  
13 gotten where they were without the government, and  
14 government assistance, and the large social safety  
15 net. My father was born in Seattle 1925. The family  
16 lost everything in the Great Depression. And then in  
17 short order, his mom died when he was 12, his older  
18 sister when he was 14, and his dad when he was 17. He  
19 was living in the poorest neighborhood in Seattle, a  
20 real ghetto. Very unfortunate circumstances. But he  
21 got drafted into World War II. And he came back, and  
22 the GI Bill was waiting, and he was able to get a  
23 college education, and he went on to be an educator.  
24 And his favorite parts of his entire career was when  
25 he was teaching - and this was at Burbank High School



1 - was special needs kids, right, Burbank High School,  
2 and he was the special needs teacher.

3 And so I grew up around that. I grew up around  
4 someone who appreciated government, and knew that  
5 there were many people out there - you know, there's a  
6 lot of cynicism in the world - and Josie, I loved  
7 your, your quote earlier in the day - was it from  
8 Nelson Rockefeller?

9 SUPERVISOR GONZALES: Yes.

10 SEAN FLYNN: Yes.

11 SUPERVISOR GONZALES: John D. Rockefeller.

12 SEAN FLYNN: So - I'm sorry. Yes, John D. No,  
13 not the politician later - not that guy - that you  
14 know, we have an obligation to each other to provide  
15 opportunities for people to make a living and advance.  
16 And the county level is the level where that's most  
17 pertinent. My mother also grew up in very poor  
18 circumstances in Japan after World War II. Her entire  
19 town had been bombed flat. Her two older siblings  
20 died of malnutrition after the war. And she also  
21 wouldn't have gotten out, except for the government,  
22 and oddly enough, the United States government,  
23 because after she married my father, she earned a  
24 Naval scholarship, and so was able to become a medical  
25 doctor and served in the United States Navy. And I

1 grew up around that, too. My mom was a military  
2 officer, dedicated to the public good when I was a  
3 teenager.

4           And all the years since, you know, by the time  
5 I was in high school the family was financially  
6 stable, and well off. But I remember when we were on  
7 food stamps. I remember when my dad was unemployed,  
8 and couldn't get a job. I remember when my dad, to  
9 make any money at all, would do day labor, even though  
10 he had an advanced degree. This was like the late 70s  
11 economy. I remember when he and our next door  
12 neighbor drove up to Mt. St. Helens after the  
13 explosion in 1980, filled the back of the bed of the  
14 truck with ashes, drove it back down - we were living  
15 in Sacramento - and then put the ashes into little  
16 jars, and sold them door to door, right, to make some  
17 money.

18           And so my passion for this job and this service  
19 would be to take the skills that I have - and I know  
20 other people applying today have different skills -  
21 but to take these skills I have, and see what we can  
22 do here at the county level, where government directly  
23 touches so many people, right. The reason I think you  
24 heard so many people giving public comment from the  
25 Morongo Valley, Joshua Tree was specifically because

1 this is the only seat they get to vote for, right.  
2 There's no City Councils out there. This, this is  
3 government for them. This is where the rubber meets  
4 the road. And I take that responsibility very  
5 seriously, and I would like to bring my background,  
6 and knowledge, and expertise to that task, to work on  
7 real problems of poverty, homelessness, educational  
8 improvement, and job creation. We need a lot more  
9 high paying jobs around here. So thank you.

10 CHAIR LOVINGOOD: Now, thank you for that. Any  
11 additional questions?

12 SUPERVISOR HAGMAN: (unintelligible)

13 CHAIR LOVINGOOD: Yeah, Curt.

14 SUPERVISOR HAGMAN: Just one quick one, Sean.  
15 I, I was surprised how many people on the video  
16 conference were seconding you after Chris, for being  
17 fairly new, and probably outside what you're, you're  
18 Congressional campaign was directed at. So can you  
19 give a little explanation why they may be doing that?  
20 What did you do end up doing from last interview to  
21 this interview?

22 SEAN FLYNN: Well, as of a week ago on Tuesday,  
23 at that time we thought this process would conclude  
24 last week, Thursday, right. So there was only one day  
25 in between. And Josie had pointed out, and had asked

1 directly, Supervisor Gonzales, that you know, what  
2 parts of this district do you know, and the issues.  
3 And I could say that from my Congressional campaign,  
4 I, I already knew the issues, and I listed some of  
5 them in my written material, that affected the people  
6 in the more urban, down the hill areas of the Third  
7 District here. But I did not now directly, from, you  
8 know, interpersonal conversation, which is really the  
9 only way to learn from people, what their issues were.  
10 So I drove up to Joshua Tree, and I met with several  
11 of the people that were there - Mr. Furst, and - oh,  
12 I'm forgetting the - Tom, and I'm forgetting all their  
13 names. But yeah, had several good conversations - not  
14 just with them, but other people around the valley.  
15 And, yeah, found out a lot of their land use issues,  
16 the dark sky issues. There are problems with old  
17 septic tanks that are now polluting aquifers there,  
18 and what are you going to do about it; wind power  
19 issues; solar power issues. And so I, I thought it  
20 would behoove me before I appeared before you again,  
21 which is now as it turns out, that I actually know  
22 something about their issues, and not what I might  
23 perceive from a vast distance to think to be their  
24 issues, because I can't represent them unless I know  
25 them. So I did go up there last Wednesday, and had a

1 series of I think very useful meetings, that if I were  
2 to be appointed would help me immediately get off to a  
3 very good start. Thank you.

4 CHAIR LOVINGOOD: Thank you. Janice?

5 SUPERVISOR RUTHERFORD: That was my question.

6 CHAIR LOVINGOOD: Okay. Any additional?  
7 Josie?

8 SUPERVISOR GONZALES: Yes. I have, I have  
9 several questions. You have run for Congress twice,  
10 and you have written, and, and spoken extensively  
11 about federal issues, and what you would do if elected  
12 to the House of Representatives. Why now turn, turn  
13 your sights to county government - specifically, the  
14 Third District. What would you say to residents of  
15 the Third District to convince them that you are truly  
16 vested in this county, and that this appointment is  
17 not just a consolation prize, nor simply a  
18 steppingstone for a higher political office.

19 SEAN FLYNN: Well, let me say that people  
20 learn. And one of the things I learned over the last  
21 three years is - you know, and - and let me just back  
22 up a little. The reason I was running for federal  
23 office was there are two issues that are near and dear  
24 to my heart, of which I believe I understand very  
25 deeply, and have good solutions for - that are broken

1 at the federal level. So one is our system of  
2 healthcare financing in this country; and the other is  
3 the student loan debt crisis and the high cost of  
4 college education. And so that's why I was running  
5 for that office.

6 But in the process of running for that office,  
7 it was obvious to me all the time that, you know, even  
8 if I had been elected, I would have been a freshman,  
9 potentially in the minority, one of 435, trying to  
10 overcome hundred billion dollar industries that would  
11 be lobbying like crazy to preserve the status quo or  
12 some version of it. And so although I was committed  
13 to trying that, and worked really hard, and am  
14 grateful for all the people who supported me, and I  
15 hope I didn't let them down in any way - my ultimate  
16 goal here is public service and solving problems for  
17 people. That did not work out. I do not view being  
18 County Supervisor as a consolation prize. As I think  
19 everyone knows, it's actually the best job in  
20 politics; you can do the most good, for the most  
21 people, the most quickly, and you don't have to  
22 commute to either Sacramento or Washington, right. So  
23 on a personal basis it --

24 SUPERVISOR GONZALES: You, you, you are  
25 correct, and you're making my point.

1 SEAN FLYNN: Yes.

2 SUPERVISOR GONZALES: You've run for Congress  
3 twice. You've never run for County Supervisor. And,  
4 and so just - I'm wanting to bring this out. I don't  
5 know you personally. I've met you, and I - it's  
6 important to me that, again, as I go to cast my vote -  
7 and as you said, this is where the rubber meets the  
8 road, and I need - I, I just need answers for this.

9 When I spoke to you at the CEBA (phonetic)  
10 Christmas luncheon that you attended, and you  
11 approached me, and you asked me for an appointment to,  
12 to, to - for an interview, and I said no. I said the  
13 - first, I wanted to interview everyone, and then  
14 after we cast the vote, then that cast the die for the  
15 next step. And I did not want to be unfair to any of  
16 the other candidates.

17 However, you asked me - you asked me what I  
18 thought, you know, was important - what - something  
19 that - a little bit of input. I told you that I did  
20 not know what the voting precinct numbers were in, in  
21 the different, the different precincts in this last  
22 election, which was last month. And I, since that  
23 conversation, I have had an opportunity to go and pull  
24 those numbers. So I am going - my question is, what  
25 would you say to the voters in the Third District who

1 did not vote for you for Congress, to convince them  
2 that me voting for you would be in their best  
3 interest?

4 SEAN FLYNN: Well, first of all, I, I think  
5 they should know that the four existing Supervisors,  
6 yourself among them, would make sincerely the best  
7 decision for the people - including if that is not me.  
8 So I want would want to reassure them of that fact  
9 first. Then as to why I would be perhaps the top  
10 choice here - I got to know that district really well.  
11 I may not have won that election, but I got to know  
12 that district really well, and the complaints of the  
13 people really well. As you know, when you're running  
14 for partisan office, the races are hideously expenses.  
15 Congressional incumbents win 92% of the time, you  
16 know. I, I don't think it's so surprising that  
17 someone who's a political upstart like me lost that  
18 race, despite our best efforts. But I got to know the  
19 district really well. I have other attributes. I  
20 speak Spanish, and a lot of people around here speak  
21 Spanish, so I can listen not just in English, but in  
22 Spanish, you know, reach out to that community very  
23 well. And so I, I guess maybe the best thing to say  
24 about that race, and why people should look back on it  
25 and say, 'Yeah, Sean, Sean has some chops here -



1 besides being an economist and all this is - he ran a  
2 heck of a race, for someone new to the game. Right.  
3 He hired really good people. He had an unbelievable  
4 set of volunteers.' We had literally hundreds of  
5 volunteers, unpaid volunteers, working on the  
6 campaign, because they liked our message. They liked  
7 what we issues that we, that, that, that we were going  
8 to go to Washington and try and fix. And I will learn  
9 the issues of the people in the Third District that  
10 the county can effect change in, and I will pursue  
11 those changes to the best of my ability. And so I  
12 wouldn't want you voting for me unless you believe  
13 that to be the - 100% the case.

14 SUPERVISOR GONZALES: And that's what I'm  
15 trying to vet out here. And speaking of being  
16 relatively new, I also looked up when you registered  
17 as moving into the Third District, and I have here  
18 November 27th of 2017. And my next question is,  
19 relative to the time since you moved into the Third  
20 District, what - what kind of community involvement  
21 have you, have you explored, or have you vested in -  
22 whether it be civic groups, nonprofit, schools, other  
23 community organizations?

24 SEAN FLYNN: Well, so I'm, I'm the Co-Chairman  
25 of the Lincoln Club of San Bernardino County, which is

1 --

2 SUPERVISOR GONZALES: Okay. I'm talking  
3 relative to the Third District.

4 SEAN FLYNN: Well, well, that, that club covers  
5 the entire county --

6 SUPERVISOR GONZALES: Oh, okay.

7 SEAN FLYNN: -- including, including the Third  
8 District.

9 SUPERVISOR GONZALES: Okay.

10 SEAN FLYNN: You know, I continue to be a  
11 Rotarian, but I, I will admit freely that that, that  
12 my Rotary Club is in Claremont, near where I teach at  
13 the Scripps College in Claremont. You know, the - you  
14 know, I moved - so the background on that, that  
15 registration date you had was that I moved from Upland  
16 to Redlands --

17 SUPERVISOR GONZALES: Right.

18 SEAN FLYNN: -- in September of '17.

19 SUPERVISOR GONZALES: Okay.

20 SEAN FLYNN: And the, they were both in the 31st  
21 Congressional District, so there's no issue about my  
22 leaving that Congressional District.

23 SUPERVISOR GONZALES: Right.

24 SEAN FLYNN: But I liked moving to Redlands,  
25 and I like the people there. And I guess I have to

1 say with regret that, you know, I kept up some things  
2 that kept my ear to the ground during the campaign.  
3 But I was very busy running the campaign. So you  
4 know, I continued to be a Board member of Employment  
5 Means Success, which finds, you know, jobs for about  
6 250 disabled workers a year, and I kept up some of my  
7 other engagements. But I didn't have time to really,  
8 you know, become a deep member of the Redlands  
9 community, like so many people are, such as Mr.  
10 Emmerson. And so I regret that, but I don't regret  
11 running for Congress, and not having had the time to  
12 pursue those things, because I was trying to do  
13 community service at the time by trying to get myself  
14 elected to Congress.

15 SUPERVISOR GONZALES: Thank you very much. I  
16 know it's not easy answering these questions, and, and  
17 being asked tough questions, and being put in tough  
18 positions is part of this job. And, and it's  
19 important that I fulfill my part. Thank you so very  
20 much, and thank you, Mr. Chair.

21 SEAN FLYNN: Thank you, Supervisor.

22 CHAIR LOVINGOOD: Are there any other  
23 questions?

24 SUPERVISOR HAGMAN: I'm good.

25 CHAIR LOVINGOOD: No? I'm just going to - -I

1 don't have any, so I'm going to want to thank you for  
2 taking a place in the process. It is kind of a -  
3 it's, it's very transparent, but I appreciate your  
4 opportunity to participate. So thank you.

5 SEAN FLYNN: Okay. Thank you very much, Mr.  
6 Chairman.

7 SUPERVISOR GONZALES: Thank you.

8 CHAIR LOVINGOOD: Madam Clerk?

9 CLERK LAURA WELCH: Mr. Bill Jahn.

10 CHAIR LOVINGOOD: Mr. Jahn?

11 WILLIAM JAHN: Good afternoon, Mr. Chairman.

12 CHAIR LOVINGOOD: Good afternoon, Bill. How  
13 are ya?

14 WILLIAM JAHN: Well, I'm fine. This has been a  
15 tough process, but I'm sure it's been a lot tougher on  
16 you guys than on us, so --

17 CHAIR LOVINGOOD: Well, we ended up being the  
18 dart boards, that's okay. It comes with the turf, as  
19 you know. You - you also serve. Just a touch of  
20 humor, but please, Bill, go ahead, open it up.

21 WILLIAM JAHN: Well, Mr. Chairman, as I  
22 explained to the, to the group last time I was before  
23 you - I'm a native Southern Californian. My wife is a  
24 native Southern Californian. She's here today with  
25 us. We - I've lived in San Bernardino County since

1 1979, and in the Third District since 1991. So I have  
2 been on two City Councils. I've - I have over 18  
3 years of local government experience. And during that  
4 time, I've developed a real passion for helping people  
5 in public service. And that's why I'm here today to,  
6 to fill the dist-- the Third District seat, and try to  
7 help as many people as I can.

8 I will tell you that over my 18 years of  
9 service, and, and some of you know this because we  
10 serve on several boards together - I've always been a  
11 consensus builder, and tried to develop relationships  
12 with, with all members of all the boards that I serve  
13 on, and I think I've been successful in doing that.  
14 Some of the issues that you heard earlier by other  
15 speakers, such as the lake project in Big Bear, the  
16 dark skies project in Joshua Tree, tourists in Morongo  
17 Valley - those are issues I'm already working on in  
18 Big Bear Lake. And I'm pleased with the record I  
19 have, and the work that we've done. And with that,  
20 Mr. Chairman, I'd be happy to answer your questions.

21 CHAIR LOVINGOOD: Thank you. Members, are there  
22 questions? Josie, would you like to start --

23 SUPERVISOR GONZALES: Sure.

24 CHAIR LOVINGOOD: -- please?

25 SUPERVISOR GONZALES: Sure. Hello once again.

1 It has - it has been a good experience, serving with  
2 you for a good number of years, on a - on different  
3 agencies, and --

4 WILLIAM JAHN: The pleasure's been all mine,  
5 Supervisor.

6 SUPERVISOR GONZALES: Yes. You have a very  
7 good reputation, and no different than many of the  
8 other candidates, I received emails, and, and phone  
9 calls, and one on one comments, and you - good  
10 comments, all of them; some negative here and there,  
11 but that's to be expected. But I will tell you that  
12 you were amongst the very good comments, and --

13 WILLIAM JAHN: Thank you.

14 SUPERVISOR GONZALES: -- and rapport that I  
15 received. With this, no different than the questions  
16 I've asked other candidates, I will ask you. You have  
17 had extensive experience as a, as a Councilman for the  
18 City of - for the City of Big Bear Lake. But it is  
19 worth noting that Big Bear Lake is a very small  
20 community - approximately, if I'm not mistaken, I  
21 don't know, about 5200 residents?

22 WILLIAM JAHN: In Big Bear Lake, yes.

23 SUPERVISOR GONZALES: Yes.

24 WILLIAM JAHN: About 21,000 valley-wide.

25 SUPERVISOR GONZALES: All right. And, and

1 we're looking at a seat that singularly represents, or  
2 has more than 400,000 residents, and is the second  
3 largest geographical district in San Bernardino  
4 County. What would you say to Third District  
5 residents to convince them that you can transition  
6 from being an elected official of a small community,  
7 to being a supervisor over a much larger geographical  
8 area, with many diverse issues, not solely singular,  
9 relative to, to the mountains, and, and hope to be  
10 able to give them the type of representation that they  
11 deserve.

12 WILLIAM JAHN: Right. Well, that - thank you  
13 for the question, Madam Supervisor. It's a good one.  
14 I can tell you that living in Big Bear Lake and up on  
15 the mountain is, is at times, with the weather can be  
16 challenging but I've lived up there since 1991 and  
17 have been able to, to get up and down the mountain  
18 whenever I needed to without a problem. But it's true  
19 that Big Bear Lake is a small, small city in its own,  
20 but the countywide is about 21,000, as I mentioned.  
21 We work with the East End a lot on different projects,  
22 the City of Big Bear Lake does. The other thing that  
23 I would point out is I also serve on large regional  
24 boards, such as SBCTA, and SCAG. SCAG is a six county  
25 board, with 191 cities. So I'm currently Vice

1 President, First Vice President of SCAG, and, and have  
2 worked my way up through the ranks there.

3 As far as the size of the district, it's just a  
4 matter of, of getting in your car, and working your  
5 tail off and, and servicing the, the community members  
6 of that district. And I've done that in the past, and  
7 I can do that in the future.

8 I mentioned last time I was here, I'm a - I'm a  
9 retired senior housing affordable building developer,  
10 and you know, I've got the energy and the time to do  
11 it now because I am retired. And I'm sure that all  
12 the candidates here are going to work hard. But you  
13 can rest assured that if I'm appointed to the Third  
14 District, I'm going to be all over that district like  
15 a blanket. So --

16 SUPERVISOR GONZALES: Last question - if you  
17 were to be appointed, would you run for election?

18 WILLIAM JAHN: Yeah, that was the question that  
19 came up the last time here --

20 SUPERVISOR GONZALES: Yes.

21 WILLIAM JAHN: And I'm glad you raised it.

22 SUPERVISOR GONZALES: But I want to reiterate  
23 that because --

24 WILLIAM JAHN: Right. And I want --

25 SUPERVISOR GONZALES: -- was not clear.



1 WILLIAM JAHN: I'm glad you - I'm glad you  
2 raised it, because I, I don't think I was real clear  
3 last time. The answer is yes. My wife's here. So  
4 we, we talked about it the - when I, when I got home  
5 after the last meeting, so - but the answer is yes -  
6 assuming, again, that we're all getting along, and  
7 we're moving the county forward, and we're moving the  
8 Third District forward - I mean, those are important  
9 factors.

10 SUPERVISOR GONZALES: Yes. You're right. It's  
11 an important factor, being that the residents of the  
12 Third District have a right to know --

13 WILLIAM JAHN: Absolutely.

14 SUPERVISOR GONZALES: -- whether they invest  
15 their time and effort in, in the appointee, or not.

16 WILLIAM JAHN: Right.

17 SUPERVISOR GONZALES: That's extremely  
18 important.

19 WILLIAM JAHN: Absolutely.

20 SUPERVISOR GONZALES: And I thought that, that  
21 also asking you the question again, in that broader,  
22 larger scale, that larger scope approach to issues  
23 countywide, and being able, as was stated earlier,  
24 through Senator Emmerson, that collaboration, that  
25 thoughtful collaboration, because it's not just about

1 me --

2 WILLIAM JAHN: Absolutely.

3 SUPERVISOR GONZALES: -- or any independent  
4 individual that, that sits up here. It's about all of  
5 us, because that's how we take care of everyone.

6 WILLIAM JAHN: Well, Madam Supervisor, I've  
7 built relationships my, my whole 18 years in my  
8 political career, and I'm very proud of that, and very  
9 proud of some of the camaraderie that, that has been  
10 developed over those years.

11 SUPERVISOR GONZALES: Yes. And you have  
12 demonstrated that. Thank you very much.

13 WILLIAM JAHN: Thank you.

14 SUPERVISOR GONZALES: Thank you, Mr. Chair.

15 CHAIR LOVINGOOD: Thank you, Josie. Janice?

16 SUPERVISOR RUTHERFORD: You touched on this a  
17 bit last time, but I wondered if you could revisit for  
18 us. You have some personal and professional  
19 experience in the affordable housing industry.

20 WILLIAM JAHN: Correct.

21 SUPERVISOR RUTHERFORD: What sort of  
22 opportunities do you see for us in unincorporated  
23 areas, right now in that area?

24 WILLIAM JAHN: Well, again, you - you know, the  
25 house - the housing crisis is a complex issue. It's

1 not - there's not just one solution. I know the last  
2 time I was here I talked about redevelopment agencies,  
3 and we need to get back to some form of redevelopment  
4 agency that, that focuses on housing. But the  
5 affordable housing crisis is - is - it deals with a  
6 lot of things. I mean, it deals with labor, labor  
7 shortages, material increases, land prices, regulatory  
8 constraints, environmental constraints. I mean, it's  
9 a - it's a very complex issue. But first and  
10 foremost, we need to figure out a way to where some of  
11 these cities and counties, in particular, can help a  
12 developer, or subsidize a project to get the rents,  
13 and the costs - and the, the costs down, to make it  
14 affordable for our citizens. But it's a very complex  
15 issue. It's not just - one thing isn't going to solve  
16 it. So --

17 CHAIR LOVINGOOD: Curt?

18 SUPERVISOR HAGMAN: (unintelligible) Mr. Chair.

19 CHAIR LOVINGOOD: Well, now, Bill again, and  
20 Mary Joe, and thank you both for - having one see  
21 every - cross paths often, so I want to thank you for  
22 being a part of that. And, and I think with the  
23 housing, you know, I - I think we'd probably agree on  
24 90% of it, and basically it's what comes out of  
25 Sacramento that drives --

1 WILLIAM JAHN: Exactly.

2 CHAIR LOVINGOOD: -- some of the  
3 unaffordability and, and, and the challenges. But - I  
4 mean, that's for another day. I'm just going to say -  
5 and I say that, I think both Curt and, and, and  
6 Senator Emmerson kind of alluded to some of that. But  
7 with that, you know, it's, it, it is a large district,  
8 and have you had the opportunity, there's three  
9 different incorporated cities, to have a chance to  
10 meet with any of their electeds, from a standpoint,  
11 because they - you know, we had a person meet with one  
12 of the community groups. But have you met with any of  
13 their City Councils that are elected to represent the  
14 area?

15 WILLIAM JAHN: Well, most of the - most of the  
16 electeds in the Third District I have a relationship  
17 with already because of my work on various boards, and  
18 - and I've certainly talked to them about this  
19 appointment, and had found a lot of support amongst  
20 the incorporated cities. So - very proud of that.

21 CHAIR LOVINGOOD: All right. Well, all right,  
22 thank you. I don't have any more. But thank you for  
23 coming down and spending your day.

24 WILLIAM JAHN: Thank you so much.

25 CHAIR LOVINGOOD: Thank you. Madam Clerk, our

1 next --

2 CLERK LAURA WELCH: Dawn Rowe.

3 CHAIR LOVINGOOD: All right. Good afternoon,  
4 Dawn, how are you?

5 DAWN ROWE: I'm well, thank you.

6 CHAIR LOVINGOOD: And thanks for coming down  
7 again. And if you'll just go ahead and share your  
8 opening, and discuss - further discussion.

9 DAWN ROWE: Thank you for the opportunity to  
10 come back. As I was sitting here listening to  
11 everybody speak today, I decided that my approach to  
12 you would be to share sort of how I approach life, and  
13 to put myself in other people's shoes. So today I  
14 will put myself in your shoes, and think about what it  
15 would be that I would look for in terms of the  
16 candidate that would represent the Third District, and  
17 how I believe that I would be that person.

18 So first and foremost, as I was contemplating  
19 my thoughts to you, I would offer that I would be  
20 accessible. I think it is important to have  
21 accessibility to our constituents, to you as a Board,  
22 to the staff members, to the County employees in the  
23 various departments within the County. And second  
24 would be intellect that I offer. I can certainly put  
25 my brainpower to the different challenges that we face

1 as a county. Next would be creativity and ingenuity.  
2 We face different and unique challenges, both in the  
3 Third District, as well as your own respective  
4 Districts. Supervisor Hagman, I've listened to you  
5 talk about technology. I would be interested in  
6 working with you to bring, such as Broadband Coalition  
7 that we have up in the high desert, and try to get  
8 that there. It affects healthcare. There are some,  
9 some great opportunities that we have, if we think  
10 outside of the box.

11 Supervisor Gonzales, we have - I was just up in  
12 Oregon, and they have a tremendous homeless program  
13 like we do. And I have friends and family there, and  
14 we were talking about what could - what could we do?  
15 How do we think differently to solve problems. And  
16 they have some great ideas up there that I would bring  
17 forward and, and look to solve, where we're co-  
18 locating services, and job employment opportunities.  
19 There's a, a coffeehouse up in the Seattle that offers  
20 - it's called Street Bean Café - Street Bean Coffee.  
21 And they employ only homeless people. So there are  
22 some interesting and unique things, and I think a, a  
23 creative, and looking it from an ingenious, different  
24 viewpoint can bring solutions to the problems that we  
25 share with other cities.

1           And then next, perseverance and tenacity.  
2   Often in this line of work, in public service, it is  
3   difficult to make headway without perseverance, and to  
4   be tenacious to, to get things done for your  
5   constituents, as well as for us a county as a whole as  
6   we look towards state and federal government issues.

7           And then lastly, I've kind of clumped these  
8   together - would be the ability to communicate  
9   effectively with an open mind, and that is important  
10   with all of us as Board members as we would interact  
11   together, and then to, to the constituents of the  
12   Third District. And one of the things that is - that  
13   I've learned in my time in working with the public is  
14   to have empathy for them. It is very difficult to  
15   sometimes tell a person no, but - and if you can  
16   communicate it effectively, and with empathy, it's,  
17   it's better received, and people understand it. I'm  
18   still called for all kinds of things at the local  
19   level - for example, potholes. Every time somebody  
20   has a pothole, they still call. It's great. I still  
21   help to fix it. I try not to explain that it's not a  
22   jurisdiction that I serve. I just have empathy for  
23   their situation, because those are the type of things  
24   that we all want fixed, and we all want done, and  
25   nobody wants to hear that it's not your jurisdiction.

1 So having empathy for the citizens of the Third, and  
2 to be able to communicate effectively, I think is, is  
3 something that I bring to the table.

4 And I would close by saying that - you asked me  
5 last time if I would consider running again, and I  
6 hadn't given it any thought, because it's sometimes  
7 painful to plan far out, as I had explained. That  
8 night I went home, I talked to both of my children and  
9 my significant other. And with their blessing, we  
10 contemplated it, we talked about it; the excitement  
11 built as to what that would look like if I was to run  
12 again, and I would happy to, to pursue that, and put  
13 myself out there, even if that doesn't come to be - if  
14 the, if the citizens didn't vote me in, that's okay.  
15 I'm willing to take a risk and do that.

16 And in full disclosure, for the things that  
17 we've heard today, I'd be happy to publish my resume,  
18 and the answers to the questions that I had that were  
19 submitted earlier, so that people could see how I  
20 answered those questions, and what's important to me.

21 CHAIR LOVINGOOD: Well, thank you. Thank you  
22 for that. Curt?

23 SUPERVISOR HAGMAN: Hi, Dawn. I, I will be the  
24 first to admit, I, I honestly don't know if we ever  
25 met before this process. If we did --



1 DAWN ROWE: We have not.

2 SUPERVISOR HAGMAN: If we did, I, I didn't  
3 remember, so I was afraid --

4 DAWN ROWE: We did not.

5 SUPERVISOR HAGMAN: -- to say that, with all  
6 the different events going on all over the place. And  
7 I find it - you know, strange, by reading and  
8 listening to your statements, how you came up very  
9 highly on everyone's list. Not strange - but I mean,  
10 when you have personal relationships --

11 DAWN ROWE: Sure.

12 SUPERVISOR HAGMAN: -- with three-quarters of  
13 the applicants --

14 DAWN ROWE: Sure.

15 SUPERVISOR HAGMAN: And yet you're the one I  
16 have - know the least about, really, from personal  
17 interaction.

18 DAWN ROWE: Um-hmm.

19 SUPERVISOR HAGMAN: My, my biggest question  
20 that I had retaining, well, you kind of already  
21 alluded to. And I kind of stated in my last, last  
22 time we talked, I'm, I'm - this is a complex level of  
23 government --

24 DAWN ROWE: Um-hmm.

25 SUPERVISOR HAGMAN: -- that Three - and even

1 that, probably the most complex district out of the  
2 five, I would say, because you have three separate  
3 zones, they have to be balanced, and the needs of one  
4 are not going to be the same as the needs of the  
5 other, and may be conflicting needs at some points  
6 with the rest of the county, or within, even within  
7 your district. And that's why I was really looking  
8 for the commitment from all the candidates - that if  
9 you're going to take this process, there's got to be  
10 the fire to go do it, and to learn the system --

11 DAWN ROWE: Um-hmm.

12 SUPERVISOR HAGMAN: -- and - on the many  
13 departments we have, and build the relationships, and  
14 that's going to take time; as well as the -  
15 realistically with the, the cycle is a little bit  
16 different next year, or next, next term. It's pretty  
17 much starting --

18 DAWN ROWE: Right.

19 SUPERVISOR HAGMAN: -- immediately --

20 DAWN ROWE: Yeah.

21 SUPERVISOR HAGMAN: -- almost. And so it's a  
22 lot going on, from a, from a short term to, to full  
23 speed, probably within two or three months, and both  
24 learning the county governance, as well as if you're  
25 actually trying to do that, try to convince the voters

1 that you like doing your own job. So that's - I, I  
2 appreciate your, your statements on that. And I just  
3 was looking for, for that commitment.

4 You heard some of the concerns in the, in the  
5 talking of folks that we had today in public comments.  
6 And I know you're from the higher desert, so I think  
7 you probably have a lot of those commonalities that  
8 they have, concerns that they have.

9 So I'm going to refocus you back down to the  
10 mountain community, and, and their valley, and say -  
11 what kind of connections do you have with them, and do  
12 you understand some of their issues they have, as  
13 well?

14 DAWN ROWE: I believe that I do. I'm going to  
15 point to my counterpart sitting out there - Bill Jahn  
16 and I go way back, and we've had the opportunity to  
17 work together when I was on the City Council. I, I've  
18 known many of the Council, the electeds, in the - the  
19 mountain areas. My family and I recreate up there.  
20 We have fun. At the federal level, we're involved in  
21 a policy where we're swapping land with the Forest  
22 Service in Big Bear to make it safer, have the US  
23 Forest Service manage the forest a little bit  
24 effectively than has been done in the past, and make  
25 it pretty - to the benefit of the Big Bear Lake

1 community on what that land swap would do.

2 So whether it's access for - through forest  
3 road issues, land use, water issues, the - I, I feel  
4 that my background at the federal level, and working  
5 with them, recreating, and living, and all that we do  
6 in the mountain communities - there is absolutely a  
7 learning curve for me in the lower part. I would - I  
8 mean, the benefit is, I come to work every day down  
9 here if I'm the appointee. I, I get to know the  
10 communities by interacting among them.

11 SUPERVISOR HAGMAN: Yeah, and you and Robert  
12 can carpool sometimes, I guess (unintelligible). I  
13 just have the traffic, but I still have a long  
14 commute. I'm good, Mr. Chair. Thank you.

15 CHAIR LOVINGOOD: Yeah. Janice?

16 SUPERVISOR RUTHERFORD: Last time we talked a  
17 lot about your policy experiences, both with local  
18 government, and your experience as the Congressman's  
19 representative. One thing I don't remember hearing a  
20 lot about, I wonder if you could expand on, is your  
21 experience in working with youth, particularly  
22 vulnerable youth. A lot of what the County does is  
23 serving that population --

24 DAWN ROWE: Um-hmm.

25 Janice. -- through a lot of different

1 programs, and obviously, our new concentration on  
2 homelessness. What experience have you had, both with  
3 direct service, and from a policy perspective, please?

4 DAWN ROWE: So I also substitute teach. I have  
5 a credential in NON (phonetic) and I work in our  
6 school districts, and I have had the opportunity to  
7 work with disadvantaged youth, both before, during,  
8 and after school with the programs that are offered -  
9 county programs as well as local programs. And I get  
10 to see firsthand the impact that stretching federal,  
11 state and local money does to help children that  
12 otherwise wouldn't have a leg up. And those programs,  
13 my ability - I started off, I went and got my teaching  
14 credential because I was volunteering in the  
15 classroom. So whether it's with before school, after  
16 school programs, that's probably where I've spent most  
17 of my time with the youth. I was a volunteer in our  
18 Sheriff's Search and Rescue Unit, where I became very  
19 close friends with two women who were in Child and  
20 Family Services. And we spent hours and hours talking  
21 about the system, how to change the system, how to  
22 make it better, and how to serve the kids that enter  
23 into the system through very unfortunate  
24 circumstances. And so I have a personal connection to  
25 that at the County, and I would enjoy bringing those

1 conversations that we've had through the years to  
2 fruition, and seeing some changes implemented, and -  
3 and then nonprofit work that we do, whether it's  
4 through the Boys and Girls Club, or the various boards  
5 that I've sit on, I've had exposure to, to the needs  
6 that we have here in the community.

7 SUPERVISOR RUTHERFORD: Thank you.

8 DAWN ROWE: Um-hmm.

9 CHAIR LOVINGOOD: Thank you. Supervisor  
10 Gonzales?

11 SUPERVISOR GONZALES: Thank you very much.  
12 Good afternoon. It's a pleasure to see you once  
13 again. I will, I will begin by saying that you have  
14 done an extraordinary job of coming out of the  
15 woodwork. You were one of the surprises I was looking  
16 for, and I think it, it commends the years and  
17 dedication that you've invested, I think, for many a  
18 worthy reason. With that said, no different than with  
19 the other candidates, I have several questions.

20 DAWN ROWE: Sure.

21 SUPERVISOR GONZALES: And, and I want, I want  
22 to be very candid with each one.

23 DAWN ROWE: Um-hmm.

24 SUPERVISOR GONZALES: You currently work for  
25 Congressman Paul Cook. Congressman Cook is and has

1     been a longtime friend --

2             DAWN ROWE:   Um-hmm.

3             SUPERVISOR GONZALES:  -- of mine, and of San  
4     Bernardino County.  He's carried bills for us, both in  
5     the state, and at the federal level, in Congress.  
6     Many of the issues that we face here at the county  
7     have to do with politics imposed on us by state, and  
8     in this case, federal government.  We do not always  
9     see eye to eye, and, and I daresay that we don't  
10    always see eye to eye with Congressman Cook.  If  
11    appointed to the Third District - District  
12    supervisory seat, how would you demonstrate that you  
13    will act in an independent, independent of Congressman  
14    Cook --

15            DAWN ROWE:   Um-hmm.

16            SUPERVISOR GONZALES:  How would you assure the  
17    residents of the Third District that you would fight  
18    for what's in their best interest, and - even if it  
19    might be contrary to what the federal government has  
20    as policies, or, or Congressman Cook's position?  Will  
21    there be, in other words, strings attached?

22            DAWN ROWE:   No, bluntly.  And I can give you an  
23    example.  If, if you know Congressman Cook - I have  
24    worked for him for 10 years.  You have to have a  
25    backbone to be in the job that we have, and I have no

1 problem clearly stating my opinion and thoughts to  
2 anyone, to include Congressman Cook. The example that  
3 comes to mind is - dates back to my reference to, in  
4 an earlier conversation, where the Marine Base was  
5 expanding into Johnson Valley, and I found myself at a  
6 personal crossroads because I was an off roader; I  
7 inherited that hobby from my husband, for my children.  
8 And yet, my late husband was a Marine. So it was kind  
9 of a weird position for me to be in, to want to fight  
10 for more land for us to recreate on, but knowing that  
11 it was going to potentially compromise the, the  
12 training needs in the Marine Corps. And Paul at that  
13 time came to me and he said, 'No, you know, I'm a  
14 Marine. We have to fight for this.' And I, I  
15 reminded him he, he was representing his constituents  
16 in the Eighth District. They were very passionate.  
17 They were very outspoken, and motivated, that as his  
18 representative that he was to represent their  
19 interests, and that was to preserve as much land in  
20 Johnson Valley as possible. And at that time, we had  
21 a very frank conversation, and I had no - no problem  
22 standing up to him and fighting for what I thought  
23 could be a compromise, that ended up being a  
24 compromise situation; and we had some fairly heated  
25 discussions and debate for what I felt passionate



1 about. And I would bring that same level of  
2 thoughtfulness in how I approached any issue. And  
3 that, that includes Congressman Aguilar, also, as a --

4 SUPERVISOR GONZALES: Excuse me - hold on a  
5 minute.

6 DAWN ROWE: Absolutely --

7 SUPERVISOR GONZALES: I, I'm hearing --

8 CHAIR LOVINGOOD: No, that's someone who just  
9 left.

10 SUPERVISOR GONZALES: Oh.

11 CHAIR LOVINGOOD: They, they're gone.

12 SUPERVISOR GONZALES: Oh, all right. I'm  
13 sorry. Go ahead.

14 DAWN ROWE: I don't - I don't view myself. I  
15 have a party registration, but on this nonpartisan  
16 seat, I bring with me certain ideologies, but more of  
17 an open mind, and I look forward to working with  
18 Congressman Aguilar in the same way that I would work  
19 with Congressman Cook. We have transportation needs  
20 and funding, and he sits on an integral committee that  
21 would impact all of us here in the county. And to  
22 bring - who - who - I mean, my, my party and my  
23 affiliations are insignificant when it comes to what  
24 is right for this county. So --

25 SUPERVISOR GONZALES: All right. I had - no

1 different than I stated earlier with other applicants  
2 - phone calls, emails, you know, one on one  
3 conversations - and no different with your  
4 application. It came up - it came to my attention  
5 that there was - whether it was gossip, or innuendo,  
6 or a scuttlebutt - whatever you want to call it --

7 DAWN ROWE: Sure.

8 SUPERVISOR GONZALES: -- that somehow you were  
9 being prompted, promoted to run, to, to, to submit  
10 your application for consideration because it was  
11 Congressman Cook's intent to run for Third District  
12 Supervisor in 2020, and that you would be used as a  
13 placeholder. I called Congressman Cook --

14 DAWN ROWE: Um-hmm.

15 SUPERVISOR GONZALES: -- and I spoke to him,  
16 and I spoke very directly to him about my concern --

17 DAWN ROWE: Sure.

18 SUPERVISOR GONZALES: -- that I will not be  
19 used --

20 DAWN ROWE: Um-hmm.

21 SUPERVISOR GONZALES: -- I will not be tricked  
22 into thinking that I am truly vetting each candidate  
23 and giving full consideration, based on their  
24 application --

25 DAWN ROWE: Right.

1 SUPERVISOR GONZALES: -- their merit, and  
2 their, and their declared intent; made this very clear  
3 to him. With this, he assured me --

4 DAWN ROWE: Um-hmm.

5 SUPERVISOR GONZALES: -- that he did not have  
6 any intent to throw his hat in the ring --

7 DAWN ROWE: Um-hmm.

8 SUPERVISOR GONZALES: -- for Third District  
9 Supervisor in the year 2020. I'm saying this for the  
10 record. And I told him that although I am termed out  
11 in 2020, but that if God gives me life, and that  
12 anything happens to the contrary --

13 DAWN ROWE: Um-hmm.

14 SUPERVISOR GONZALES: I will come back and call  
15 him out. I say this because the responsibility that  
16 we have today, and however we cast our vote is  
17 something that we're going to have to live with.  
18 We're going to have to defend the vote; we're going to  
19 have to prompt and support the individual that we  
20 choose. And because I have been in this position  
21 before, and because I have lived to regret said  
22 decision before --

23 DAWN ROWE: Um-hmm.

24 SUPERVISOR GONZALES: -- I'm speaking from  
25 experience, and want to make this perfectly clear. I

1 think that you have done a phenomenal job. I want to  
2 set the record straight. I think, as I said before,  
3 there have been some, some serious deviations,  
4 especially when it came to the DRECP component, and  
5 it's important that the residents of the Third  
6 District find a commonality with whomever we end up  
7 electing. And I think - and I, I choose to say this  
8 directly to you because you did such an outstanding  
9 job.

10 DAWN ROWE: I appreciate that. If I may  
11 address your concern - I, I was asked if I would run  
12 again, outside of this Board, and I haven't lobbied  
13 any of you, or reached out to any of you for that --

14 SUPERVISOR GONZALES: No, you have not.

15 DAWN ROWE: -- type of one and one at all.

16 SUPERVISOR GONZALES: And I commend you for  
17 that.

18 DAWN ROWE: I appreciate that. And in going  
19 forward, someone asked me the same question that I was  
20 asked here - would I seek election to this seat in  
21 2020. And my answer, truly, from the heart is, I  
22 really don't like to plan long term because it's  
23 painful when it doesn't happen. However, I, I said,  
24 in all candor, and I used Chad Mayes, and Paul Cook, I  
25 said, 'I would like to run for the seat. But you

1 never know what happens in politics. Who's to say  
2 that - for example, ' - and this was a private  
3 conversation that apparently was repeated, or perhaps  
4 your gossip, or the - however it came to your  
5 knowledge, was repeated differently, 'But what happens  
6 when someone like Congressman Cook, Assemblyman Mayes,  
7 change course in their careers, and they decide that  
8 they should seek that seat. I would absolutely defer  
9 to their - to their experience, and what they would  
10 bring to the table, and I would not run again in that  
11 example.' That was an answer that I gave to a  
12 colleague of mine, that I was being truthful at that  
13 time. I would not run against them for this position,  
14 when we were talking. I would - felt that I was being  
15 deferential to their experience coming back to county  
16 level. And that was it.

17 So Congressman Cook and I - he, he intends to  
18 run for Congress again. He's actively pursuing that.  
19 There is no deviation in that course, either  
20 internally, externally, or otherwise. That is his  
21 intent. And he and I have not had a conversation, nor  
22 has anybody on our staff to the contrary. So I just  
23 want to assuage that concern.

24 SUPERVISOR GONZALES: So then for the record,  
25 you are saying that you would not run against

1 Congressman Cook or Assembly Member Chad Mayes.

2 DAWN ROWE: Wouldn't that be spicy. I - I'm  
3 not saying that for the record. I was asked that last  
4 week --

5 SUPERVISOR GONZALES: Correct. But I'm asking  
6 you now.

7 DAWN ROWE: -- before we got in here.

8 SUPERVISOR GONZALES: But I'm asking you now.

9 DAWN ROWE: I, I would certainly run against  
10 either of them.

11 SUPERVISOR GONZALES: Thank you. Thank you,  
12 Mr. Chair.

13 CHAIR LOVINGOOD: All right. You're welcome.  
14 Any additional questions? And again, Dawn, I want to  
15 thank you for taking place, coming down and being a  
16 part of really the whole application process. I'm  
17 certain it's probably something, in some ways, again  
18 wasn't on the radar; wasn't kind of --

19 DAWN ROWE: Um-hmm.

20 CHAIR LOVINGOOD: -- right somebody had a  
21 target on. I look at - kind of two things - your  
22 ability of - on a federal and also state level  
23 experience, and that as a city, and, and a city, in  
24 particular, right in the heart of the district. And,  
25 and you've made the sacrifices to move forward, and I

1 think work in a very positive way. You also have done  
2 a great job with your community service, and your  
3 service back, through the Congressman's Office. So I  
4 don't have any additional questions. I think we'll  
5 bring this back to our Board, but we appreciate that -  
6 you coming and participating - as with every member  
7 that came and participated today. So thank you.

8 DAWN ROWE: Thank you for the opportunity.

9 CHAIR LOVINGOOD: Um-hmm. All right. So I'm  
10 going to move back this - to this Board. And I'm  
11 going to again make the motion that we appoint Dawn  
12 Rowe as the sitting new Third District Supervisor. Is  
13 there a second?

14 SUPERVISOR RUTHERFORD: I'll again second that.

15 CHAIR LOVINGOOD: Okay. All in favor.

16 (Chorus of Ayes)

17 CHAIR LOVINGOOD: Carries unanimously. Dawn,  
18 welcome to the position. And let's move forward. So  
19 thank you.

20 (applause)

21 CHAIR LOVINGOOD: Dawn - if you would like, if  
22 you will stick around, we will swear you in for the  
23 position.

24 DAWN ROWE: What about my family?

25 CHAIR LOVINGOOD: You can - well, should - say

1 that --

2 DAWN ROWE: Should I resign my position?

3 CHAIR LOVINGOOD: I would.

4 DAWN ROWE: Okay.

5 CHAIR LOVINGOOD: That would probably do that  
6 in that order. And, and then, then we can. But what  
7 I say is if we want, and then if you want family  
8 members back, we can bring it again for more ceremony.  
9 But as the position, to get you up to speed - to get  
10 you up to speed. I know this is a little rushed.  
11 I'll let you mingle for a minute, then if you'll come  
12 back down, that'd be great.

13 SUPERVISOR RUTHERFORD: Perhaps we should - we  
14 should ask Counsel - does the swearing in have to be  
15 done in a meeting of this Board, or can that be done  
16 privately?

17 MICHELLE BLAKEMORE: Swearing in can be done at  
18 any time, because I think the Clerk of the Boards are  
19 authorized to do it, as are, I think, any of the Board  
20 members. So it can be done at any time. If, if you'd  
21 like to do it today to, you know, just get her in, and  
22 a chance to kind of get up to speed, and then you can  
23 do a ceremonial one at the, at the next meeting, or --

24 SUPERVISOR RUTHERFORD: Well, I'm just  
25 concerned about our, our --



1 CHAIR LOVINGOOD: Yeah.  
2 SUPERVISOR RUTHERFORD: -- hitting the legal  
3 deadline before Christmas --  
4 MICHELLE BLAKEMORE: Correct.  
5 SUPERVISOR RUTHERFORD: -- is upon us.  
6 MICHELLE BLAKEMORE: Correct.  
7 SUPERVISOR RUTHERFORD: So I just want to --  
8 CHAIR LOVINGOOD: Yeah.  
9 MICHELLE BLAKEMORE: So - if my recommendation  
10 would be --  
11 CHAIR LOVINGOOD: And if you have to go ahead  
12 and resign - you - would you be more comfortable  
13 taking that --  
14 DAWN ROWE: I think it would be the proper  
15 order to do it.  
16 CHAIR LOVINGOOD: Okay. So take - do you - how  
17 much time would you --  
18 DAWN ROWE: Five minutes.  
19 CHAIR LOVINGOOD: Okay. (laughter) All right.  
20 Well, we like the speed of light that you move.  
21 SUPERVISOR GONZALES: (unintelligible)  
22 DAWN ROWE: (unintelligible) very quickly are  
23 on my phone.  
24 CHAIR LOVINGOOD: Why don't you - let's do  
25 this.

1 FEMALE SPEAKER: A break?

2 CHAIR LOVINGOOD: If I can get my members to -  
3 my peers here. Why don't we take a half hour break,  
4 15 minute break.

5 SUPERVISOR HAGMAN: No, not a half hour.

6 CHAIR LOVINGOOD: Fifteen.

7 SUPERVISOR HAGMAN: No, you're - 15  
8 (unintelligible).

9 CHAIR LOVINGOOD: Ten.

10 FEMALE SPEAKER: (unintelligible)

11 SUPERVISOR RUTHERFORD: She said five.

12 CHAIR LOVINGOOD: No, ten. Five.

13 (voices overlapping)

14 CHAIR LOVINGOOD: All right. Please - move  
15 forward and come back, we'll swear you in. Thank you,  
16 Dawn.

17 (Break is Taken)

18 (voices overlapping)

19 CLERK LAURA WELCH: I - and then state your  
20 name.

21 DAWN ROWE: I, Dawn Rowe --

22 CLERK LAURA WELCH: Do solemnly swear or affirm

23 --

24 DAWN ROWE: -- do solemnly swear or affirm --

25 CLERK LAURA WELCH: -- that I will support and

1 defend --

2 DAWN ROWE: -- that I will support and defend -  
3 -

4 CLERK LAURA WELCH: -- the Constitution of the  
5 United States --

6 DAWN ROWE: -- the Constitution of the United  
7 States --

8 CLERK LAURA WELCH: -- and the Constitution of  
9 the State of California --

10 DAWN ROWE: -- and the Constitution of the  
11 United States of California --

12 CLERK LAURA WELCH: -- against all enemies,  
13 foreign and domestic.

14 DAWN ROWE: -- against all enemies, foreign and  
15 domestic.

16 CLERK LAURA WELCH: That I will bear true faith  
17 and allegiance --

18 DAWN ROWE: That I will bear true faith and  
19 allegiance --

20 CLERK LAURA WELCH: -- to the Constitution of  
21 the United States --

22 DAWN ROWE: -- to the Constitution of the  
23 United States --

24 CLERK LAURA WELCH: -- and the Constitution of  
25 the State of California --

1           DAWN ROWE:  -- and the Constitution of the  
2 State of California --  
3           CLERK LAURA WELCH:  That I take this obligation  
4 freely --  
5           DAWN ROWE:  That I take this obligation freely  
6 --  
7           CLERK LAURA WELCH:  -- without any mental  
8 reservation --  
9           DAWN ROWE:  -- without any mental reservation -  
10 -  
11          CLERK LAURA WELCH:  -- or purpose of evasion --  
12          DAWN ROWE:  -- or purpose of evasion --  
13          CLERK LAURA WELCH:  -- and that I will well and  
14 faithfully --  
15          DAWN ROWE:  -- and that I will well and  
16 faithfully --  
17          CLERK LAURA WELCH:  -- discharge the duties --  
18          DAWN ROWE:  -- discharge the duties --  
19          CLERK LAURA WELCH:  -- upon which I am about to  
20 enter.  
21          DAWN ROWE:  -- upon which I am about to enter.  
22          CLERK LAURA WELCH:  Congratulations.  
23          DAWN ROWE:  Thank you very much.  
24          (applause)  
25          MALE SPEAKER:  (unintelligible)

1 SUPERVISOR GONZALES: It's an honor.  
2 DAWN ROWE: Thank you.  
3 SUPERVISOR GONZALES: It's an honor.  
4 (unintelligible)  
5 CHAIR LOVINGOOD: Hey, Dawn, if you'll come  
6 back here to sign, please. Clerk?  
7 CLERK LAURA WELCH: (unintelligible)  
8 DAWN ROWE: So I don't have readers, and do you  
9 - just (unintelligible).  
10 CLERK LAURA WELCH: Print your name.  
11 DAWN ROWE: Right.  
12 FEMALE SPEAKER: (unintelligible)  
13 SUPERVISOR HAGMAN: You've got the chip to put  
14 in there now, right? (laughter)  
15 CHAIR LOVINGOOD: Very good. Congratulations.  
16 FEMALE SPEAKER: Congratulations.  
17 (applause)  
18 DAWN ROWE: Thank you.  
19 CHAIR LOVINGOOD: (unintelligible) later  
20 (unintelligible). Well, do you have any comments  
21 you'd like to say? (unintelligible)  
22 DAWN ROWE: I would just like to thank everyone  
23 present - the citizens - I look forward to  
24 representing all of you, with an open mind, and with  
25 all the energy that I have to do an effective job for

1 the Third District. And I'd like to thank the  
2 Chairman and the Board for the opportunity to continue  
3 this term, and look forward to running in 2020.

4 CHAIR LOVINGOOD: Again, thank you very much.  
5 (applause)

6 SUPERVISOR HAGMAN: And we're going to give  
7 you, like, 30 volumes of stuff to study over Christmas  
8 break.

9 DAWN ROWE: Perfect.

10 SUPERVISOR HAGMAN: When our next meeting is -  
11 what, January 8th, and then you're all set.

12 CHAIR LOVINGOOD: January the 8th. It's --

13 SUPERVISOR HAGMAN: So you'll be all right up  
14 to speed.

15 DAWN ROWE: It - but - is this the appropriate  
16 time to say I have to brief family trips between now  
17 and mid-January - that will not conflict --

18 FEMALE SPEAKER: No, this is not the --

19 DAWN ROWE: -- with any Board meeting.

20 FEMALE SPEAKER: -- appropriate time to say  
21 that.

22 CHAIR LOVINGOOD: Believe me, as long as they  
23 don't conflict, you'll be --

24 DAWN ROWE: And, and would - I would love, as I  
25 assemble a transition team, the help from --

1 CHAIR LOVINGOOD: We all --

2 DAWN ROWE: -- all of you, and time to get up  
3 to speed. So --

4 CHAIR LOVINGOOD: Yes. And we'll all be there  
5 --

6 DAWN ROWE: Okay. Thank you.

7 CHAIR LOVINGOOD: -- to help you.

8 DAWN ROWE: Awesome.

9 CHAIR LOVINGOOD: And when I say that, I mean,  
10 as a group we work well together. You've got a great  
11 deal of leadership, and with Josie's office now, to  
12 Janice's, to Curt, and myself - any way that we can  
13 help, and you have some great Department heads, with  
14 many of the issues, and any way that we can help,  
15 establish any meetings between now and that time,  
16 we'll certainly do so.

17 DAWN ROWE: All right.

18 CHAIR LOVINGOOD: I think all my peers will -  
19 we look forward, and thank you for being willing to  
20 participate.

21 DAWN ROWE: Thank you for the opportunity.

22 CHAIR LOVINGOOD: So --

23 SUPERVISOR GONZALES: And - and if I may --

24 CHAIR LOVINGOOD: Go ahead, Supervisor --

25 SUPERVISOR GONZALES: -- Mr. Chair - I want to

1 thank all of the applicants. I want to thank  
2 especially the residents of the Third District who,  
3 who have depended on our wisdom and our judgement. I  
4 ask that our new supervisor, Dawn Rowe - that you take  
5 this moment as an experience for the rest of your life  
6 - that the people of San Bernardino County now have a  
7 full Board of Supervisors who will make the wise and  
8 right decisions on their behalf. This has been a  
9 process that has been very deliberative, very  
10 difficult. And I am honored to, from this point  
11 forward, to serve with you. Congratulations.

12 DAWN ROWE: Thank you.

13 CHAIR LOVINGOOD: Now --

14 SUPERVISOR HAGMAN: Mr. Chair - I'm --

15 CHAIR LOVINGOOD: Go ahead.

16 SUPERVISOR HAGMAN: I, I would also just point  
17 out, it was brought to our attention the historical  
18 significance. Didn't know that 'til just now - that  
19 this is the first time that this Board, in the history  
20 of San Bernardino, has had a majority of female  
21 supervisors, so I guess we're setting new records.  
22 But you know, we want to appreciate - and I wanted to  
23 echo the same thing. A lot of friends in this  
24 process, a lot of friends that I'm sure were hoping  
25 for different outcomes. But we had a great quality



1 group applying, and I'm proud of the residents of San  
2 Bernardino to have such great applicants coming in,  
3 and such a diverse group, for a diverse area. And you  
4 know, I'm proud to serve with Dawn. But also, if a  
5 lot of the ones that had applied, and congratulate  
6 you, and good luck --

7 DAWN ROWE: Thank you.

8 SUPERVISOR HAGMAN: Getting - drinking from the  
9 fire hose coming forward.

10 CHAIR LOVINGOOD: Janice?

11 SUPERVISOR RUTHERFORD: What I heard all of the  
12 applicants say is that those who were in that room  
13 together last week recognized the absolute quality, of  
14 character, and ideas, and policy experience, and  
15 humanity of the applicants. And we, the four of us,  
16 were so very fortunate to have so many wonderful  
17 people to choose from, that we heard from last week,  
18 that we heard from today, that we read through forty-  
19 some applications for. The Third District has a  
20 tremendous amount of talent. And you are fortunate,  
21 Supervisor, to now have the opportunity to call on all  
22 of them, as well as your constituents.

23 DAWN ROWE: Absolutely.

24 SUPERVISOR RUTHERFORD: To learn about the  
25 issues --

1 DAWN ROWE: Yep.

2 SUPERVISOR RUTHERFORD: -- to have a brain  
3 trust to turn to. It was an honor to get to vote for  
4 you, and it was sad to not be able to vote for so many  
5 friends in this process. I hope all of them  
6 understand, and I hope that they, by seeing you  
7 interview, and the answers you gave in your  
8 interactions, why you rose to the top of this process.  
9 I'm, I'm happy for you. I'm delighted for the Third  
10 District. And I really, really look forward to  
11 working with you. And I know you're going to have a  
12 great time on this Board, and serving the Third  
13 District. Congratulations.

14 DAWN ROWE: Thank you very much.

15 CHAIR LOVINGOOD: Well, I'll just conclude with  
16 some comments. And, and I think, to echo all my  
17 peers, this was a very tough decision. But I can  
18 share with you, one that was made because as we see  
19 the growth in the desert, and I look at the next 10,  
20 20, 30, 40 years, it's going to be our districts, and  
21 also really, as we step down into Supervisor Gonzales'  
22 district that's going to - today we share some in  
23 common, some really common issues amongst the three,  
24 as the largest, really, incorporated areas. And if we  
25 work, I think, in the proper - really if we move

1 forward in the way I believe we should, and if we're  
2 in the agreement - we have the resources of  
3 Millennials; we have the resources of the population;  
4 we have a lot of reasons why we win. And it's going  
5 to take careful and wise decisions on those areas, and  
6 that's why I look forward to working with you. If  
7 you'll notice, with the exception - I look towards who  
8 really had an understanding of our, our communities  
9 and our districts in the desert, because it is going  
10 to be a growing piece. I'm not taking anything away  
11 from my peers, but they often, often have very strong,  
12 big cities that they surround. And those cities have  
13 great leadership, for the most part. And I say that,  
14 so - that's - really kind of furthers my reason for  
15 the (unintelligible). So welcome aboard. We look  
16 forward to working with you. It'll be quite a run-up,  
17 believe me.

18 So with that, I'm going to close, and just -  
19 Happy Holidays, Merry Christmas, and a great New  
20 Years. I wish everybody to be safe during that time.  
21 And also, our next meeting is going to take place on  
22 January 8th, and it's going to be held in the temporary  
23 - the Covington Chambers, in the old meeting, while  
24 the renovation work is being done. Correct, Madam  
25 Clerk?

1 CLERK LAURA WELCH: That's correct - still on  
2 the first floor.

3 CHAIR LOVINGOOD: Oh.

4 CLERK LAURA WELCH: It's right over here.

5 CHAIR LOVINGOOD: Yeah, right around the  
6 corner. So everybody's aware of that - that's where  
7 we'll, we'll be as the work's being done. So again, I  
8 want to thank everybody today. Go home, and have a  
9 good night, and we'll see many of you this week.  
10 Thank you.

11 (END OF MEETING)

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TRANSCRIBER'S CERTIFICATE

I, MARY HARLOW, attest that the foregoing proceedings provided to me via video were transcribed by me to the best of my ability.

I further attest that I am not a relative or employee to any attorney or party nor financially interested in this action.

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

Dated this 23rd day of May, 2019.

  
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MARY HARLOW

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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **FOR THE COUNTY OF SAN BERNARDINO**

15 MICHAEL GOMEZ DALY and INLAND  
16 EMPIRE UNITED,

17 Petitioners,

18 v.

19 BOARD OF SUPERVISORS OF SAN  
20 BERNARDINO COUNTY; ROBERT A.  
21 LOVINGOOD, as First District Supervisor and  
22 Chair of the Board of Supervisors; JANICE  
23 RUTHERFORD, as Second District Supervisor  
24 and Vice Chair of the Board; CURT HAGMAN,  
25 as Fourth District Supervisor of the Board; and  
26 JOSIE GONZALES, as Fifth District Supervisor  
27 of the Board,

25 Respondents.

26 \_\_\_\_\_  
27 DAWN ROWE,

27 \_\_\_\_\_  
28 Real Party in Interest.

Case No. CIVDS1833846

**REPLY IN SUPPORT OF PETITIONERS'  
MOTION FOR PEREMPTORY WRIT OF  
MANDATE**

Date: June 28, 2019

Time: 1:30 p.m.

Dept.: S29

Judge: Hon. Janet M. Frangie

Action Filed: December 31, 2018

Trial Date: June 28, 2019

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1       **I.       INTRODUCTION**

2           On December 10, 2018, the San Bernardino County Board of Supervisors (“Board”) took  
3 action to conduct, in effect, a secret primary to fill a vacancy in the position of Third District  
4 Supervisor. From a pool of 48 qualified applicants, the Board selected 13 to interview and for further  
5 consideration. This winnowing process was conducted outside of public view and via secret ballot:  
6 The County Clerk received votes from each Supervisor and recorded those votes—without the  
7 Supervisor’s name—on a single tally sheet. Based on the result of this vote, the Board conducted  
8 interviews of the 13 applicants so selected on December 11. None of the other applicants was  
9 interviewed.<sup>1</sup>

10           After being notified that its conduct had violated the Brown Act, the Board purported to  
11 “rescind the prior action” at its December 18 meeting. (See Declaration of Laura Welch (“Welch  
12 Decl.”) Exh. 31 ROP 550, 592-93.) But this “rescission,” and the purportedly new process that  
13 followed, were merely ceremonial. The Board did not wipe the slate clean in order to cure its  
14 violation; rather, it continued to draw on its unlawful process, interviewing the five finalists selected  
15 on December 11 from the secretly winnowed pool. After these interviews, and without further public  
16 comment or deliberation, the Board appointed Dawn Rowe (“Rowe”) to the position of Third District  
17 Supervisor.

18           The Board attempts to avoid the statutorily mandated nullification remedy for its misconduct  
19 by invoking defenses to Petitioners’ Motion for Peremptory Writ of Mandate, some of which have  
20 previously been rejected by this Court, and all of which are meritless. Contrary to Respondents’  
21 mischaracterization, the Board’s December 10 actions were not a mere “interview notification”  
22 process, but an affirmative decision by the Board, through a secret vote and acting as a body, that it

---

23 <sup>1</sup> Respondents object to Paragraph 11 of the Declaration of Michael Gomez Daly, which states that the Board  
24 did not interview the remaining 35 candidates not selected through this secret ballot, on the grounds that it is  
25 “an argumentative characterization.” (County Respondents’ Objections to Decl. of Michael Gomez Daly  
26 (“Objections”) at 3.) None of these candidates were interviewed on December 11 and no interviews took place  
27 on December 13. (See Welch Decl. Exh. 29, 30.) As Petitioners have consistently stated, Christopher Carrillo  
28 was interviewed on December 18 following the Board’s purported “rescission” of the December 10 vote and  
December 11 interviews. (See First Amended Petition at ¶¶45, 48.) But Carrillo’s post-“rescission” interview  
does not alter the nature of the Board’s actions on December 10, which excluded Carrillo and 34 other  
candidates from a critical interview process.



1 would consider certain applicants, and not others, for the Third District Supervisor vacancy. This  
2 decision prejudiced both the disfavored candidates and the public, who were presented with only a  
3 subset of the candidates for further consideration and public comment but denied any opportunity to  
4 oversee or advocate with respect to the selection of this subset, and who still do not know which  
5 Board member voted for which applicants on December 10. Petitioners promptly and adequately  
6 alerted the Board to its Brown Act violations and the steps Petitioners believed were necessary to  
7 cure or correct them. Instead, as the transcript of the Board’s December 18 meeting shows, the Board  
8 continued the unlawful process, culminating in the appointment of a Supervisor from an unlawfully  
9 winnowed pool of candidates.

10 Rowe’s appointment is therefore null and void. (*See* Gov. Code §54960.1(a); all  
11 undesignated statutory references are to this code.) Both the unlawfulness of the Board’s actions and  
12 the appropriateness of the nullification remedy are squarely supported by case law. (*See Stockton*  
13 *Newspapers, Inc. v. Members of Redevelopment Agency* (1985) 171 Cal.App.3d 95, 102 (*Stockton*  
14 *Newspapers*); *Hernandez v. Town of Apple Valley* (2017) 7 Cal.App.5th 194, 209 (*Apple Valley*).)  
15 This Court should grant Petitioners’ Motion.

16 **II. FACTUAL BACKGROUND**

17 Petitioners have set forth the relevant facts in their First Amended Petition, Motion for  
18 Peremptory Writ of Mandate, and prior briefing. But, because Respondents now misstate several of  
19 these facts, Petitioners draw the Court’s attention to the more significant inaccuracies.<sup>2</sup>

---

20 <sup>2</sup> Respondents raise evidentiary objections to five paragraphs (¶¶5, 6, 9, 12, and 13) of the Declaration of  
21 Michael Gomez Daly submitted in support of Petitioners’ Motion for Peremptory Writ of Mandate.  
22 Respondents do not contest the accuracy of these statements, but instead assert that the Declaration offers  
23 quotes and statements “out of context.” (Objections at 2.) These statements in Gomez Daly’s declaration  
24 were neither inadmissible hearsay nor misleading. Gomez Daly’s Declaration directed the Court to the  
25 Board’s website, where the Board maintains the videos described in readily accessible form. Petitioners did  
26 not offer the Supervisors’ remarks described in the Declaration for the truth of those remarks, but for the fact  
27 that such remarks were made and recorded on the Board’s official video. This is not hearsay. (*See People v.*  
28 *Goldsmith* (2014) 59 Cal.4th 258, 274 (video recording is not “statement” within the meaning of the Evidence  
Code).) In any case, the Court may now review the transcripts of the referenced videos in full, as well as the  
videos. (*See* Declaration of Laura Welch (“Welch Decl.”) Exh. 27-31.) Respondents identify two alleged  
mischaracterizations in the Gomez Daly Declaration, but the transcripts offered by Respondents are consistent  
with Gomez Daly’s account of events. Specifically, Supervisor Gonzales repeated her objection to the  
proposed process for limiting interviews to a subset of candidates and eventually voted against it. (Welch  
Decl. Exh. 28 ROP 257, 260; compare Gomez Daly Declaration ¶5) Regardless as to *why* Supervisor Hagman

1 First, Respondents misstate the order of events on December 18. All public comments at the  
2 December 18 meeting occurred *prior* to the Board’s vote to rescind its prior actions, adoption of a  
3 modified procedure, and interviews of the six newly selected nominees. (Contrast Welch Decl. Exh.  
4 31 ROP 593-605 and Respondents’ Opposition to Petitioners Motion for Peremptory Writ (“Opp.”) at  
5 9.) The public was not invited to comment on the modified procedure after it was proposed, on the  
6 selection of the six nominees once that procedure was adopted, or the substance of the interviews the  
7 Board conducted pursuant to the modified procedure. Second, Respondents omitted from their  
8 description of the sequence of events on December 18 Chair Lovingood’s motion to appoint Rowe  
9 without any further process. (Contrast Welch Decl. Exh. 31 ROP 598 and Opp., p. 9.)

10 **III. ARGUMENT**

11 **A. The Board Violated the Brown Act By Conducting a Secret Primary for the Third  
12 District Supervisor Position**

13 On December 10, 2018, the Board selected 13 candidates to interview for the position of  
14 Third District Supervisor. This selection was “action taken” within the meaning of §54952.6.<sup>3</sup> The  
15 Board had previously decided that the votes cast on December 10 would determine which candidates  
16 would be considered for the Third District Supervisor position. (See Welch Decl. Exh. 28 ROP 259-  
17 60.) These votes were cast and tallied outside a public meeting, and the result, recorded on a single  
18 “tally sheet,” reflected the collective decision of the Board. (See Gomez Daly Decl., ¶¶5, 7, see Exh.  
19 1-2; First Amended Petition ¶28.) Thus, through a series of seriatim communications with the  
20 County Clerk, the Board reached a “collective decision,” based on an “actual vote” as to which  
21 candidates would receive an interview. (See §54952.6 (defining “action taken”).) The “tally sheet”

22 \_\_\_\_\_  
23 was surprised at the degree of support for Dawn Rowe, the significance of his statement that he was surprised  
24 “she came up highly on everyone’s list,” lies with Supervisor Hagman’s acknowledgment that other  
25 Supervisors’ December 10 and December 11 votes influenced his impression of the candidate. (Welch Decl.  
26 Exh. 28 ROP 653; compare Gomez Daly Declaration ¶12(n).) None of the additional “context” proffered by  
27 Respondents undermine Gomez Daly’s characterization of Supervisors Gonzales’ and Hagman’s statements.  
28 <sup>3</sup> Respondents, citing *Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109, 1116-17, 1118 (*Boyle*),  
state that “an action to invalidate requires both deliberation and action taken by the legislative body.” (Opp.,  
p. 15.) This is a misstatement of law that finds no support in *Boyle*. *Boyle* states that “[w]here  
discussions...occur but no action has been taken, there is no ground for relief under section 54960.1.” *Boyle*,  
*supra*, 70 Cal.App.4th at 1118, 1116-7. But the *Boyle* court held that an assertion that there was ““action  
taken’...in connection with the violation” is sufficient to state a cause under that same section. Nowhere does  
*Boyle* purport to make *deliberation*, as well as action, a requirement for nullification.

1 reflects that collective decision and was the basis on which applicants were invited to interview on  
2 December 11.

3         The Brown Act explicitly prohibits such conduct. Legislative bodies “shall not, outside of a  
4 meeting authorized by this chapter, use a series of communications of any kind, directly or through  
5 intermediaries, to...take action on any item of business that is within the subject matter jurisdiction of  
6 the legislative body.” (§54952.2(b)(1).) But that is precisely what the Board did: The clerk solicited  
7 votes from the Supervisors in one-on-one communications “for the commonly agreed purpose of  
8 obtaining a collective commitment” to select a smaller group of candidates for further consideration  
9 based on the number of votes so received. (See *Stockton Newspapers, supra*, 171 Cal.App.3d at 98.)<sup>4</sup>

10         Respondents attempt to avoid this conclusion by characterizing the Board’s actions on  
11 December 10 as merely “manag[ing] the interview notifications.” (See Opp., pp. 7, 15.) This  
12 description is disingenuous.<sup>5</sup> The December 10 vote *determined* which candidates would be allowed  
13 to participate in “the interview process.” If such decisions were not “action taken,” legislative bodies  
14 could manipulate the set of options to be presented to the public through private meetings before  
15 presenting a constrained and pre-determined subset for a “public” vote. This is inconsistent with the  
16 letter and purpose of the Brown Act. (See *ILWU v. Los Angeles Export Terminal, Inc.* (1999) 69  
17 Cal.App.4th 287, 294 (*ILWU*) (“[A]s a remedial statute, the Brown Act should be construed liberally  
18 in favor of openness so as to accomplish its purpose and suppress the mischief at which it is  
19 directed.”).) Indeed, by Respondents’ reasoning, a firm that interviews only men from a pool of men  
20 and women applicants cannot be accused of discrimination because, in selecting which candidates  
21 from the pool to interview, the firm was not taking action in the hiring process but merely managing  
22 the interview process.

---

23 <sup>4</sup> Respondents attempt to avoid the force of *Stockton Newspapers*—which addressed a closely analogous  
24 factual situation involving the use of seriatim communications to conduct a vote—by asserting that it was “not  
25 an invalidation action under Government Code §54960.1.” (Opp., p. 15.) But *Stockton Newspapers* was  
26 decided in 1985, prior to the enactment of §54960.1; that plaintiffs in *Stockton Newspapers* could not obtain  
27 the statutory remedy now available to Petitioners does not detract from the similarity in the *violation* alleged  
28 there and here.

<sup>5</sup> It is also inconsistent with the Board’s own characterization. The Board’s official agenda item and Chair  
Lovingood’s statements at the December 18 meeting characterize its selection of 13 candidates to interview as  
“prior actions.” (See Welch Decl. Exh. 31 ROP 550, 592-593; Petitioners’ RJN Exh. 9.)

1           **B. The Board Failed to Cure or Correct this Violation**

2           Notwithstanding its actions on December 18, 2018, the Board has failed to “cure or correct”  
3 this violation within the meaning of §54960.1. By its plain meaning, to “cure” a violation, a  
4 legislative body must “deal with [the violation] in a way that eliminates or rectifies,” and “free” their  
5 actions “from something objectionable or harmful.” (*Webster’s New Collegiate Dict.* (1979) p. 276.)  
6 Similarly, to “correct” a violation, a legislative body must “make or set [it] right.” (*Id.* at p. 252) The  
7 Board’s actions on December 18 did not “rectify” the harm caused by its secret ballot or “free” the  
8 appointment of Rowe from the “objectionable [and] harmful” effects of excluding the public from the  
9 winnowing process. The Board failed to make even pretense of “eliminat[ing]” the consequences of  
10 its unlawful winnowing of the candidate pool. Instead, the Board selected the same five candidates it  
11 had previously invited to return for additional interviews, then repeatedly referred to and relied upon  
12 those candidates’ answers on December 10. (See, e.g., Welch Decl. Exh. 31 ROP 644, 646, 656.)  
13 For example, Supervisor Rutherford told Rowe that because “[I]ast time we talked a lot about  
14 [Rowe’s] policy experiences,” Supervisor Rutherford “wonder[ed] if [Rowe] could expand on  
15 [Rowe’s] experience in working with youth.” (*Id.* at 656.)

16           Respondents point to *Page v. Miracosta Community College District et al.* (2009) 180  
17 Cal.App.4th 471 (*Page*) and *Morrison v. Housing Authority of the City of Los Angeles Board of*  
18 *Commissioners* (2003) 107 Cal.App.4th 860 (*Morrison*) as purported contrasts to the facts here,  
19 asserting that in those cases the legislative bodies’ “lengthy fact-finding and deliberation...could not  
20 be cured by simply repeating the process in open session.” (Opp., pp. 12-13 (citing *Page, supra*, 180  
21 Cal.App.4th at 501 and *Morrison, supra*, 107 Cal.App.4th at 872).) But the Board’s conduct here is  
22 directly analogous to the purported cures found inadequate in *Page* and *Morrison*. On Respondents’  
23 own account, public comment and interviews on December 11 “lasted more than five (5) hours.”  
24 (Opp., p. 8 (citing Welch Decl. at ¶7).) By contrast, the interview process on December 18 lasted for  
25 approximately one-fifth of that time. (See Gomez Daly Decl. at ¶12(g); Welch Decl. Exh. 31 ROP  
26 606-67.) Nor was it followed by any deliberation. The Board merely moved to a conclusion that was  
27 pre-ordained by the already tainted process. (See Gomez Daly Decl. at ¶13; Welch Decl. Exh. 31

1 ROP 666-67.)

2 The Board did not “set right” its earlier violation in limiting this lengthy, formal, public  
3 interview process to a secretly selected group of candidates. Instead, it conducted truncated, ad hoc  
4 interviews of a smaller subset of those candidates and then—without further discussion—concluded  
5 the process through the appointment of Rowe. Like the merely “ceremonial” reenactments of private  
6 decision-making in *Page* and *Morrison*, the Board’s actions on December 18 were a thinly disguised  
7 ratification of their earlier secret actions. (See *Page, supra*, 180 Cal.App.4th at 481-82 (approving a  
8 decision in properly noticed meeting did not “cure” prior violation in reaching the substance of the  
9 decision in an unlawful closed session); *Morrison, supra*, 107 Cal.App.4th at 876 (commissioners’  
10 vote to uphold termination in open meeting did not cure earlier violation in hearing evidence and  
11 deliberating in closed session).)

12 Respondents offer no evidence or case law to support the integrity or effectiveness of the  
13 Board’s purported rescission. Instead, they focus on the practicality of the cure proposed by  
14 Petitioners in their demand letter. (See Opp., pp. 12-13.) But whether the Board could have cured its  
15 violation through a means other than interviewing all eligible applicants for the Supervisor position at  
16 the time it received Petitioners’ demand letter is irrelevant. The Board’s actions on December 18 did  
17 not cure or correct the consequences of the December 10 secret primary, and so that primary—and  
18 thus the appointment of Rowe—must be declared null. (See §54960.1(a).)

19 **C. Petitioners and the Public were Prejudiced by the Board’s Violation**

20 The Brown Act “serves to facilitate public participation in all phases of local government  
21 decisionmaking and to curb misuse of the democratic process by secret legislation of public bodies.”  
22 (*ILWU, supra*, 69 Cal.App.4th at p. 293). Here, the public was excluded from a crucial phase of the  
23 process by which the Board selected a candidate to fill the Third District Supervisor position. The  
24 Board decided that only *some* of the eligible applicants would be given a public hearing, interview,  
25 and further consideration, but decided *which* applicants would merit such consideration via secret  
26 ballot and outside of public view or input. This was clearly prejudicial to public participation.<sup>6</sup>

27 <sup>6</sup> As Petitioners have explained in prior briefing, Respondents’ claim that petitioners must show prejudice in  
28

1 Moreover, Petitioners, and the general public, still do not know which Board members voted for  
2 which candidates in that secret primary. (First Amended Pet. ¶29.)

3 Respondents insist that because the County Charter did not require the Board to interview *all*  
4 applicants, Petitioners were not prejudiced by the Board’s decision to interview only thirteen of those  
5 candidates. (Opp., p. 16.) But this misunderstands the purpose of the Brown Act and of Petitioners’  
6 claim: The Brown Act requires that *if* the Board takes an action, it must do so in public. On the  
7 Board’s reasoning, so long as a legislative body is not legally required to undertake a particular  
8 action, it may decide *as a board* whether and how to implement that action in secret. But this would  
9 eviscerate the Brown Act. Although the Board was free to limit the number of interviews it  
10 conducted, it was obligated to make the decision as to which candidates to cull from the pool in  
11 public. By conducting a secret ballot instead, the Board deprived the public and Petitioners of their  
12 right to observe and participate in the decision-making process.

13 **D. Petitioners Provided Adequate Notice of the Board’s Violation**

14 Respondents renew their defense to Petitioners’ motion on the grounds that Petitioners did not  
15 send a second demand letter following the Board’s December 18 meeting. The Court rejected this  
16 defense in overruling Respondents’ Demurrer to Petitioners’ First Amended Petition. Nothing in  
17 §54960.1 suggests that interested persons must send successive notices if the Board fails to cure or  
18 correct the alleged violation. To the contrary, §54960.1(e) anticipates that the adequacy of a  
19 legislative body’s efforts to cure or correct may be litigated and determined during the course of an  
20 action filed pursuant to section 54960.1(a). (See §54960.1(e) (providing that “[d]uring any action

21 \_\_\_\_\_  
22 addition to a Brown Act violation is doubtful. (See Opp. to Demurrer at 19.) Nowhere does Government  
23 Code §54960.1 state such a “prejudice” requirement. Respondents cite a series of cases that derive such a  
24 prejudice requirement from a footnote in *Griffis v. County of Mono* (1985) 163 Cal.App.3d 414, 417, fn. 15.  
25 This footnote, which asserts that “while a decision made in violation of the [Brown Act] may subject the  
26 decisionmakers to criminal liability, the decision is not void,” has been superseded by Government Code  
27 §54960.1 and is no longer a correct statement of law. Moreover, none of the cases cited by Respondents  
28 include allegations of secret decisionmaking; to the contrary, where petitioners have alleged that decisions  
were taken in entirely secret meetings, courts have not mentioned, much less imposed, a requirement that  
petitioners show prejudice. (Contrast *Olson v. Hornbook Community Services Dist.* (2019) 33 Cal.App.5th  
502, 517 and *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley  
Unified School Dist.* (2006) 139 Cal.App.4th 1356, 1378, with e.g., *Page, supra*, 180 Cal.App.4th at p. 500  
and *Bell v. Vista Unified School District* (2000) 82 Cal.App.4th at p. 684.)

1 seeking a judicial determination pursuant to subdivision (a),” a court may determine the alleged  
2 violation “has been cured or corrected by a subsequent action,” and dismiss the suit.) Respondents,  
3 who informed Petitioners in writing on December 20 of their position that the Board’s December 18  
4 actions cured any earlier violation, cannot plausibly argue that a second demand letter disputing this  
5 assertion would have done anything but delay litigation. (See First Amended Petition Ex. B.)<sup>7</sup>

6 Nor does Respondents’ suggestion that Petitioners were required to send a demand letter  
7 seeking the nullification of Rowe’s appointment find any statutory support. Interested persons are  
8 required to “make a demand of the legislative body to cure or correct *the action alleged to have been*  
9 *taken in violation of Section 54953....*” (§54960.1(b) (emphasis added).) The action taken in  
10 violation of §54953 was the secret primary conducted on December 10, and Petitioners timely  
11 notified the Board of this violation. (First Amended Petition Ex. A.) The Board’s assertion that  
12 Respondents were required to send a second letter is inconsistent with *Apple Valley*. There, the  
13 Town Council acted unlawfully in putting an initiative on the ballot without adequate notice to the  
14 public of a related Memorandum of Understanding. (See *Apple Valley, supra*, 7 Cal.App.5th at 205.)  
15 Before the petitioner in that case had filed his First Amended Complaint, however, the Initiative was  
16 put before the Town’s voters, who approved the measure. (See *id.* at 196, 200.) If Respondents are  
17 correct that Petitioners here were required to send a second letter demanding the nullification of  
18 Rowe’s appointment, the petition in *Apple Valley* would have been denied for the petitioner’s failure  
19 to send a second demand letter after the Town Council proceeded with the election and the tainted  
20 Initiative was approved. But the trial court declared (and the Court of Appeal affirmed) the Initiative  
21 null and void. (*Id.* at 206, 209.)

22 \_\_\_\_\_  
23 <sup>7</sup> Indeed, under subdivision (c)(4) of §54960.1, interested persons have only a brief statutory window to file  
24 suit once a legislative body has responded to a demand letter. Requiring a petitioner to send, and receive a  
25 response to, a *second* demand letter alleging the inadequacy of a purported cure would permit legislative  
26 bodies to manipulate this tight timeline: Had Petitioners, upon receiving the Board’s December 20 letter, sent  
27 a second demand letter challenging the adequacy of the Board’s purported cure and awaited a response, the  
28 Board could have argued that the 15-day limitations period had run from the first letter identifying the  
violation and any suit would be untimely. The Brown Act cannot be reasonably read to create such a double-  
bind. (See, e.g., *Barragan v. Sup. Ct.* (2007) 148 Cal.App.4th 1478, 1484 (“Courts do not interpret statutes in  
a manner that results in absurd consequences that could not have been intended by the Legislature”).)

1 **E. Nullification of Dawn Rowe’s Appointment is the Appropriate Remedy for the**  
2 **Board’s Failure to “Correct or Cure” Its Violations of the Brown Act**

3 Finally, Respondents contend that even if the Board violated the Brown Act, the Court should  
4 not nullify Rowe’s appointment. None of the reasons Respondents offer justify making an exception  
5 to the statutorily required remedy in this case.<sup>8</sup> Respondents cite no case in which a legislative body  
6 took action in violation of the Brown Act but the court nevertheless declined to nullify that action on  
7 equitable grounds. In *Centinela Hospital Association v. City of Inglewood* (1990) 225 Cal.App.3d  
8 1586, 1598-99, cited by Respondents, the Court concluded that the legislative body had only engaged  
9 in discussions; no actions were taken and thus there was nothing to nullify. (Cf. Opp., p. 17.) Here,  
10 in contrast, and as explained *supra*, the Board took action to narrow the field of candidates for  
11 appointment to an otherwise elected position. That winnowing process must be nullified.

12 Indeed, as *Apple Valley* demonstrates, nullification of a Brown Act violation is required even  
13 where a legislative body has taken subsequent steps in compliance with the Act in reliance on prior  
14 violations. There, the Town Council violated the Act by failing to properly notice the fact that the  
15 Council would consider, and vote on, an MOU regarding funding for a special election on an  
16 Initiative at the same meeting the Council voted to put the Initiative on the ballot. *Apple Valley*,  
17 *supra*, 7 Cal.App.5th at 197-98, 208-09. Because the decision to agree to the MOU “was a major  
18 factor in the decision to send the matter to the electorate,” the Court nullified not just the MOU, but  
19 the placement of the Initiative on the ballot. *Id.* at 208. By nullifying the placement of the Initiative  
20 on the ballot, the Court nullified the results of the special election in which the Initiative had been  
21 approved by the electorate. (*Id.* at 196.) The Board’s public selection of Rowe from the unlawfully  
22 winnowed group of candidates, like the special election in which the Initiative was approved in *Apple*  
23 *Valley*, continued, rather than cured, a process tainted by secrecy. The Initiative was held null and  
24 void, and Rowe’s appointment should be as well.<sup>9</sup>

25 \_\_\_\_\_  
26 <sup>8</sup> Respondents renew their argument that “[q]uo warranto is the exclusive remedy for challenging title to a  
27 seat” and thus precludes a Brown Act suit challenging the Board’s actions in appointing Rowe. (Opp., p. 17.)  
28 Respondents do not offer new precedent or argument for their position and the Court has twice rejected this  
defense in response to Respondents’ demurrers. Petitioners therefore rely on their prior briefing if the Court  
wishes to revisit this issue.

<sup>9</sup> Respondents also invoke the six months Rowe has been acting as Supervisor as a reason to “craft a remedy”



1 The Board never lawfully appointed anyone to fill the Third District Supervisor position,  
2 which became vacant on December 3, 2018. Under the County Charter, where the Board has not  
3 made an appointment to fill a vacancy within a “30-day period,” “such appointment shall be made by  
4 the Governor.” (Petitioners’ RJN Exh. 1.) Respondents object to this conclusion but offer no textual  
5 or legal basis for concluding that the Board, having failed to make a valid appointment within 30  
6 days, retains the authority to do so. Nor do Respondents offer support for their claim that nullifying  
7 Rowe’s appointment “would...render all of the Board’s actions in which [] Rowe participated  
8 vulnerable to...challenge.” (Opp., p. 19.) To the contrary, there is no reason why the “de facto  
9 doctrine” that Respondents argue would apply if Rowe were removed pursuant to a quo warranto  
10 action would not also apply to any challenges to Board actions since December 18. (*See In re*  
11 *Redevelopment Plan for Bunker Hill Urban Renewal Project 1B* (1964) 61 Cal.2d 21, 42 (describing  
12 the “lawful acts of an officer” as “valid and binding” if “done within the scope and by the apparent  
13 authority of office,” even where the officer was not “legally elected”).) Petitioners respectfully  
14 submit that not just the text of the County Charter, but any public policy favoring certainty requires  
15 this Court to issue an order declaring the Governor has authority to fill the vacancy in the Third  
16 District Supervisor position created by James Ramos’s resignation on December 3, 2018.

17 **CONCLUSION**

18 For the foregoing reasons, Petitioners respectfully request that the Court grant their motion  
19 for peremptory writ of mandate, declare that the Board’s appointment of Dawn Rowe to the position  
20 of Third District Supervisor is null and void, and declare that the 30-day period set forth in Section 7  
21 of the San Bernardino County Charter has run.

22 DATED: June 14, 2019

By Megan Wachspress

23 STACEY M. LEYTON  
24 MEGAN WACHSPRESS  
ALTSHULER BERZON LLP

25 \_\_\_\_\_  
26 that leaves Rowe in place. (Opp., p. 19.) Respondents’ decisions to file successive demurrers and to propose a  
27 lengthy briefing schedule belie any desire for speedy resolution of the vacancy. Respondents, moreover, do  
28 not identify what remedy other than nullification of Rowe’s appointment would be consistent with  
Government Code §54960.1(a).

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GLENN ROTHNER  
JUHYUNG HAROLD LEE  
ROTHNER, SEGALL & GREENSTONE

*Attorneys for Petitioners*

1 **PROOF OF SERVICE**

2 *Daly, et al. v. Bd. of Supvsrs. of San Bernardino County, et al.,*  
3 *San Bern. Sup. Ct. Case No. CIVDS1833846*

4 STATE OF CALIFORNIA, COUNTY OF San Francisco

5 I am employed in the County of San Francisco, State of California. I am over the age of 18  
6 years and not a party to the within action; my business address is 177 Post Street, San Francisco,  
7 California 94108. On June 14, 2019, I served the foregoing document described as REPLY IN  
8 SUPPORT OF PETITIONERS' MOTION FOR PEREMPTORY WRIT OF MANDATE on the  
9 interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed  
10 as follows:

11 Deborah J. Fox  
12 T. Steven Burke, Jr.  
13 Meyers, Nave, Riback, Silver & Wilson  
14 707 Wilshire Blvd., 24th Floor  
15 Los Angeles, CA 90017  
16 E-mail: [dfox@meyersnave.com](mailto:dfox@meyersnave.com); [tsburke@meyersnave.com](mailto:tsburke@meyersnave.com)  
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*In Pro Per (Musser-Lopez v. Board of Supervisors of San Bernardino County, Case No. CIVDS1901773)*

29 By Overnight Delivery: I am readily familiar with the practice of Altshuler Berzon LLP for the  
30 collection and processing of correspondence for delivery via United Parcel Service Next Day Air,  
31 with whom we have a direct billing account. On the same day that correspondence is placed for  
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33 Service in San Francisco, California, for delivery to the office of the addressee on the next business  
34 day.

35 \* I sent a courtesy copy by e-mail on June 14, 2019, to the above e-mail addresses, from my e-mail  
36 address, [jperley@altber.com](mailto:jperley@altber.com).

37 I declare under penalty of perjury under the laws of the State of California that the foregoing  
38 is true and correct. Executed this June 14, 2019, at San Francisco, California.

39   
40 \_\_\_\_\_  
41 Jean Perley

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S P R I R C R F CALIF RNIA

C N F SAN B RNARDIN

D PAR N S 29 N RABL AN . FRANGI , DG  
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)  
Petitioners, )  
vs. ) Case No.  
) CI DS 1833846  
B ARD F S P R IS RS F SAN B RNARDIN )  
C N , AL., )  
Respondents. )  
)

R P R R S RANSCRIP F RAL PR C DINGS

RSDA , N B R 21, 2019

SAN B RNARDIN , CALIF RNIA

APP ARANC S

F R P I I N RS GL NN R N R  
NG AR LD L  
Attorneys at La

F R B ARD F S P R IS RS D B RA F  
Attorney at La

F R DAWN R W WILLIA P. D N AN, R.  
Attorney at La  
( ia CourtCa )

Reported by LINDA F. BALDWIN, RPR, R R, RDR  
icia Reporter, CSR 12453

LINDA F. BALDWIN, RDR, CSR# 12453

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1 SAN BERNARDINO, CALIFORNIA RSDA, N B R 21, 2019  
 2 D PAR N S 29 N RABL AN . FRANGI, DG  
 3 RNING S SSI N  
 4 APP ARANC S

5 GL NN R N R and NG AR LD L ,  
 6 Attorneys at La, appearing on beha o  
 7 Petitioners

8 D B RA . F ,  
 9 Attorney at La, appearing on beha o  
 10 the Board o Supervisors

11 WILLIA P. D N AN, R., ( ia CourtCa )  
 12 Attorney at La, appearing on beha o  
 13 Da n Ro e.

14 (LINDA F. BALDWIN, RPR, R R, RDR  
 15 icia Reporter, CSR 12453)

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17 P R \_ C \_ \_ D I N G S

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 21 San Bernardino, et a .

22 Counse, state your appearances.

23 R. R N R For Petitioners, G enn Rothner.

24 R. L uhyung aro d Lee o Rothner, Sega  
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LINDA F. BALDWIN, RDR, CSR# 12453

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6 r. Donovan ight ant to spea urther to this, but there s  
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12 don t no anything about it.

13 So aybe, r. Donovan, can you spea to that  
14 Because they re saying there s an e ection in arch o 2020,  
15 and she s running. So I don t no et e as you this

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16 he seat that she s in no , though that s the  
17 sub ect o this rit, the ter e pires hen

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19 person ou d not ta e that seat or i Supervisor Ro e  
20 prevai s in the e ection unti Dece ber o 2020.

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21 course, it behooves e to say, our onor, that  
22 those particu ar issues o the e ection and the e ection  
23 contest and the ba ot are not be ore this Court in this  
24 particu ar atter.

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26 ay not be true. I don t no yet. But I sti ant to

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2 So i she s i her i the seat that she s  
3 in, assu ing none o this as going on, o ay Let s assu e  
4 none o this as going on, and the seat that she s in ou d  
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8 onor. So there s a pri ary at that ti e. And then i she  
9 prevai s by ore than 50 percent, y understanding is that  
10 then she ou d si p y not have a be sub ect to the  
11 genera e ection in Nove ber o 2020.

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12 But I ust con ess, our onor, because the  
13 e ection issues are not at p ay, that s y best no edge o  
14 that. I didn t chec ith the registrar o voters on the  
15 particu ars, so I ust trying to do y best to ans er the  
16 Court s uestions.

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17 C R No, I understand that, but

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19 C R I don t understand hy she ou d be  
20 running or anything i she s in a seat that doesn t e pire  
21 unti Dece ber 2020.

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25 the board.

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11 R. R N R And because it e pires at the end o  
12 2020, the e ection cyc e begins in arch. arch 3rd.

13 C R h, I see.

14 R. R N R And under current Ca i ornia a ,  
10:10AM 15 hi e it s ca ed a pri ary, i she gets 50 percent p us one  
16 or ore, there s no urther e ection. It s not a partisan  
17 o ice.

18 C R And then ho ong ou d she have in  
19 that seat assu ing none o this as going on

10:10AM 20 R. R N R We

21 C R Another ter o t o years, or. . .

22 R. R N R No. I thin it s our years.

23 C R Four years. Whatever. ay. So then  
24 it ou d go beyond Dece ber 20th, and she ou d go or the  
10:10AM 25 ne t hatever ter e pire

26 R. R N R o the end o 2024.

1 C R ay. I see. So she has to run,  
2 basica y.

3 R. R N R I she ants.

4 C R I none o this as going on, she  
*10:11AM* 5 ou d have to run, right

6 S. F Correct.

7 C R ay. A right. hat e p ains that.

8 R. D N AN our onor, this is r. Donovan. I  
9 agree ith everything that s been said by counse on both  
*10:11AM* 10 sides. I ant to a e it c ear that I a not Da n Ro e s  
11 counse ith respect to the 2020 e ection.

12 And I agree ith s. Fo s state ent that there s  
13 nothing in the Co p aint about the 2020 e ection, and so i  
14 e re going do go do n a path o addressing any issues  
*10:11AM* 15 concerning her candidacy or the pub ic e ection in arch, I  
16 thin she needs to have e ection counse here.

17 But i our onor ust anted that in or ation as  
18 bac ground, I can concur that I be lieve in everything that s  
19 been to d to you by counse is correct.

*10:11AM* 20 C R We , I anted this bac ground, but I  
21 a so I a so thin it bears consideration to the e tent o  
22 the issue o irreparab e da age or in ury or ootness  
23 because i she i she s on the ba ot or arch and she  
24 gets ore than 50 percent, et s assu e that as a  
*10:12AM* 25 hypothetica , does this a beco e oot

26 R. L We , our onor, she sti has the rest

1 o the ter that she s occupying to i , and so she shou d  
2 sti be re oved or the purposes o that ter , but that  
3 ter e pires

4 C R h, I see.

10:12AM 5 R. L in about a year. And so i e accept  
6 response o the rea party in interest s position that this  
7 needs to be put on ho d unti the Court o Appea issues a  
8 decision, it is i e y to beco e oot because that decision  
9 i i e y not co e do n be ore then.

10:12AM 10 C R ay.

11 R. L And e thin the arch e ection is a so  
12 re evant inso ar as e do thin that there s so e  
13 transparent aneuvering going on here to give s. Ro e an  
14 i proper advantage in that arch e ection.

10:13AM 15 C R In ter s o her being ab e to say  
16 she s a supervisor as an incu bent.

17 R. L act y, our onor. And to be c ear,  
18 e are not cha enging because o ad ission here (phonetic).  
19 We are not bringing any sort o e ection contest. We are  
10:13AM 20 si p y bringing

21 C R I understand that. ay. hat a es  
22 sense to e.

23 ay. So, the ne t issue I ant to raise is the  
24 cases cited by the Respondent in ter s o hether or not  
10:13AM 25 this is a andatory versus a prohibitory in unction. First  
26 o a , I ou d i e to say that y inc ination is to ind

1 that it s both that there are both parts o the rit that  
2 are prohibitory, and there are parts that are andatory.

3 And the prob e ith the cases and this is hy  
4 I ight not be ab e to decide on an e parte basis is  
10:14AM 5 that they don t rea y dea , that I cou d ind and I  
6 haven t done an e haustive revie given this as an e  
7 parte about hether these sa e cases ou d app y here  
8 the issue is hether an act or conduct is nu and void  
9 because this is not the situation here you re saying do  
10:15AM 10 this or don t do this.

11 In this I ean it is, part y, but in this case  
12 the Court ound that her appoint ent as nu and void. So  
13 the concern the Court has is in granting a stay is that the  
14 Court has a ready deter ined this Court has deter ined  
10:15AM 15 it s nu and void. So to a o her to eep doing the  
16 things that the Court has ound to be nu and void sort o ,  
17 in y vie , a es y ru ing ithout any i pact.

18 And I a so concerned that i I grant the stay,  
19 and the court the appe ate court ater a ir s the  
10:16AM 20 ru ing, the supervisors ay have acted throughout the period  
21 o the appea through Dece ber 20th, I guess, at east, or  
22 at ost, and ade decisions that cou d be ca ed into  
23 uestion.

24 And so those are y concerns about hether you  
10:16AM 25 ca it prohibitory or andatory. I the Court o Appea  
26 overturns y decision, then that s o ay, then the decisions

1 that she has made, if I grant the stay and leave her in.  
 2 But it must see to it that that is a greater prejudice to  
 3 the public, and he knows that it happens at the Court of  
 4 Appeals, and it is up to the court to decide what to do.

10:17AM

5 But again, granting a stay sort of dictates by  
 6 dictates the result, the findings in the first place because of  
 7 the finding that the appointment is null and void as a  
 8 violation of the Brown Act.

10:17AM

9 So that is the distinguishing factor that I can  
 10 pick up for these cases which would support the  
 11 Respondents position or a stay.

12 So let me hear from you, S. F.

10:17AM

13 S. F. Thank you, your honor. I think that I  
 14 will start with the Court's original issue that is called  
 15 for. When you look at the judgment itself that this Court  
 16 issued on November 8th, it commands Respondents to  
 17 immediately rescind the appointment. It then prohibits  
 18 Respondents from re-participating, prohibits her from  
 19 raising any of the board from raising any appointment, and  
 20 commands Respondents to immediately seat a person designated  
 21 by the governor.

10:18AM

22 What we tried to bring forth, and I apologize it  
 23 is a complicated issue, but because of the timing factor,  
 24 that is why we had to bring it on the ex parte basis, your  
 25 honor.

10:18AM

26 But the nut of it is the original ruling

1 co anding and the finding that the appointment is to be  
2 rescinded.

3 And I think, your honor, on this particular issue,  
4 that is then subsumes the rest of the review is part and  
*10:18AM* 5 parceled and it is a then mandatory.

6 And I believe that this Court has a ready remedy  
7 resolved that issue when you ruled on our objections to the  
8 judgment, and we voted you there. Because what you offered  
9 there is that the provisions of the judgment, these  
*10:19AM* 10 additional provisions are a natural consequence and hereby  
11 we pound on the effects of this Court's decision to nullify,  
12 void, and rescind Roe's appointment.

13 That is Page 7 of this Court's ruling on the  
14 objections from Lines 18 through 21, your honor. And I  
*10:19AM* 15 think the Court is absolutely right in that regard.

16 So. . .

17 C R Right in that regard, but wrong in  
18 everything else, right

19 S. F We, the Court of Appeals is sort that  
*10:19AM* 20 out. And, as you know, we appealed it on November 13th.

21 C R Yes. And let me just interrupt you.

22 The reason I did not address that, I rejected your  
23 objections concerning the stay issue on your objections to  
24 the judgment is because I believed that your Notice of

*10:20AM* 25 Appeal that was filed on September 9th was premature and  
26 not I don't want to say not a valid appeal, but not an

1 appropriate appeal yet till the judgment was entered. And I  
 2 think the Court of Appeals agreed with me on that because  
 3 they ordered Respondents to file a judgment, which is why I  
 4 was hurried to get the judgment out.

10:20AM

5 So that's why I didn't think any of that argument  
 6 was applicable because I didn't think the appeal was  
 7 applicable at that point.

10:20AM

8 But then when you when the judgment was entered  
 9 on November 8th, and you filed an appeal on November 13th,  
 10 which, by the way, this Court never got notice of. So I had  
 11 no idea. We don't sporadic here whether we get notices  
 12 of appeal or not, so I didn't know that. I knew about the  
 13 September one, but I assured you you'd do it again, which is  
 14 why I think it's appropriate now to discuss the issue.

10:21AM

15 So go on. I'm sorry. I didn't mean to interrupt,  
 16 but I wanted to clarify that that is why I didn't say you  
 17 said I didn't let it hang or I didn't address it in  
 18 your objections, and that's why.

10:21AM

19 S. F. That was very clear, your honor, and  
 20 that's why we had to put the separate here because the  
 21 Court didn't need to go that far. The Court found that the  
 22 prior appeal was premature, and we understood that.

10:21AM

23 We do believe, though, that the Court's reasoning  
 24 there when you were talking about the nature of the  
 25 additional relief in the judgment resolves the issue about a  
 26 mandatory nature of the relief, and accordingly is clear

1 support or the act that there is a stay that is in effect.  
 2 The Court speaks as to the concern, we,  
 3 isn't that going to nullify your order here on the writ. But,  
 4 of course, that's precisely why we have the right to appeal  
 10:22AM 5 so that that issue can be adjudicated, and the appellate  
 6 court can retain the ability to adjudicate that.

7 If this mandatory injunction and stay doesn't take  
 8 place, then that is going to divest the appellate court of  
 9 that ability because the natural consequence of that would  
 10:22AM 10 be that Roe has to step down and someone else steps in.  
 11 And then if the appellate court says, you know, the county  
 12 Respondent's position as actually taken, that is a  
 13 precluded issue being adjudicated.

14 So I do think, your honor, we I think we have  
 10:22AM 15 tried to succinctly we could have done more briefing, but  
 16 we also understand it's on an ex parte basis. So we tried  
 17 to digest that for the Court, and that would be our support  
 18 for the Court's conclusion that this is indeed a mandatory  
 19 injunction with an applicable stay.

10:23AM 20 C R Mr. Rothman  
 21 thank you.

22 Mr. Lee thank you.

23 R. L First

24 C R Mr. Rothner.

10:23AM 25 R. L I'd just note that

26 C R Looking at you.



1           R. L           ust note that the Court o Appea a so  
2 has the po er to act and protect its urisdiction inso ar as  
3 this Court ru es that there is no auto atic stay in p ace.

4           And second, our onor, I thin the cases that e  
10:23AM 5 cited in our brie c ear y sho that hen there s a  
6 continuing un a u act and the Court en oins that act ro  
7 continuing, that s prohibitory in nature.

8           And as Respondents the se ves argue in their  
9 brie , you no , hatever precise ter s that the Court uses  
10:23AM 10 to describe the re ie its given is not dispositive.

11           So e d point to the nature o the re ie in this  
12 case hich is to nu i y and a e nu and void an un a u  
13 appoint ent and preventing her ro continuing or preventing  
14 the board ro continuing its un a u course o action.

10:24AM 15           C R I guess I eep getting hung up on the  
16 inding o nu and void, that to a o her to continue to  
17 sit hen the actua appoint ent is rong ust it doesn t  
18 sit e ith e that she shou d be a o ed to continue.  
19 But aybe other parts o the udg ent such as re uiring the  
10:24AM 20 county or the board to ta e hatever the governor appoints  
21 or rescind the appoint ent, aybe those are things that  
22 shou d be stayed.

23           But I inc ined to thin that she shou d be  
24 prohibited ro doing the things that the Court has  
10:25AM 25 deter ined are rong u because the appoint ent as  
26 rong u .

1           And I have great concern ith having her continue  
2 and then having the Court o Appea a ir the Court s  
3 ru ing and then having the pub ic put decisions that have  
4 been ade ith her invo ved into eopardy.

10:25AM 5           And certain y i she did not sit, the board cou d  
6 sti unction. I read the dec aration o r.

7           R. L       r. cBride.

8           C R       he na e escapes e.

9           R. R   N R       cBride.

10:25AM 10           C R       cBride, Gary cBride, and I thin  
11 he s overreacting. I thin our supervisors can sti  
12 there s sti a oru , and they sti can reach consensus.

13           And I didn t read the charter again to see i it  
14 has provisions or hen there s on y our as opposed to  
10:26AM 15 ive, but I ust very concerned about a o ing her to sit  
16 and a e decisions.

17           R. R   N R   Can I add so ething be ore you turn  
18 it over to s. Fo

19           C R       I going to hear ro r. Donovan  
10:26AM 20 ne t.

21           R. R   N R   h, I sorry.

22           R. D N AN   han you very uch, our onor.

23 We

24           C R       Go on.

10:26AM 25           R. D N AN   We share our onor s he o

26           C R       Go on.

1 R. D N AN Sorry. our onor, e appreciate  
 2 our onor s concerns that these are sensitive issues and  
 3 i portant issues, e thin , not ust or the parties in this  
 4 case but actua y the residents o San Bernardino County  
 10:27AM 5 inc uding the third district in hich Supervisor Ro e sits.

6 We do not be iieve that there is based on the de  
 7 acto o icer doctrine, e do not be iieve that i Supervisor  
 8 Ro e is a o ed to continue to serve that actions ta en by  
 9 the board ou d be inva idated i our onor does not issue  
 10:27AM 10 a ina rit and indeed ta es urther brie ing on this issue  
 11 to a o the parties and our onor to get u a u  
 12 brie ing and understanding o the issues.

13 Given the e parte nature o this proceeding  
 14 today, e didn t receive the opposition ti ust be ore  
 10:27AM 15 idnight. I i ad it that I did not see it unti about 6  
 16 in the orning, so there s been very itt e ti e to revie  
 17 and digest hat has been put in the opposition papers.

18 What I i say is that there s been no a egation  
 19 that Supervisor Ro e s conduct as a board e ber has been  
 10:28AM 20 anything other than e e p ary.

21 And as e a no , her ua i ications to serve in  
 22 ter s o her you no , this is not so e bac roo dea  
 23 here she as so eone s re ative or hatever and got the  
 24 seat she asn t ua i ied. here s no a egations about  
 10:28AM 25 that.

26 I our onor ants to receive, and e ou d urge

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1 you to receive more information on the issue as to  
 2 whether or not Supervisor Roe continued to serve  
 3 until the voters decide in March, or you want more clarity  
 4 as to whether or not this the written judgment are in  
 5 fact mandatory or not, we would, as I indicated, be  
 6 absolutely willing to provide that detail with our honor  
 7 because this is obviously a very important issue to all of  
 8 us and our clients.

9 We did it on an expedite basis because of the time  
 10 constraints we were under, but I don't want our honor to  
 11 be rushed. And certainly I don't want any client or others  
 12 to have potentially huge implications to their career and to  
 13 the operation of the board by if we do something  
 14 rationally on an expedite basis.

15 So I'd certainly be willing to answer any  
 16 questions you have. If we do have another hearing, I can  
 17 promise our honor I will be there in person, but these are  
 18 important issues to everyone, and we want to make sure the  
 19 issues are fully vetted and so that not only is California  
 20 a good one but that our honor has the information you  
 21 think you need to resolve the pending issues.

22 C R Let me ask you this. Right now we  
 23 have a judgment that declares her appointment null and void.  
 24 Court has not issued a stay, and so right now the judgment  
 25 is binding and in effect.

26 Is Ms. Roe's designation as a supervisor on her

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1     ba ot, is that in vio ation o the Court s order I ou d  
2     suggest it is because unti I issue a stay, her she s  
3     it is not a va id appoint ent. It s nu and void.

4             So I     concerned that she s operating as e spea  
*10:30AM* 5     as a supervisor be ore the Court s ade any order. I ee  
6     i e she s in vio ation o the order.

7             R. R     N R     Cou d I respond to that

8             C R     We , no. Let e hear ro s. Fo  
9     irst.

*10:30AM* 10            S. F           our onor, I thin that those issues  
11     that the Court is concerned about, I thin cry out there or  
12     so e supp e enta brie ing.

13            y response at this uncture ou d be that e are  
14     o the ind that there is a stay because there is a this  
*10:30AM* 15     is a andatory in unction, and e ve appea ed. So certain y  
16     e don t ant to be in any position, and e re trying to  
17     con ir that so that no one cou d contend that the county  
18     Respondents or Supervisor Ro e is in vio ation o this  
19     Court s order.

*10:31AM* 20            And that certain y is the nature o hy it is so  
21     i portant and e have brought it or ard in this anner.

22            C R     We , the act that you re uncertain  
23     about it eaves e to conc ude that there is no stay in  
24     e ect at this point. here is no stay in e ect. And  
*10:31AM* 25     hether you be iieve it or not, and hether the board  
26     be ieves it or not is not the point.

1           he point is it s undecided. It s not or, it  
2       ay not be in e ect, and she is operating sti as i this  
3 Court has done nothing.

4           And, you no , I read in the paper again, I  
*10:31AM* 5       no nothing about these things. I don t co e ro San  
6 Bernardino. I don t no ho s ho. I don t have any  
7 interest. I don t thin I need to te you that, but I  
8 don t no hat s going on in ter s o the po itica scene.  
9 And I don t ant to no .

*10:32AM* 10           But I concerned. I read in the paper here the  
11 board says e re going to eep she s going to stay in  
12 o ice, and she s going to eep operating unti the appea s  
13 decided. hat s o ensive to this Court.

14           S. F our onor, I a certain y not sure hat  
*10:32AM* 15       ne spaper reportings have been. he county Respondents are  
16 very ind u and respect u o this Court as is the rea  
17 party in interest.

18           We understand that the Court issued a udg ent and  
19 a rit and as e e e exercised our right and i ediate y  
*10:32AM* 20       appea ed that.

21           It s and so the on y position that the county  
22 Respondents ou d be ta ing ou d be that there is a  
23 andatory in unction and a stay in e ect ro that appea .  
24 No one is saying that they re going to ignore any Court  
*10:33AM* 25       rder, but the issue is the procedure that e ind ourse ves  
26 in.

1           he county Respondents are clear and believe that  
2           there is a mandatory injunction and a stay. We feel it  
3           prudent, though, in light of the sensitive nature, to bring  
4           this motion forward to confirm that with this Court, and we  
10:33AM 5           would give the opportunity to do so by supplemental  
6           briefing as suggested by Counsel Donovan.

7           Counselor Lee or Counselor Rothner  
8           R. R. Nelson. I'd like to get back to the  
9           Court's query about that sort of anti-declaration that  
10:33AM 10           the appointment as null and void is.

11           The way of proceeding at it is that it's neither wish  
12           nor order. It's neither mandatory nor prohibitory. And I  
13           think that's the best way of proceeding at it.

14           But if one were pressed to decide which it is,  
10:34AM 15           it's surely not mandatory. It doesn't require anybody to do  
16           anything in particular except, as they always would, honor a  
17           Court order.

18           That's important because we raised the reliance  
19           revested in our petition and the judgment we drafted  
10:34AM 20           consistent with the Court's statement of decision to include  
21           the declaration that the appointment as null and void.

22           Why did we do that? We did that because the  
23           custodial vehicle or bringing a Brown Act violation to the  
24           Court is a Petition for Writ of Mandate. And the Brown Act  
10:34AM 25           itself, as the Court may remember from supplemental  
26           briefing early in this case, originally made no reference to

1 anything but a criminal penalty. And it was ended so as  
 2 to assure that, at a minimum, the action taken in  
 3 violation of the transparency required was to be declared  
 4 null and void. Is there anything clearer by remedies in the  
 10:35AM 5 Brown Act is that an action taken in violation of the  
 6 transparency required is null and void.

7 And before I leave that subject, for our  
 8 supplemental briefing, this is a brief that the Court urged  
 9 the parties to file both parties did, and it

10:35AM 10 C R The one dealing with prejudice  
 11 R. R. N R It was dealing with prejudice. And  
 12 ours as filed in connection with a hearing that was held on  
 13 August 5th.

14 And this is what we voted for the legislative  
 10:36AM 15 history regarding that amendment to the Brown Act that made  
 16 the null and void remedy very specific. And here's what the  
 17 legislature said, and I quote when it's appropriate to do  
 18 so.

19 At the time that *Griffiths*, which was the case  
 10:36AM 20 that goes it is decided that the Brown Act did not  
 21 provide for the invalidation of actions

22 R P R R cause e.

23 C R So even when you're reading.

24 R. R. N R taken in violation of the Act.  
 10:36AM 25 And then we went on to say that the year after *Griffiths* was  
 26 decided, the legislature amended the Brown Act to expressly



1 provide or such a remedy.

2 And that it said at section 54960.1 of the  
 3 Government Code is, quote Any interested person may  
 4 commence an action by mandamus or injunction for the purpose  
 10:37AM 5 of obtaining a judicial determination that an action taken  
 6 by a legislative body of a local agency in violation of the  
 7 Brown Act is null and void. end quote.

8 Here's what the legislature had to say in enacting  
 9 Section 54960.1. quote Local agencies are able to sustain  
 10:37AM 10 the spirit and letter of the act and thus conduct public  
 11 business without public participation. end quote.

12 And therefore the legislature in their analysis in  
 13 the senate said that it intended to, quote Render these  
 14 actions null and void thus putting, internally quote,  
 10:38AM 15 teeth, end of internally quote, into the Brown Act. end  
 16 quote.

17 We urge the Court to recall that passage and heed  
 18 the legislature's intention that without teeth in a form of  
 19 declaration that an action is null and void, the Brown Act  
 10:38AM 20 had been essentially useless because the only way it could  
 21 be enforced as if there were criminal prosecution brought,  
 22 but the criminal prosecution had nothing to do with undoing  
 23 the unlawful action taken.

24 And he also pointed out in that same brief that  
 10:38AM 25 again concerned the Brown Act as not and other public  
 26 transparency statutes were not being enforced as intended.

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1 he California Constitution as amended by an initiative  
 2 after in 2004 to include an Article 1, Section 3 of the  
 3 Constitution the requirement that a statute is not  
 4 A statute, in this case it is the Brown Act, court rule or  
 5 other authority including those in effect on the date of  
 6 this subdivision shall be broadly construed if it furthers  
 7 the people's right of access and narrowly construed if it  
 8 infringes the right of access.

9 Those two declarations of intent about the  
 10 importance of the Brown Act and that it have teeth are  
 11 particularly appropriate to consider in this case.

12 We said something in our opposition that we don't  
 13 regret or a minute or we wouldn't have said it, but with  
 14 the clarity of vision that comes with hindsight, it is  
 15 apparent, to us anyway, that throughout this litigation the  
 16 Respondent and real party in interest have been doing their  
 17 best to ensure that any effective remedy for the violation  
 18 is blocked down the road.

19 Remember, there was a legitimate deurrer which  
 20 the Court had questions about, made a ruling on. Then there  
 21 was a second deurrer. We pointed out to the Court at the  
 22 time that that second deurrer was completely unnecessary.  
 23 It was ultimately denied, but it had consumed quite a period  
 24 of time for it to be briefed and resolved because in a writ  
 25 proceeding such as this, any legal objection you have to the  
 26 opposing pleading can be taken up at the hearing on the writ

1 o andate itse . he sa e argu ents cou d have been ade  
 2 and ere ade again and it had been ade in the de urre r,  
 3 and been ade again and again, even to the point o an  
 4 inappropriate otion or reconsideration dressed up as  
 5 ob ections to the udg ent.

6 It s our be ie that ith the i pending c osing o  
 7 the i ing period or peop e see ing to run and the  
 8 designation o status on the ba ot or individua s and the  
 9 very i ited ti e ra e or bringing an action to contest  
 10 that status, that designation, that as e said to use a  
 11 phrase, a co o uia phrase, e be iieve they are trying to  
 12 run out the c oc and u ti ate y get to the point here rea  
 13 party in interest is ab e to run ith a ba ot description  
 14 indicating that she s an incu bent and, you no , obtain  
 15 that advantage, not on y o continuing to unction as a  
 16 e ber o the board, but ca herse an incu bent, and  
 17 thereby potentia y have enough o an advantage to in the  
 18 pri ary ith 50 percent p us one or ore.

19 And then u ti ate y this case anguishes in the  
 20 Court o Appea , and there is no e ective re edy. And  
 21 that s a atter, at the end o the day, or the Court o  
 22 Appea to decide.

23 hey don t have to co e here. hey don t have to  
 24 e haust your option in the superior court to see a stay.  
 25 ou can go direct y to the Court o Appea to see a Writ o  
 26 Supersedeas, and the Court o Appea is uite capab e o

1 deciding the actors they have to consider are, is there any  
 2 opportunity or the to expedite people here any time  
 3 opportunity and if they do or don't, at the end of the  
 4 day, they appear this Court's judgment, if they have  
 10:43AM 5 proposed any effective remedy that is that they have to  
 6 do at.

7 And throughout, everybody wants to everybody  
 8 the other side keeps wanting to do another hearing, another  
 9 set of briefs, whatever they can, it seems to us, to run out  
 10:43AM 10 the clock, and I think that may be.

11 Except one thing I did want to carry. Counsel  
 12 did not refer verbatim to the aspects of the judgment that  
 13 are clearly, clearly prohibitory, restrain from doing Role  
 14 to participate in board meetings or actions, restrain from  
 10:44AM 15 registering or otherwise giving effect to any further votes  
 16 cast by Role, restrain from doing any appointment to the  
 17 position of third district supervisor.

18 Here is case law, and I don't think anybody  
 19 disputes it, that addresses the question of and as in  
 10:44AM 20 this case, we concede, whether the judgment includes relief  
 21 that is both mandatory and prohibitory. And the answer is  
 22 there is an automatic stay in those cases here it's said,  
 23 but only as to the mandatory relief.

24 And there can be no dispute about items 2, 3, and  
 10:44AM 25 4 of the judgment in this case being nothing

26 C R 2, 3, and 4, are you looking at the

1 sa e udg ent I oo ing at one

2 R. R N R I pu ed up the rong docu ent. I

3 sorry.

4 C R 1(b) and (c) under order a ter

10:45AM 5 seven I don t thin I oo ing at the actua udg ent

6 on Page 3 Are you oo ing at the rit

7 R. R N R No. I oo ing at the udg ent

8 that e sub itted hich I re e ber being I pu up the

9 actua udg ent.

10:45AM 10 C R We , I oo ing at hat s attached

11 to Respondents papers as hibit , and that s the udg ent

12 entered on Nove ber 8th.

13 R. R N R ay. Let e oo at that. Sorry.

14 I sorry. han you or correcting e on that.

10:45AM 15 C R And I oo ing at Page 3.

16 R. R N R es, so it s (b)

17 C R (b) and (c).

18 R. R N R It s (b) and (c). hat s correct.

19 he Court a so dec ared in the udg ent that the appoint ent

10:45AM 20 as nu and void.

21 So I ust anted to cover hat is c ear y

22 prohibitory and that is not stayed. hey have their

23 re edies at the Court o Appea hich is here e thought

24 that this ight ou d happen any ay. And e d rather et it

10:46AM 25 happen there because hat that does

26 C R hey re s arter up there.

1 R. R N R By recent experience, I would say  
2 so. But not smarter, but they're smart.

3 C R I don't take offense.

4 R. R N R Yeah. No, I'm disappointed.

10:46AM 5 R. L Your honor, I may just note that the  
6 public statement that was attached to Petitioner's previous  
7 ex parte application by the board clearly states that  
8 Supervisor Dan Roese's status as a member of the San  
9 Bernardino Board of Supervisors has not changed as a result  
10 of Wednesday's lower court decision. The court appealed the  
11 decision this morning and maintains the judge's decision as  
12 in error. The appeal stays the ruling until it can be  
13 scrutinized by a higher court.

14 C R And what are you reading

10:46AM 15 R. L That's the public statement news release  
16 that the San Bernardino County Board of Supervisors

17 C R exactly. exactly.

18 R. L And so they've expressed their clear  
19 intention not to obey any order by this Court until it is  
10:47AM 20 scrutinized by the Court of Appeals.

21 And to the extent that the response by the real  
22 party in interest is to further delay that scrutiny by  
23 asking for supplemental briefing, Petitioner respectfully  
24 requests that the Court deny that request.

10:47AM 25 R. D N AN Your honor, I can briefly be  
26 heard

1 C R es.

2 R. D N AN han you very uch. We eren t  
3 as ing or supp e enta brie ing, at east I as n t. I as  
4 ust trying to be respect u o udge Frankie that i she  
10:47AM 5 anted supp e enta brie ing, e ou d be happy to give it  
6 to her. hat s the irst point.

7 he second point is, I, during the second  
8 concession ro Petitioner s counse (uninte igib e) in  
9 Paragraphs 1(a), as in A pha, and 1(d) as in David, are  
10:47AM 10 either udg ent or andatory (phonetic). And based on c ear  
11 Ca i ornia a , it eaves those aspects o our onor s  
12 udg ent, by c ear app ication o a , are stayed pending  
13 appea .

14 R. L I ust ant to c ari y  
10:47AM 15 C R Wait.

16 R. L I apo ogi e.

17 C R Let r.

18 R. D N AN hey are. hey are. It s  
19 co anding an act, it s an a ir ative act, and those  
10:48AM 20 a ir ative acts are andatory, I thin , under c ear  
21 Ca i ornia a .

22 he ast issue that I anted to address is the  
23 ho e issue o the 2020 e ection. And I no I entioned it  
24 brie y. I be lieve that this is i portant.

10:48AM 25 For bac ground purposes, our onor, I thin  
26 everybody s been candid in trying to ans er your uestions

1 the best we can, but it is absolutely clear that, No. 1,  
 2 there is no allegation in this Complaint about the 2020  
 3 election. There is nothing in the judgment that relates to  
 4 the 2020 election, and Petitioner's counsel has also admitted  
 5 that if they wanted to challenge something going on with the  
 6 2020 election, there is a separate process that has to  
 7 happen to address those issues.

8 So I don't want there to be any and I am not  
 9 Supervisor Roese's counsel with respect to the 2020 election.

10 And they also have not given any notice, let alone  
 11 sufficient ex parte notice or noticed motion to try to  
 12 somehow amend the judgment and have anything relating to the  
 13 2020 election decided by our honor on a few hours notice.

14 So we believe that the act that our honor is  
 15 requiring are in substance mandatory actions which  
 16 are stayed pending appeal.

17 But on respect for our honor, we are here to get  
 18 our honor's view on that issue before we go to the Court of  
 19 Appeals.

20 If our honor agrees with us, then there may be no  
 21 action that is required in the short term at the Court of  
 22 Appeals otherwise, we at least reserve the right to take  
 23 and may very well take action at the Court of Appeals.

24 But at least with respect to Dan Roese, and I  
 25 don't know this statement that as just read whether it is  
 26 accurate or complete I am not there. But there has been no



1 indication or suggestion by Da n Ro e that she intends to  
2 aunt the authority o this Court or do anything i proper.

3 We are here or the e act opposite reason because  
4 e thin that the order shou d be stayed. I the order is  
10:50AM 5 not stayed, e re going to e ercise to the e tent avai ab e  
6 under Ca i ornia a our rights to see certain re ie , but  
7 nobody is here to aunt your authority, to try to insu t  
8 our onor, or to try to vio ate our onor s orders.

9 C R Let e ust say be ore I hear ro  
10:50AM 10 s. Fo that a o the in or ation that you gave e  
11 concerning the arch 2020 e ection is I a not  
12 considering or purposes o any decision. It ust as  
13 bac ground or e to ind o no hat the uture oo s i e  
14 one ay or another. It s not I don t thin it addresses,  
10:50AM 15 nor is dispositive o the issues be ore e today.

16 So I don t thin I need any urther brie ing on  
17 that or s. Ro e ou d need to be present or have counse  
18 because it s not rea y be ore e. I as ust as ing as a  
19 atter o bac ground and perspective.

10:51AM 20 s. Fo .

21 S. F han you, our onor. I ant to I  
22 not going to repeat argu ents that have a ready been ade.  
23 I do ant to ocus us on the issue at hand hich is the  
24 nature o the andatory re ie in this Court s udg ent.

10:51AM 25 And I thin going bac to y here e started,  
26 hich is that this re ie is co anding the recession and

1 that is mandatory.

2 But I did want to address one issue that has gone  
3 undiscussed, and that is the Court's comment about the Chief  
4 Executive Officer McBride's declaration.

10:51AM

5 The board has any items that require our i this  
6 vote. They cannot be passed without our i this vote. An  
7 example of the difficulty that would be at hand is evident  
8 almost the meeting this Tuesday here Supervisor  
9 Rutherford was absent and Supervisor Roe was also absent.

10:52AM

10 So there was only three supervisors.

11 I, indeed, there was only our supervisors, then  
12 there would be i there's an absence of one or someone  
13 gets sick or is out of town or is unable to attend, there  
14 wouldn't even be a quorum. But there would be difficulties

10:52AM

15 in ever being able to contract and conduct the public's  
16 business, especially on emergency items that require  
17 our i this vote i you have to declare an emergency because  
18 there is a natural disaster, which unfortunately has been  
19 occurring throughout the State of California.

10:53AM

20 C R Why is that can I interrupt you  
21 Why is that before I mean, i the board brought it upon  
22 itself by doing something in violation of a, why is that  
23 something I should even consider I mean, that's I don't  
24 know that i.e. the election that's upcoming, I don't  
10:53AM 25 think about that is before I mean, I was asked to rule  
26 on a specific thing, and I did, and so the consequences of

1 that are not really something I should be responsible for or  
 2 the Court, and I think that that's for the Petitioners, in  
 3 fact.

4 S. F. I think, your honor, that relates to the  
 10:53AM 5 issue and the arguments about irreparable damage and those  
 6 and the prejudice and the concerns to the public and the  
 7 residents of the County of San Bernardino.

8 R. L. your honor, if I say, I agree with you  
 9 that the board can easily remedy that problem to the extent  
 10:54AM 10 there's a problem. I don't know that it's not in the  
 11 declaration or Mr. McBride.

12 they could easily ask the governor to see someone  
 13 to replace Supervisor Roe as the Court ordered and is  
 14 consistent with the charter.

10:54AM 15 I'd also just briefly like to correct the record  
 16 because my colleague did misstate earlier in stating that  
 17 the rescission of the notification of Dan Roeb's  
 18 appointment is mandatory. It's our position that we take  
 19 care in our papers that notifying that unavailability course  
 10:54AM 20 of conduct is prohibitory for the reasons stated in our  
 21 papers, and it's just a misstep or yeah, a brief  
 22 speaking error by my colleague. So that is not Petitioner's  
 23 position. That is not something we're conceding.

24 C. R. S. For, if I deny the ex parte,  
 10:54AM 25 you've asked for a continuance. What's the purpose of  
 26 that

1           S. F           our honor, I thin then the  
2           a ternate           hat I as ed or in the a ternate is ust a  
3           30 day stay o en orce ent so e can decide i e need to  
4           see re ie ro the Court o Appea .

10:55AM 5           And e certain y again, e are trying to be  
6           u ti ate y respect u o this Court, as Couse Donovan  
7           said. hat s hy e brought this or ard.

8           R. L           And e, o course, re uest the Court  
9           deny that re uest because it see s i e it s consistent ith  
10           the rest o their course o conduct to de ay co p iance ith  
11           the order. And they are e a are that they ve been  
12           p anning on going to the Court o Appea since Septe ber  
13           hen this decision as handed do n. hey ve had ade uate  
14           ti e to consider the e tent to hich they need to see any  
10:55AM 15           other re edies to prepare their appea , to see e pedited  
16           re ie i they so see . We don t understand hy they need  
17           30 ore days to a e that decision, our onor.

18           R. R   N R   I d a so say that that 30 days puts  
19           us convenient y do n the road to the point here it ay be  
10:55AM 20           i possib e to contest the ba ot designation.

21           And I uite a i iar ith the ru es o the  
22           Fourth District, Division o Court o Appea on uestion o  
23           rits and supersedeas. We ve had e perience ith that  
24           division recent y in another conte t. hey act very  
10:56AM 25           uic y. hey don t necessari y ait or opposition.  
26           hey I d be uite surprised i couse hadn t a ready

1 prepared a dra t o their Petition or Writ o Supersedes  
2 and re uest or stay.

3 C R Why didn t you ust go up there

4 S. F our onor, as a atter o procedure, e  
10:56AM 5 be ievied it as i portant and procedura y re uired that e  
6 shou d stop here irst and bring this otion or ard to the  
7 Court. hat s precise y hy e did it.

8 We can t go to the Court o Appea and say e have  
9 an e ergency. he Court o Appea ou d say, s. Fo , you  
10:56AM 10 ade that e ergency you shou d have tried to sort it out  
11 you shou d have tried to or it out.

12 But dge Frangie has not yet ru ed about hether  
13 or not the stay is in p ace. Indeed, in her ob ection she  
14 ust said your prior Septe ber appea is unti e y.

10:56AM 15 We have to go through the procedures, and that s  
16 hat e did so in bringing this e parte otion.

17 R. R N R here s nothing about Code o Civi  
18 Procedure section 918 hich gives the tria Court the  
19 opportunity to grant a stay that re uires that that  
10:57AM 20 opportunity be e hausted.

21 C R ay. ou get the ast ord, and then  
22 be I going to ru e.

23 S. F han you, our onor. We be ievie that  
24 this order co anding the rescission o the appoint ent is  
10:57AM 25 andatory in nature. It s auto atica y stayed, and e d  
26 as the Court or con ir ation o that.

1 I the Court is not able to do that, we would as  
2 or, then, a ten day stay on enforcement.

3 C R ay. I think because very good  
4 arguments on both sides and very important and sensitive  
10:57AM 5 issues are before the Court, and I would like to get it  
6 right, and ultimately the Court or Appeals will decide that.  
7 And I have no problem with you going to the Court or  
8 Appeals, just F I. Doesn't bother me one bit. Sometimes  
9 they agree with me and sometimes they don't. That's the  
10:58AM 10 nature of the beast.

11 But in any event, I think because I have decided  
12 that the appointment is null and void, that it requires me  
13 to require that Supervisor Roe not act and not and not  
14 carry out the functions of a supervisor. And those are the  
10:58AM 15 most important parts of the judgment that she not continue  
16 to sit in a seat that is null and void because of the  
17 violation of the Brown Act.

18 And I think that finding overrules any other minor  
19 aspects of the mandatory nature as argued by the  
10:59AM 20 Respondents.

21 It would be not necessary for the Court to rescind the  
22 appointment if I ruled that if there is an appeal I've  
23 ruled that she can no longer function as a supervisor. It  
24 can remain vacant. And you can exercise your remedies,  
10:59AM 25 whatever they are.

26 But I think to continue to allow her to sit as

1 y order ine ective, a es the udg ent ine ective, a es  
 2 the inding ithout any teeth. And I don t thin that  
 3 that s hat the Bro n Act conte p ates, and I don t thin it  
 4 a es e render a di erent decision because o this  
 5 upco ing e ection because I thin that s not be ore e.

10:59AM

6 But I a very concerned about having her re ain  
 7 hen I ve deter ined it s nu and void, the appoint ent,  
 8 and then having her enter into acts that ay ater be  
 9 sub ect to scrutiny and criticis and va idity, potentia y.

11:00AM

10 And I thin the board can sti operate ithout  
 11 her there. And I be ieve that her in ight o this  
 12 Court s udg ent that current y e ists, her designation and  
 13 continuing to operate as a supervisor is potentia y in  
 14 vio ation o this udg ent.

11:00AM

15 So I a going to ind that it s prohibitory and  
 16 deny the e parte. I i give the Respondents ten days to  
 17 go up to the Court o Appea or any other re edy they have,  
 18 and that i be y order. And I have Petitioners cra t  
 19 an order in that vein. han you.

11:01AM

20 R. R N R Is that ten days ro today  
 21 C R en days ro today. So 1, 2, 3, 4,  
 22 5, 6, 7, 8 to Dece ber 2nd because Dece ber 1st is a  
 23 ho iday. Dece ber 2nd.

24 S. F han you, our onor.

11:01AM

25 C R han you.  
 26 han you, r. Donovan.

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R. D N AN han you, our onor.

(Proceedings in the above entit ed  
atter ere conc uded at 11 01 a. .)

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S P R I R C R F CALIF RNIA

C N F SAN B RNARDIN

D PAR N S 29 N RABL AN . FRANGI , DG

IC A L G DAL , AL., )

)

Petitioners, )

vs. )

Case No.

CI DS 1833846

B ARD F S P R IS RS F SAN B RNARDIN )

C N , AL., )

R P R R S

Respondents. )

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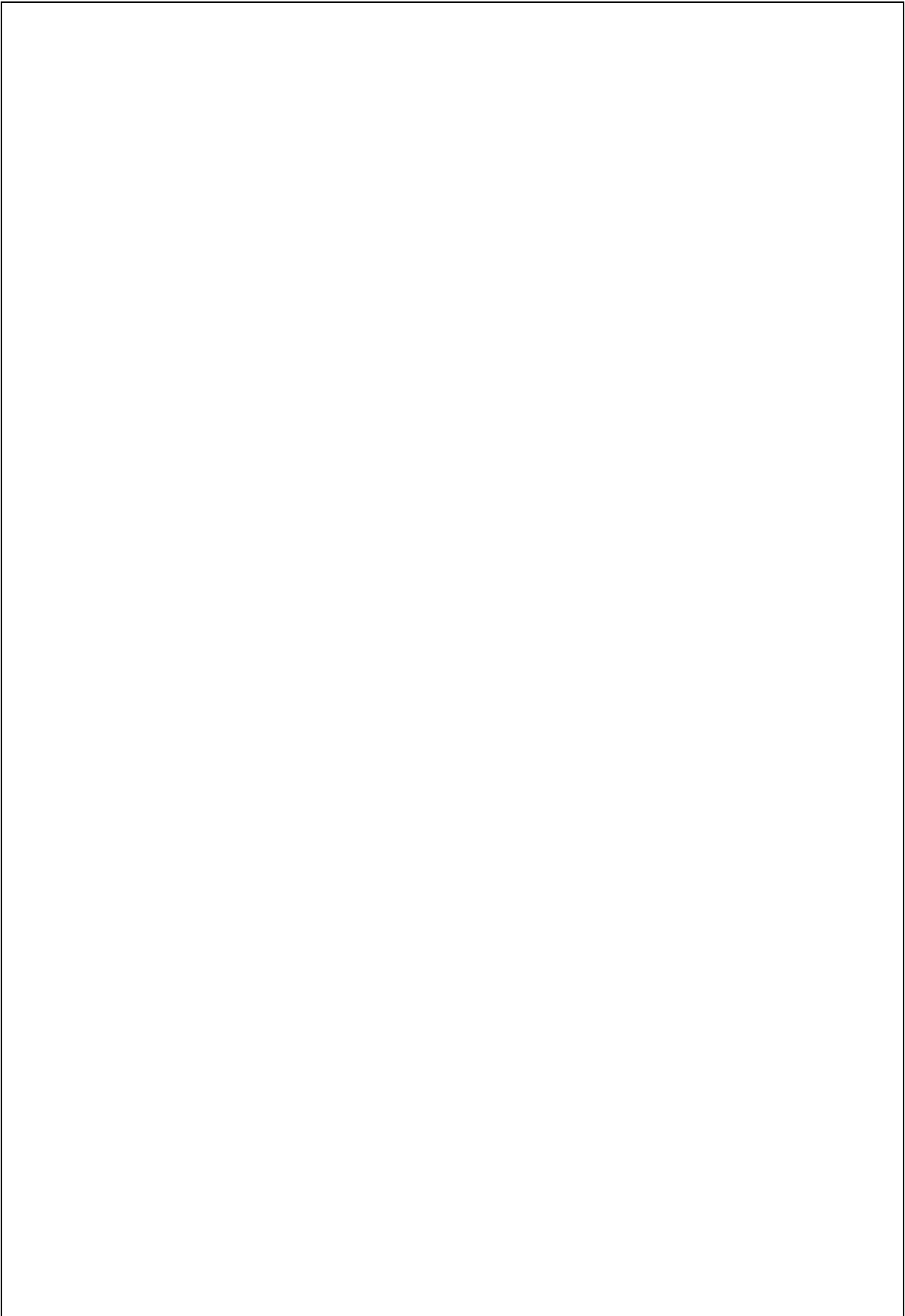
C N F SAN B RNARDIN )

I, LINDA F. BALDWIN, icia Reporter o the Superior Court o Ca i ornia, County o San Bernardino, do hereby certi y that the oregoing pages, 1 36, to the best o y no edge and be ie , co prise a u , true and correct co puter aided transcript o the proceedings ta en in the atter o the above entit ed cause he d on hursday, Nove ber 21, 2019.

Dated this day o , 2019.


LINDA F. BALDWIN, RPR, R R, RDR  
icia Reporter, CSR 12453

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LINDA F. BALDWIN, RDR, CSR# 12453

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ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: Deborah J. Fox (SBN: 110929) FIRM NAME: MEYERS, NAVE, RIBACK, SILVER & WILSON STREET ADDRESS: 707 Wilshire Blvd., 24th Floor CITY: Los Angeles STATE: CA ZIP CODE: 90017 TELEPHONE NO.: (213) 626-2906 FAX NO.: (213) 626-0215 E-MAIL ADDRESS: dfox@meyersnave.com ATTORNEY FOR (name): Respondents/Real Party in Interest	FOR COURT USE ONLY  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 247 West Third Street MAILING ADDRESS: 247 West Third Street CITY AND ZIP CODE: San Bernardino, CA 92415 BRANCH NAME: San Bernardino District	
PLAINTIFF/PETITIONER: MICHAEL GOMEZ DALY and INLAND EMPIRE UNITED DEFENDANT/RESPONDENT: BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY, et al. OTHER PARENT/PARTY:	
<b>(AMENDED) APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL</b>  <b>(UNLIMITED CIVIL CASE)</b>	SUPERIOR COURT CASE NUMBER: CIVDS1833846
Re: Appeal filed on (date): November 13, 2019	COURT OF APPEAL CASE NUMBER (if known): E073730
<b>Notice: Please read <i>Information on Appeal Procedures for Unlimited Civil Cases (form APP-001-INFO)</i> before completing this form. This form must be filed in the superior court, not in the Court of Appeal.</b>	

## 1 RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT

I choose to use the following method of providing the Court of Appeal with a record of the documents filed in the superior court (check a, b, c, or d, and fill in any required information):

- a.  A clerk's transcript under rule 8.122. (You must check (1) or (2) and fill out the clerk's transcript section (item 4) on pages 2 and 3 of this form.)
- (1)  I will pay the superior court clerk for this transcript myself when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the Court of Appeal.
- (2)  I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (check (a) or (b)):
- (a)  An order granting a waiver of court fees and costs under rules 3.50-3.58; or
- (b)  An application for a waiver of court fees and costs under rules 3.50-3.58. (Use *Request to Waive Court Fees (form FW-001)* to prepare and file this application.)
- b.  An appendix under rule 8.124.
- c.  The original superior court file under rule 8.128. (NOTE: *Local rules in the Court of Appeal, First, Third, and Fourth Appellate Districts, permit parties to stipulate (agree) to use the original superior court file instead of a clerk's transcript; you may select this option if your appeal is in one of these districts and all the parties have stipulated to use the original superior court file instead of a clerk's transcript in this case. Attach a copy of this stipulation.*)
- d.  An agreed statement under rule 8.134. (You must complete item 2b(2) below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.134(a).)

## 2 RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

I choose to proceed (you must check a or b below):

- a.  WITHOUT a record of the oral proceedings (what was said at the hearing or trial) in the superior court. I understand that without a record of the oral proceedings in the superior court, the Court of Appeal will not be able to consider what was said during those proceedings in deciding whether an error was made in the superior court proceedings.

CASE NAME: DALY et al. v. BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY, et al.	SUPERIOR COURT CASE NUMBER: CIVDS1833846
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2. b.  WITH the following record of the oral proceedings in the superior court (*you must check (1), (2), or (3) below*):
- (1)  A reporter's transcript under rule 8.130. (*You must fill out the reporter's transcript section (item 5) on pages 3 and 4 of this form.*) I have (*check all that apply*):
    - (a)  Deposited with the superior court clerk the approximate cost of preparing the transcript by including the deposit with this notice as provided in rule 8.130(b)(1).
    - (b)  Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(c)(1).
    - (c)  Attached the reporter's written waiver of a deposit under rule 8.130(b)(3)(A) for (*check either (i) or (ii)*):
      - (i)  all of the designated proceedings.
      - (ii)  part of the designated proceedings.
    - (d)  Attached a certified transcript under rule 8.130(b)(3)(C).
  - (2)  An agreed statement. (*Check and complete either (a) or (b) below.*)
    - (a)  I have attached an agreed statement to this notice.
    - (b)  All the parties have stipulated (agreed) in writing to try to agree on a statement. (*You must attach a copy of this stipulation to this notice.*) I understand that, within 40 days after I file the notice of appeal, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.
  - (3)  A settled statement under rule 8.137. (*You must check (a), (b), or (c) below, and fill out the settled statement section (item 6) on page 4.*)
    - (a)  The oral proceedings in the superior court were not reported by a court reporter.
    - (b)  The oral proceedings in the superior court were reported by a court reporter, but I have an order waiving fees and costs.
    - (c)  I am asking to use a settled statement for reasons other than those listed in (a) or (b). (*You must serve and file the motion required under rule 8.137(b) at the same time that you file this form. You may use form APP-025 to prepare the motion.*)

**3 RECORD OF AN ADMINISTRATIVE PROCEEDING TO BE TRANSMITTED TO THE COURT OF APPEAL**

I request that the clerk transmit to the Court of Appeal under rule 8.123 the record of the following administrative proceeding that was admitted into evidence, refused, or lodged in the superior court (*give the title and date or dates of the administrative proceeding*):

Title of Administrative Proceeding	Date or Dates
------------------------------------	---------------

**4. NOTICE DESIGNATING CLERK'S TRANSCRIPT**

(*You must complete this section if you checked item 1a above indicating that you choose to use a clerk's transcript as the record of the documents filed in the superior court.*)

a. **Required documents.** The clerk will automatically include the following items in the clerk's transcript, but you must provide the date each document was filed, or if that is not available, the date the document was signed.

Document Title and Description	Date of Filing
(1) Notice of appeal	11/13/2019
(2) Notice designating record on appeal ( <i>this document</i> )	11/25/2019
(3) Judgment or order appealed from	11/8/2019
(4) Notice of entry of judgment ( <i>if any</i> )	
(5) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order ( <i>if any</i> )	
(6) Ruling on one or more of the items listed in (5)	
(7) Register of actions or docket ( <i>if any</i> )	

CASE NAME:  
DALY et al. v. BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY, et al.

SUPERIOR COURT CASE NUMBER:  
CIVDS1833846

#### 4 NOTICE DESIGNATING CLERK'S TRANSCRIPT

b. **Additional documents.** (If you want any documents from the superior court proceeding in addition to the items listed in 4a. above to be included in the clerk's transcript, you must identify those documents here.)

- I request that the clerk include in the transcript the following documents that were filed in the superior court proceeding. (You must identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)

	Document Title and Description	Date of Filing
(8)	VERIFIED PETITION FOR WRIT OF MANDATE	12/31/2018
(9)	CERTIFICATE OF ASSIGNMENT	12/31/2018
(10)	CIVIL CASE COVER SHEET	12/31/2018
(11)	NOTICE OF STATUS HEARING ON PETITION	12/31/2018

- See additional pages. (Check here if you need more space to list additional documents. List these documents on a separate page or pages labeled "Attachment 4b," and start with number (12).)

#### c. Exhibits to be included in clerk's transcript

- I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court. (For each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence. If the superior court has returned a designated exhibit to a party, the party in possession of the exhibit must deliver it to the superior court clerk within 10 days after service of this notice designating the record. (Rule 8.122(a)(3).))

	Exhibit Number	Description	Admitted (Yes/No)
(1)	1	Charter of the County of San Bernardino (excerpts) 11/6/2012	Yes
(2)	2	Agenda and Notice of Special Meeting of the San Bernardino County Board of Supervisors dated 11/13/2018	Yes
(3)	3	Staff Report/Recommendation to the BOS of SB County, and Record of Action dated 11/13/2018	Yes
(4)	4	Fair Statement of Proceedings ("Minutes") for the Special Meeting of the San Bernardino County Board of Supervisors 11/13/2018	Yes

- See additional pages. (Check here if you need more space to list additional exhibits. List these exhibits on a separate page or pages labeled "Attachment 4c," and start with number (5).)

#### 5 NOTICE DESIGNATING REPORTER'S TRANSCRIPT

You must complete both a and b in this section if you checked item 2b(1) above indicating that you choose to use a reporter's transcript as the record of the oral proceedings in the superior court. Please remember that you must pay for the cost of preparing the reporter's transcript.

##### a. Format of the reporter's transcript

I request that the reporters provide (check one):

- (1)  My copy of the reporter's transcript in electronic format.
- (2)  My copy of the reporter's transcript in paper format.
- (3)  My copy of the reporter's transcript in electronic format and a second copy in paper format.

(Code Civ. Proc., § 271.)

CASE NAME:  
DALY et al. v. BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY, et al.

SUPERIOR COURT CASE NUMBER:  
CIVDS1833846

5. b. **Proceedings**

I request that the following proceedings in the superior court be included in the reporter's transcript. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings (for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions), the name of the court reporter who recorded the proceedings (if known), and whether a certified transcript of the designated proceeding was previously prepared.)

Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(1) 3/22/2019	S29	Partial	Hearing on Related Case	Linda Baldwin	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(2) 3/27/2019	S29	Partial	Hearing on Demurrer	Linda Baldwin	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(3) 5/8/2019	S29	Partial	Status Conference	Linda Baldwin	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(4) 5/29/2019	S29	Partial	Hearing on Demurrer	Linda Baldwin	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

See additional pages. (Check here if you need more space to list additional proceedings. List these exhibits on a separate page or pages labeled "Attachment 5b," and start with number (5).)

6 **NOTICE DESIGNATING PROCEEDINGS TO BE INCLUDED IN SETTLED STATEMENT**

(You must complete this section if you checked item 2b(3) above indicating you choose to use a settled statement.) I request that the following proceedings in the superior court be included in the settled statement. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings (for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions), the name of the court reporter who recorded the proceedings (if known), and whether a certified transcript of the designated proceeding was previously prepared.)

Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(1)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(2)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(3)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(4)					<input type="checkbox"/> Yes <input type="checkbox"/> No

See additional pages. (Check here if you need more space to list additional proceedings. List these proceedings on a separate page or pages labeled "Attachment 6," and start with number (5).)

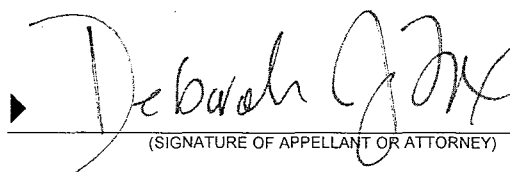
7. a. The proceedings designated in 5b or 6  include  do not include all of the testimony in the superior court.

b. If the designated proceedings DO NOT include all of the testimony, state the points that you intend to raise on appeal. (Rule 8.130(a)(2) and rule 8.137(d)(1) provide that your appeal will be limited to these points unless the Court of Appeal permits otherwise.) Points are set forth:  Below  On a separate page labeled "Attachment 7."

Date: November 20, 2019

DEBORAH J. FOX

(TYPE OR PRINT NAME)



(SIGNATURE OF APPELLANT OR ATTORNEY)

*Michael Gomez Daly and Inland Empire United v.  
Board of Supervisors of San Bernardino County, et al.*

San Bernardino Superior Court Case No.: CIVDS1833846  
4th District Court of Appeal, Division 2, Case No.: E073730

**ATTACHMENT TO APPELLANT'S AMENDED NOTICE OF DESIGNATION OF RECORD ON APPEAL**

<b>Records of the Documents Filed in the Superior Court – 4b – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Date Filed</b>
12.	PETITIONER'S MOTION FOR PEREMPTORY DISQUALIFICATION OF ASSIGNED JUDGE (C.C.P. § 170.6)	1/10/2019
13.	DECLARATION OF MEGAN WACHSPRESS IN SUPPORT OF PETITIONER'S MOTION FOR PEREMPTORY DISQUALIFICATION OF ASSIGNED JUDGE (C.C.P. § 170.6)	1/10/2019
14.	MINUTE ORDER GRANTING C.C.P. § 170.6	1/11/2019
15.	MINUTE ORDER RE REASSIGNMENT OF CASE	1/15/2019
16.	NOTICE OF RELATED CASE FILED BY RUTH MUSSER-LOPEZ, CASE NO. CIVDS1901773	1/25/2019
17.	PROOF OF SERVICE OF NOTICE OF RELATED CASE	2/1/2019
18.	RESPONDENTS' AND REAL PARTY IN INTEREST'S NOTICE OF DEMURRER AND DEMURRER TO PETITIONERS' VERIFIED PETITION FOR WRIT OF MANDATE	2/11/2019
19.	RESPONDENTS' AND REAL PARTY IN INTEREST'S POINTS AND AUTHORITIES IN SUPPORT OF DEMURRER TO PETITIONERS' VERIFIED PETITION FOR WRIT OF MANDATE	2/11/2019
20.	DECLARATION OF DEBORAH J. FOX IN SUPPORT OF RESPONDENTS' AND REAL PARTY IN INTEREST'S DEMURRER TO PETITIONERS' VERIFIED PETITION FOR WRIT OF MANDATE	2/11/2019
21.	RESPONDENTS' AND REAL PARTY IN INTEREST'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEMURRER TO PETITIONERS' VERIFIED PETITION FOR WRIT OF MANDATE	2/11/2019
22.	ORDER RE RELATED CASE	2/26/2019

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**ATTACHMENT TO APPELLANT'S AMENDED NOTICE OF DESIGNATION OF RECORD ON APPEAL**

<b>Records of the Documents Filed in the Superior Court – 4b – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Date Filed</b>
23.	NOTICE OF ENTRY OF ORDER TO SHOW CAUSE WHETHER THIS CASE SHOULD BE DEEMED RELATED AND CONSOLIDATED WITH RUTH MUSSER-LOPEZ v. BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY, ET AL., CIVDS1901773 AND ORDER RESCHEDULING STATUS HEARING	2/27/2019
24.	MUSSER-LOPEZ MEMORANDUM OF POINTS AND AUTHORITIES IN RESPONSE TO ORDER TO SHOW CAUSE RE RELATED CASE/CONSOLIDATION OF CASES	3/11/2019
25.	PROOF OF SERVICE OF MEMORANDUM OF POINTS AND AUTHORITIES	3/12/2019
26.	COUNTY RESPONDENTS' STATEMENT RE ORDER TO SHOW CAUSE RE CASE RELATION AND PROPOSED CONSOLIDATION	3/12/2019
27.	PETITIONERS' RESPONSE TO ORDER RE RELATED CASE	3/12/2019
28.	DECLARATION OF JUHYUNG HAROLD LEE IN RESPONSE TO ORDER RE RELATED CASE	3/12/2019
29.	PROOF OF SERVICE OF PETITION OF WRIT OF MANDATE BY PERSONAL SERVICE ON 1/11/2019 AS TO CURT HAGMAN	3/13/2019
30.	PROOF OF SERVICE OF PETITION OF WRIT OF MANDATE BY PERSONAL SERVICE ON 1/11/2019 AS TO DAWN ROWE	3/13/2019
31.	PROOF OF SERVICE OF PETITION OF WRIT OF MANDATE BY PERSONAL SERVICE ON 1/11/2019 AS TO JANICE RUTHERFORD	3/13/2019



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**ATTACHMENT TO APPELLANT'S AMENDED NOTICE OF DESIGNATION OF RECORD ON APPEAL**

<b>Records of the Documents Filed in the Superior Court – 4b – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Date Filed</b>
32.	PROOF OF SERVICE OF PETITION OF WRIT OF MANDATE BY PERSONAL SERVICE ON 1/11/2019 AS TO ROBERT A. LOVINGOOD	3/13/2019
33.	PROOF OF SERVICE OF PETITION OF WRIT OF MANDATE BY PERSONAL SERVICE ON 1/11/2019 AS TO JOSIE GONZALES	3/13/2019
34.	PROOF OF SERVICE OF PETITION OF WRIT OF MANDATE BY PERSONAL SERVICE ON 1/11/2019 AS TO BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY	3/13/2019
35.	NOTICE OF MOTION AND MOTION FOR PEREMPTORY WRIT OF MANDATE	3/14/2019
36.	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PEREMPTORY WRIT OF MANDATE	3/14/2019
37.	DECLARATION OF MICHAEL GOMEZ DALY IN SUPPORT OF MOTION FOR PEREMPTORY WRIT OF MANDATE	3/14/2019
38.	DECLARATION OF MEGAN WACHSPRESS IN SUPPORT OF MOTION FOR PEREMPTORY WRIT OF MANDATE	3/14/2019
39.	REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PETITIONERS' MOTION FOR PEREMPTORY WRIT OF MANDATE	3/14/2019
40.	PROOF OF SERVICE OF PETITIONERS' MOTION FOR PEREMPTORY WRIT OF MANDATE AND SUPPORTING DOCUMENTS	3/14/2019
41.	PETITIONERS' OPPOSITION TO RESPONDENTS' AND REAL PARTY IN INTEREST'S DEMURRER TO VERIFIED PETITION FOR WRIT OF MANDATE	3/14/2019

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**ATTACHMENT TO APPELLANT'S AMENDED NOTICE OF DESIGNATION OF RECORD ON APPEAL**

<b>Records of the Documents Filed in the Superior Court – 4b – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Date Filed</b>
42.	RESPONDENTS' AND REAL PARTY IN INTEREST'S REPLY TO PETITIONERS' OPPOSITION TO DEMURRER	3/20/2019
43.	MINUTE ORDER RE ORDER TO SHOW CAUSE RE RELATED CASE	3/22/2019
44.	NOTICE OF RULING RE ORDER TO SHOW CAUSE RE RELATEDNESS AND CONSOLIDATION OF CASES	3/25/2019
45.	MINUTE ORDER RE DEMURRER TO PETITION FOR WRIT OF MANDATE	3/27/2019
46.	NOTICE OF RULING AND ENTRY OF ORDER SUSTAINING, IN PART, RESPONDENTS' AND REAL PARTY IN INTEREST'S DEMURRER TO THE VERIFIED WRIT PETITION OF MICHAEL DALY AND INLAND EMPIRE UNITED	3/28/2019
47.	FIRST AMENDED VERIFIED PETITION FOR WRIT OF MANDATE	4/8/2019
48.	COUNTY RESPONDENTS' AND REAL PARTY IN INTEREST'S NOTICE OF DEMURRER TO PETITIONERS' FIRST AMENDED PETITION FOR WRIT OF MANDATE	5/3/2019
49.	COUNTY RESPONDENTS' AND REAL PARTY IN INTEREST'S POINTS AND AUTHORITIES IN SUPPORT OF DEMURRER TO PETITIONERS' FIRST AMENDED PETITION FOR WRIT OF MANDATE	5/3/2019
50.	DECLARATION OF T. STEVEN BURKE, JR. IN SUPPORT OF COUNTY RESPONDENT'S AND REAL PARTY IN INTEREST'S DEMURRER TO PETITIONERS' FIRST AMENDED PETITION FOR WRIT OF MANDATE	5/3/2019

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**ATTACHMENT TO APPELLANT'S AMENDED NOTICE OF DESIGNATION OF RECORD ON APPEAL**

<b>Records of the Documents Filed in the Superior Court – 4b – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Date Filed</b>
51.	COUNTY RESPONDENTS' AND REAL PARTY IN INTEREST'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEMURRER TO PETITIONERS' FIRST AMENDED PETITION FOR WRIT OF MANDATE	5/3/2019
52.	COUNTY RESPONDENTS' AND REAL PARTY IN INTEREST'S STATUS CONFERENCE REPORT	5/3/2019
53.	PETITIONERS' RESPONSE TO RESPONDENTS' AND REAL PARTY INTEREST'S STATUS CONFERENCE REPORT	5/6/2019
54.	MINUTE ORDER RE STATUS CONFERENCE; WRIT MOTION TIMING	5/8/2019
55.	NOTICE OF ENTRY OF ORDER RE STATUS CONFERENCE	5/9/2019
56.	PETITIONERS' OPPOSITION TO COUNTY RESPONDENTS' AND REAL PARTY IN INTEREST'S DEMURRER TO FIRST AMENDED VERIFIED PETITION FOR WRIT OF MANDATE	5/15/2019
57.	COUNTY RESPONDENTS'/REAL PARTY IN INTEREST'S REPLY TO PETITIONERS' OPPOSITION TO DEMURRER TO PETITIONERS' FIRST AMENDED PETITION FOR WRIT OF MANDATE	5/21/2019
58.	MINUTE ORDER RE DEMURRER	5/29/2019
59.	NOTICE OF RULING AND ENTRY OF ORDER RE RESPONDENTS' AND REAL PARTY IN INTEREST'S DEMURRER TO FIRST AMENDED PETITION FOR WRIT OF MANDATE	5/30/2019
60.	COUNTY RESPONDENTS'/REAL PARTY IN INTEREST'S OPPOSITION TO PETITIONERS' PEREMPTORY WRIT OF MANDATE	6/5/2019

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**ATTACHMENT TO APPELLANT'S AMENDED NOTICE OF DESIGNATION OF RECORD ON APPEAL**

<b>Records of the Documents Filed in the Superior Court – 4b – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Date Filed</b>
61.	DECLARATION OF CLERK OF THE BOARD LAURA WELCH IN SUPPORT OF COUNTY RESPONDENTS'/REAL PARTY IN INTEREST'S OPPOSITION TO PEREMPTORY WRIT OF MANDATE	6/5/2019
62.	COUNTY RESPONDENTS'/REAL PARTY IN INTEREST'S NOTICE OF LODGMENT OF RECORD OF PROCEEDINGS	6/5/2019
63.	COUNTY RESPONDENTS'/REAL PARTY IN INTEREST'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF OPPOSITION TO PETITIONERS' PEREMPTORY WRIT OF MANDATE	6/5/2019
64.	COUNTY RESPONDENTS'/REAL PARTY IN INTEREST'S EVIDENTIARY OBJECTIONS TO DECLARATION OF MICHAEL GOMEZ DALY IN SUPPORT OF OPPOSITION TO PETITIONERS' PEREMPTORY WRIT OF MANDATE	6/5/2019
65.	PROOF OF SERVICE RE COUNTY RESPONDENTS'/REAL PARTY IN INTEREST'S OPPOSITION TO PETITIONERS' PEREMPTORY WRIT OF MANDATE	6/5/2019
66.	ANSWER OF RESPONDENTS'/REAL PARTY IN INTEREST'S BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY; ROBERT A. LOVINGOOD; JANICE RUTHERFORD; CURT HAGMAN; JOSIE GONZALES; AND DAWN ROWE TO PETITIONERS' FIRST AMENDED PETITION FOR WRIT OF MANDATE	6/10/2019
67.	REPLY IN SUPPORT OF PETITIONERS' MOTION FOR PEREMPTORY WRIT OF MANDATE	6/14/2019
68.	MINUTE ORDER RE HEARING ON PEREMPTORY WRIT OF MANDATE	6/28/2019

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<b>Records of the Documents Filed in the Superior Court – 4b – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Date Filed</b>
69.	RESPONDENTS'/REAL PARTY IN INTEREST'S SUPPLEMENTAL BRIEF ON PEREMPTORY WRIT OF MANDATE	8/5/2019
70.	PETITIONERS' SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION FOR PEREMPTORY WRIT OF MANDATE	8/5/2019
71.	MINUTE ORDER RE RULING ON PEREMPTORY WRIT OF MANDATE	9/18/2019
72.	STATEMENT OF DECISION	9/18/2019
73.	NOTICE OF APPEAL	9/19/2019
74.	CLERK'S NOTIFICATION OF FILING OF NOTICE OF APPEAL	9/19/2019
75.	CLERK'S EXHIBIT LIST	9/25/2019
76.	PETITIONERS' PROPOSED JUDGMENT	9/27/2019
77.	PETITIONERS' PROPOSED PEREMPTORY WRIT OF MANDATE	9/27/2019
78.	COUNTY RESPONDENTS'/REAL PARTY IN INTEREST'S OBJECTIONS TO PROPOSED JUDGMENT AND PROPOSED PEREMPTORY WRIT OF MANDATE	10/9/2019
79.	NOTICE OF ASSOCIATION OF COUNSEL ADDING MCDERMOTT WILL & EMERY	10/10/2019
80.	ORDER ON BOARD OF SUPERVISORS OF SAN BERNARDINO OBJECTIONS TO PROPOSED JUDGMENT AND PROPOSED PEREMPTORY WRIT	10/10/2019
81.	REAL PARTY IN INTEREST'S SUPPLEMENTAL OBJECTIONS TO PROPOSED JUDGMENT AND PROPOSED PEREMPTORY WRIT OF MANDATE	10/15/2019

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**ATTACHMENT TO APPELLANT'S AMENDED NOTICE OF DESIGNATION OF RECORD ON APPEAL**

<b>Records of the Documents Filed in the Superior Court – 4b – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Date Filed</b>
82.	PETITIONERS' RESPONSES TO RESPONDENTS' AND REAL PARTY IN INTEREST'S OBJECTIONS TO PETITIONERS' PROPOSED JUDGMENT	10/22/2019
83.	PROOF OF SERVICE OF PETITIONERS' RESPONSES TO RESPONDENTS' AND REAL PARTY IN INTEREST'S OBJECTIONS TO PETITIONERS' PROPOSED JUDGMENT	10/22/2019
84.	NOTICE OF DEFAULT RE APPEAL	10/29/2019
85.	PETITIONERS' EX PARTE APPLICATION FOR ORDER (1) VACATING NOVEMBER 6, 2019 HEARING ON RESPONDENTS AND REAL PARTY IN INTEREST'S OBJECTIONS TO PROPOSED JUDGMENT AND WRIT, AND (2) EITHER SETTING HEARING AT 10:00 A.M. ON NOVEMBER 6, 2019, OR, IN THE ALTERNATIVE, TAKING MATTER UNDER SUBMISSION; MEMORANDUM IN SUPPORT THEREOF	11/4/2019
86.	DECLARATION OF JUHYUNG HAROLD LEE IN SUPPORT OF PETITIONERS' EX PARTE APPLICATION FOR ORDER (1) VACATING NOVEMBER 6, 2019 HEARING ON RESPONDENTS AND REAL PARTY IN INTEREST'S OBJECTIONS TO PROPOSED JUDGMENT AND WRIT, AND (2) EITHER SETTING HEARING AT 10:00 A.M. ON NOVEMBER 6, 2019, OR, IN THE ALTERNATIVE, TAKING MATTER UNDER SUBMISSION	11/4/2019
87.	PROOF OF SERVICE OF 1. PETITIONERS' EX PARTE APPLICATION; 2. DECLARATION OF JUHYUNG HAROLD LEE IN SUPPORT OF PETITIONERS' EX PARTE APPLICATION; AND PROPOSED ORDER GRANTING PETITIONERS' EX PARTE APPLICATION	11/4/2019

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**ATTACHMENT TO APPELLANT'S AMENDED NOTICE OF DESIGNATION OF RECORD ON APPEAL**

<b>Records of the Documents Filed in the Superior Court – 4b – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Date Filed</b>
88.	OPPOSITION TO PETITIONERS' EX PARTE APPLICATION FOR ORDER VACATING NOVEMBER 6, 2019 HEARING ON RESPONDENTS AND REAL PARTY IN INTEREST'S OBJECTIONS TO PROPOSED JUDGMENT AND WRIT	11/4/2019
89.	DECLARATION OF DEBORAH J. FOX IN SUPPORT OF RESPONDENTS AND REAL PARTY IN INTEREST'S OPPOSITION TO PETITIONERS' EX PARTE APPLICATION FOR ORDER VACATING NOVEMBER 6, 2019 HEARING ON RESPONDENTS AND REAL PARTY IN INTEREST'S OBJECTIONS TO PROPOSED JUDGMENT AND WRIT	11/4/2019
90.	MINUTE ORDER RE EX PARTE HEARING	11/5/2019
91.	NOTICE OF ENTRY OF ORDER GRANTING PETITIONERS' EX PARTE APPLICATION	11/6/2019
92.	PROOF OF SERVICE OF (1) PROPOSED JUDGMENT AND (2) PROPOSED PEREMPTORY WRIT OF MANDATE	11/8/2019
93.	MINUTE ORDER ON 1 <sup>ST</sup> AMENDED PETITION	11/8/2019
94.	JUDGMENT	11/8/2019
95.	PEREMPTORY WRIT OF MANDATE	11/8/2019
96.	ORDER ON RESPONDENTS' BOARD OF SUPERVISORS OF SAN BERNARDINO'S AND REAL PARTY IN INTEREST DAWN ROWE'S OBJECTIONS TO PROPOSED JUDGMENT AND WRIT	11/8/2019
97.	AMENDED NOTICE OF APPEAL	11/13/2019
98.	CLERK'S NOTIFICATION OF FILING OF NOTICE OF APPEAL	11/13/2019

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**ATTACHMENT TO APPELLANT'S AMENDED NOTICE OF DESIGNATION OF  
RECORD ON APPEAL**

<b>Records of the Documents Filed in the Superior Court – 4b – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Date Filed</b>
99.	RESPONDENTS' AND REAL PARTY IN INTEREST'S EX PARTE APPLICATION TO VACATE THE ORDER TO SHOW CAUSE HEARING AND CONFIRM THE MANDATORY INJUNCTION AND STAY PENDING APPEAL; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF	11/20/2019
100.	DECLARATION OF DEBORAH J. FOX IN SUPPORT OF RESPONDENTS' AND REAL PARTY IN INTEREST'S EX PARTE APPLICATION TO VACATE THE ORDER TO SHOW CAUSE HEARING AND CONFIRM THE MANDATORY INJUNCTION AND STAY PENDING APPEAL; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF	11/20/2019
101.	DECLARATION OF COUNTY OF SAN BERNARDINO CHIEF EXECUTIVE OFFICER GARY MCBRIDE IN SUPPORT OF RESPONDENTS' AND REAL PARTY IN INTEREST'S EX PARTE APPLICATION TO VACATE THE ORDER TO SHOW CAUSE HEARING AND CONFIRM THE MANDATORY INJUNCTION AND STAY PENDING APPEAL; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF	11/20/2019
102.	[PROPOSED] ORDER GRANTING EX PARTE APPLICATION	11/20/2019
103.	PETITIONERS' OPPOSITION TO RESPONDENTS' AND REAL PARTY IN INTEREST'S EX PARTE APPLICATION TO VACATE THE ORDER TO SHOW CAUSE HEARING AND CONFIRM THE MANDATORY INJUNCTION AND STAY PENDING APPEAL	11/21/2019



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RECORD ON APPEAL**

<b>Records of the Documents Filed in the Superior Court – 4b – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Date Filed</b>
104.	DECLARATION OF JUHYUNG HAROLD LEE IN SUPPORT OF PETITIONERS' OPPOSITION TO RESPONDENTS' AND REAL PARTY IN INTEREST'S EX PARTE APPLICATION TO VACATE THE ORDER TO SHOW CAUSE HEARING AND CONFIRM THE MANDATORY INJUNCTION AND STAY PENDING APPEAL	11/21/2019

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**ATTACHMENT TO APPELLANT’S AMENDED NOTICE OF DESIGNATION OF RECORD ON APPEAL**

Records of Exhibits Lodged in the Superior Court – 4c – continued		
No.	Document	Admitted
5.	THIRD DISTRICT SUPERVISOR APPLICATION POSTED BY CLERK OF THE BOARD OF SUPERVISORS DATED NOVEMBER 2018, BATES NOS. ROP 017-18	Yes
6.	EMAIL NOTICE FROM LIZ SMITH, SAN BERNARDINO COUNTY LIBRARY ADMINISTRATION TO LIBRARIANS TO POST THIRD DISTRICT APPLICATION FOR BOARD OF SUPERVISOR POSITION DATED NOVEMBER 15, 2018, BATES NOS. ROP 019-21	Yes
7.	EMAIL FROM DAVID WERT, COUNTY PUBLIC INFORMATION OFFICER RE NEWSPAPER PUBLICATION ADVERTISING THIRD DISTRICT APPOINTMENT DATED NOVEMBER 15, 2018, BATES NOS. ROP 022-23	Yes
8.	EMAIL FROM DAVID WERT, COUNTY PUBLIC INFORMATION OFFICER RE NEWSPAPER PUBLICATION THIRD DISTRICT APPOINTMENT NEWSPAPER ADVERTISEMENTS DATED NOVEMBER 16, 2018, BATES NOS. ROP 024-25	Yes
9.	SAN BERNARDINO COUNTY PRESS RELEASE “APPLICATIONS BEING ACCEPTED FOR IMPENDING VACANCY ON THE BOARD OF SUPERVISORS” DATED NOVEMBER 16, 2018, BATES NOS. ROP 026-30	Yes
10.	LETTER FROM JAMES RAMOS TO CLERK OF THE BOARD OF SUPERVISORS LAURA WELCH TENDERING SUPERVISOR RAMOS’ RESIGNATION DATED DECEMBER 3, 2018, BATES NOS. ROP 031	Yes
11.	AGENDA AND NOTICE FOR THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS MEETING, AGENDA ITEM 81 DATED DECEMBER 4, 2018, BATES NOS. ROP 032-50	Yes

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Board of Supervisors of San Bernardino County, et al.*

San Bernardino Superior Court Case No.: CIVDS1833846  
4th District Court of Appeal, Division 2, Case No.: E073730

**ATTACHMENT TO APPELLANT’S AMENDED NOTICE OF DESIGNATION OF RECORD ON APPEAL**

<b>Records of Exhibits Lodged in the Superior Court – 4c – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Admitted</b>
12.	STAFF REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY, AND RECORD OF ACTION REGARDING APPLICATIONS FOR THIRD DISTRICT SUPERVISOR AND RECONSIDER SELECTION PROCESS DATED DECEMBER 4, 2018, BATES NOS. ROP 051-52	Yes.
13.	FAIR STATEMENT OF PROCEEDINGS (“MINUTES”) FOR THE MEETING OF THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS DATED DECEMBER 4, 2018, BATES NOS. ROP 053-80	Yes
14.	AGENDA AND NOTICE OF SPECIAL MEETING OF THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS DATED DECEMBER 11, 2018, BATES NOS. ROP 081-82	Yes
15.	STAFF REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY, AND RECORD OF ACTION RE SPECIAL MEETING FOR INTERVIEWS OF QUALIFIED APPLICANTS FOR SELECTION OF THIRD DISTRICT SUPERVISOR DATED DECEMBER 11, 2018, BATES NOS. ROP 083-86	Yes
16.	FAIR STATEMENT OF PROCEEDINGS (“MINUTES”) FOR THE SPECIAL MEETING OF THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS DATED DECEMBER 11, 2018, BATES NOS. ROP 087-88	Yes
17.	LETTER FROM RUTH MUSSER-LOPEZ TO CLERK OF THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS RE COMPLAINT OF VIOLATION OF THE RALPH M. BROWN ACT DATED DECEMBER 11, 2018, BATES NOS. ROP 089-91	Yes

*Michael Gomez Daly and Inland Empire United v.  
Board of Supervisors of San Bernardino County, et al.*

**San Bernardino Superior Court Case No.: CIVDS1833846  
4th District Court of Appeal, Division 2, Case No.: E073730**

**ATTACHMENT TO APPELLANT’S AMENDED NOTICE OF DESIGNATION OF  
RECORD ON APPEAL**

<b>Records of Exhibits Lodged in the Superior Court – 4c – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Admitted</b>
18.	PUBLIC RECORDS ACT REQUEST FROM SAMUEL SUKATEN OF IE UNITED TO THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS AND RESPONSE FROM DAVID WERT, PUBLIC INFORMATION OFFICER TO SAMUEL SUKATEN OF IE UNITED ATTACHING BLANK QUESTIONNAIRES AND TALLY SHEET DATED DECEMBER 12-13, 2018, BATES NOS. ROP 092-99	Yes
19.	EMAIL FROM RUTH MUSSER-LOPEZ TO THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS RE AGENDA ITEM BROWN ACT VIOLATION DEMAND TO CURE AND CORRECT DATED DECEMBER 13, 2018, BATES NO. ROP 100	Yes
20.	AGENDA AND NOTICE OF SPECIAL MEETING OF THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS DATED DECEMBER 13, 2018, BATES NOS. ROP 101-102	Yes
21.	STAFF REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY, AND RECORD OF ACTION RE SPECIAL MEETING FOR INTERVIEWS OF QUALIFIED APPLICANTS FOR SELECTION OF THIRD DISTRICT SUPERVISOR DATED DECEMBER 13, 2018, BATES NOS. ROP 103-106	Yes
22.	FAIR STATEMENT OF PROCEEDINGS (“MINUTES”) FOR THE SPECIAL MEETING OF THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS DATED DECEMBER 13, 2018, BATES NOS. ROP 107-108	Yes
23.	AGENDA AND NOTICE OF SPECIAL MEETING OF THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS, AGENDA ITEM 102 DATED DECEMBER 18, 2018, BATES NOS. ROP 109-131	Yes

*Michael Gomez Daly and Inland Empire United v.  
Board of Supervisors of San Bernardino County, et al.*

**San Bernardino Superior Court Case No.: CIVDS1833846  
4th District Court of Appeal, Division 2, Case No.: E073730**

**ATTACHMENT TO APPELLANT’S AMENDED NOTICE OF DESIGNATION OF  
RECORD ON APPEAL**

<b>Records of Exhibits Lodged in the Superior Court – 4c – continued</b>		
<b>No.</b>	<b>Document</b>	<b>Admitted</b>
24.	STAFF REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY, AND RECORD OF ACTION RE SELECTION OF THIRD DISTRICT SUPERVISOR DATED DECEMBER 18, 2018, BATES NOS. ROP 132-136	Yes
25.	FAIR STATEMENT OF PROCEEDINGS (“MINUTES”) FOR THE MEETING OF THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS, AGENDA ITEM 102 DATED DECEMBER 18, 2018, BATES NOS. ROP 137-170	Yes
26.	LETTER FROM MICHELLE BLAKEMORE, COUNTY COUNSEL, SAN BERNARDINO COUNTY TO MICHAEL GOMEZ DALY RE NOTIFICATION OF BROWN ACT VIOLATION DATED DECEMBER 18, 2018, BATES NOS. ROP 171-179	Yes
27.	VIDEO TRANSCRIPTION OF THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS OF SPECIAL MEETING OF NOVEMBER 13, 2018, BATES NOS. ROP 180-229	Yes
28.	VIDEO TRANSCRIPTION OF THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS MEETING OF DECEMBER 4, 2018, AGENDA ITEM 81, DATED DECEMBER 4, 2018, BATES NOS. ROP 230-265	Yes
29.	VIDEO TRANSCRIPTION OF THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS SPECIAL MEETING OF DECEMBER 11, 2018, AGENDA ITEM 1 WITH PUBLIC COMMENT, DATED DECEMBER 11, 2018, BATES NOS. ROP 266-539	Yes
30.	VIDEO TRANSCRIPTION OF THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS SPECIAL MEETING OF DECEMBER 13, 2018, AGENDA ITEM 1, DATED DECEMBER 13, 2018, BATES NOS. ROP 540-545	Yes

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**PROOF OF SERVICE**

**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 707 Wilshire Blvd., 24th Floor, Los Angeles, CA 90017.

On November 22, 2019, I served true copies of the following document(s) described as **(AMENDED) APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL** on the interested parties in this action as follows:


**SEE ATTACHED SERVICE LIST**

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Meyers, Nave, Riback, Silver & Wilson's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

**BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s) to be sent from e-mail address [jblack@meyersnave.com](mailto:jblack@meyersnave.com) to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on November 22, 2019, at Los Angeles, California.

  
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Julie Black

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**SERVICE LIST**

**Michael Gomez Daly, et al. v. Board of Supervisors of San Bernardino County, et al.**  
**SBSC No.: CIVDS1833846 / Appeal No.: E073730**

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Court of Appeal, 4th District, Division Two  
Kevin J. Lane, Clerk/Executive Officer  
3389 12th St., Riverside, CA 92501  
(951) 782-2500  
June 4, 2020

**NOTICE TO APPELLANT**

MICHAEL GOMEZ DALY et al., Plaintiffs and Respondents, v. SAN BERNARDINO COUNTY BOARD OF SUPERVISORS et al., Defendants and Appellants;	E073730  (Super.Ct.No. CIVDS1833846)  The County of San Bernardino
DAWN ROWE, Real Party in Interest and Appellant.	

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The record on appeal has been filed this date.

The appellant's opening brief is due within 40 days. (Cal. Rules of Court, rule 8.212(a)(1)(A).)

The court requires all filings to be made through the court's electronic filing system via the TrueFiling portal operated by ImageSoft., unless an exemption from mandatory electronic filing is obtained. (See Cal. Rules of Court, rule 8.70-8.79.)

Appellant's attention is directed to the *requirement that the opening brief contain a statement explaining why the judgment or order is appealable.* (Cal. Rules of Court, rule 8.204(a)(2).)

**COUNSEL ARE DIRECTED: (1) to discuss in your briefs any trial exhibits and/or administrative record** that are important to a resolution of the appeal and **(2) to serve and file with the clerk of this court the enclosed form requesting early transmission of any exhibits and /or administrative record mentioned in your briefs** (Cal. Rules of Court, rule 8.224(d)); and **(3) to give both the VOLUME and PAGE number in any record citation** (Cal. Rules of Court, rule 8.204(a)(1)(C)).

**COUNSEL ARE NOTIFIED** that this court prefers that legal and record citations be included in the text of a brief, not in the footnotes, and that **a brief will be rejected if citations are regularly placed in footnotes.**

**NOTE:** Recipients who are not parties to this appeal are requested to advise this court and opposing counsel immediately in writing.

KEVIN J. LANE, Clerk/Executive Officer

By: R. Hance, Deputy Clerk

cc: All parties



Court of Appeal, 4th District, Division Two  
Kevin J. Lane, Clerk/Executive Officer  
3389 12th St., Riverside, CA 92501  
(951) 782-2500  
June 4, 2020

**ALL PARTIES RE: TRANSMISSION OF EXHIBITS AND /OR ADMINISTRATIVE  
RECORD**

MICHAEL GOMEZ DALY et al.,  
Plaintiffs and Respondents,

E073730

v.

(Super.Ct.No. CIVDS1833846)

SAN BERNARDINO COUNTY  
BOARD OF SUPERVISORS et al.,  
Defendants and Appellants,

The County of San Bernardino

DAWN ROWE,  
Real Party in Interest and  
Appellant.

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**RETURN THIS NOTICE WITH YOUR INITIAL BRIEF** if your brief mentions any trial exhibits and/or administrative record, but copies of these exhibits and/or administrative record were not included in the clerk's transcript. (See Cal. Rules of Court, rule 8.120(b)(3)(b), 8.224 (d)). To ensure that the exhibits and/or administrative record are in the court's possession when the case is assigned, this court prefers that you request early transmission of the original exhibits and/or administrative record. (Cal. Rules of Court, rule 8.224(d).) This form tells this court what exhibits and/or administrative record to request the trial court to transmit early.

**REQUEST FOR TRANSMISSION OF EXHIBITS AND/OR ADMINISTRATIVE  
RECORD**

In the case captioned above, I hereby request transmission of the exhibits and/or administrative record listed by number or other designation on the sheet I have attached.

---

Signature of Counsel

---

Date

---

Parties Represented by Counsel Signing

MAILING LIST FOR CASE: E073730

Michael Daly et al. v. San Bernardino County Board of Supervisors et al.; Dawn Rowe

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## PROOF OF SERVICE

COURT NAME: Supreme Court of California

CASE NUMBER: S260209

CASE NAME: *Daly, et al. v. Board of Supervisors of San Bernardino County, et al.*

I am employed in the County of San Francisco, State of California. I am over the age of 18 years and not a party to the within action; my business address is 177 Post Street, Suite 300, San Francisco, California 94108. On July 20, 2020, I served the following document:

### **RESPONDENTS' MOTION TO AUGMENT RECORD ON REVIEW**

on the interested parties in this action in the manner described below:

**By Filing via TrueFiling:** I filed such document(s) via TrueFiling, thus sending an electronic copy of the filing and effecting service pursuant to CRC 8.212(b)(1), (c).

**By E-mail:** I caused a true copy thereof to be sent by e-mail or electronic transmission to the e-mail addresses as follows in the Service List.

#### **Service List:**

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Michelle D. Blakemore, County Counsel  
Penelope Alexander-Kelley, Chief Assistant  
County Counsel

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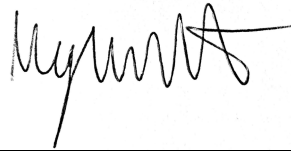
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Clerk of the Court  
4<sup>th</sup> District Court of Appeals, Division Two  
3389 12th Street  
Riverside, CA 92501

**By TrueFiling**

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on July 20, 2020, in Oakland, California.



---

Meghan Herbert

**STATE OF CALIFORNIA**  
Supreme Court of California

**PROOF OF SERVICE**

**STATE OF CALIFORNIA**  
Supreme Court of California

Case Name: **DALY v. BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY**

Case Number: **S260209**

Lower Court Case Number: **E073730**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **sleyton@altber.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

<b>Filing Type</b>	<b>Document Title</b>
BRIEF	Answer Brief on the Merits
MOTION	Respondents' Motion to Augment Record on Review
MOTION	Respondents' Motion to Take Judicial Notice

Service Recipients:

<b>Person Served</b>	<b>Email Address</b>	<b>Type</b>	<b>Date / Time</b>
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This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

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

7/20/2020

Date

/s/Stacey Leyton

Signature

Leyton, Stacey (203827)

Last Name, First Name (PNum)

Altshuler Berzon LLP

Law Firm