

Case No. S232642

MAR 21 2016

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

Frank A. McGuire Clerk

Deputy

GOVERNOR EDMUND G. BROWN, JR., MARGARET R. PRINZING,
and HARRY BEREZIN,
Petitioners,

v.

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF SACRAMENTO,
Respondent.

CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION, ANNE
MARIE SCHUBERT, an individual and in her personal capacity, and
KAMALA HARRIS, in her official capacity as Attorney General of the
State of California,
Real Parties In Interest.

On Appeal from the Superior Court of California, County of Sacramento
Case No. 34-2016-80002293-CU-WM-GDS
Hon. Shelleyanne Chang

**REAL PARTIES IN INTEREST, CALIFORNIA DISTRICT
ATTORNEYS ASSOCIATION AND ANNE
MARIE SCHUBERT'S MOTION FOR JUDICIAL NOTICE**

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**NOTICE OF MOTION AND MOTION REQUESTING THE COURT
TAKE JUDICIAL NOTICE**

TO: THE HONORABLE JUSTICES OF THE SUPREME COURT:

Real Parties in Interest request, pursuant to Evidence Code, section 459, and Rule 8.252 of the California Rules of Court, that the Court take judicial notice of documents attached as Exhibits A and B to Real Parties' Return to Order to Show Cause Issued March 9, 2016. Exhibits A and B are true and correct copies of the documents obtained by counsel for Real Parties.

This motion will be based on this notice of motion, on the attached memorandum of points and authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

This Court may consider matters that are properly the subject of judicial notice. Under Evidence Code section 459, appellate courts have the same right and power to take judicial notice as do the trial courts. (Evid. Code, § 459; *Crowley v. Katleman* (1994) 8 Cal.4th 666, 672; *Evans v. Pillsbury, Madison & Sutro* (1998) 65 Cal.App.4th 599, 605, fn. 5.) Evidence Code section 459(a) provides:

The reviewing court shall take judicial notice of (1) each matter properly noticed by the trial court and (2) each matter that the trial court was required to notice under Section 451 or 453. The reviewing court may take judicial notice of any matter specified in Section 452. The reviewing court may take judicial notice of a matter in a tenor different from that noticed by the trial court.

Evidence Code section 452(c) provides that judicial notice may be taken of "...official acts of the legislative, executive, and judicial departments ... of any

state of the United States.” Section 452(c) also provides that judicial notice may be taken of any document published, recorded, or filed by any executive department. (See also *Serrano v. Priest* (1971) 5 Cal.3d 584, 591; *Moore v. Superior Court* (2004) 117 Cal.App.4th 401, 407 fn.5; *Wolfe v. State Farm Casualty & Insurance Company* (1996) 46 Cal.App.4th 554, 567 fn. 16; *Fowler v. Howell* (1996) 42 Cal.App.4th 1746, 1750, *Hogen v. Valley Hospital* (1983) 147 Cal.App.3d 119, 125.) “Official acts” include reports, records, files, and notices maintained by local governments, including counties. (*Cruz v. County of Los Angeles* (1985) 173 Cal.App.3d 1131, 1134.)

In addition, although a court may judicially notice a variety of matters (Evid. Code, §§ 450, *et seq.*), only relevant material may be noticed. “But judicial notice, since it is a substitute for proof [citation], is always confined to those matters which are relevant to the issue at hand.” (*Gbur v. Cohen* (1979) 93 Cal.App.3d 296, 301; and see Cal. Evidence Benchbook (2d Ed. 1982) § 47.1, p. 1749 [“Matters otherwise subject to judicial notice must be relevant to an issue in the action”].)

Real Parties move this Court to take judicial notice of the documents identified in their Return to Order to Show Cause Issued March 9, 2016, and attached thereto as follows:

Exhibit “A” - A true and correct copy of the California Secretary of State’s Report of Certification of Initiative No. 1667. This information is maintained by the California Secretary of State through its office.

Exhibit "B" - A true and correct copy of the California Secretary of State's Circulating Initiatives with 25% of Signatures Reached Report, as of March 21, 2016 showing that Petitioners have not submitted their certificate with the Secretary of State. This information is maintained by the California Secretary of State and can be found online at its website at: <http://www.sos.ca.gov/elections/ballot-measures/initiative-and-referendum-status/circulating-initiatives-25percent-signatures>.

CONCLUSION

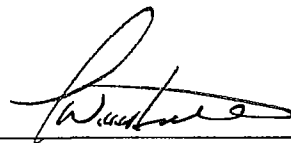
For all of the foregoing reasons, Real Parties in Interest respectfully move that this Court take judicial notice of Exhibits A and B attached to their Return to Order to Show Cause Issued March 9, 2016, pursuant to Evidence Code section 459 and California Rules of Court, rule 8.252.

Dated: March 21, 2016.

Respectfully submitted,

BELL, McANDREWS & HILTACHK, LLP

By: _____




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CALIFORNIA DISTRICT ATTORNEYS
ASSOCIATION and ANNE MARIE SCHUBERT

CERTIFICATE OF COMPLIANCE

Counsel of Record hereby certifies that pursuant to Rule 8.204(c)(1) and 8.360(b)(1) of the California Rules of the Court, the enclosed brief of CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION is produced using 13-point Times New Roman type including footnotes and contain approximately 1,443 words, which is less than the total words permitted by the rules of the court. Counsel relies on the word count of the computer program, Microsoft Word 2010, used to prepare this brief.

Dated: March 21, 2016 **BELL, McANDREWS & HILTACHK, LLP**

By: 

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PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause of action. My business address is 455 Capitol Mall, Suite 600, Sacramento, CA 95814.

On March 21, 2016, I served the following: **REAL PARTIES IN INTEREST, CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION AND ANNE MARIE SCHUBERT'S MOTION FOR JUDICIAL NOTICE** on the following parties:

SEE ATTACHED SERVICE LIST

X **BY ELECTRONIC MAIL:** By causing true copy(ies) of PDF versions of said document(s) to be sent to the e-mail address of each party listed.

X **BY FEDERAL EXPRESS MAIL:** By placing said documents(s) in a sealed envelope and depositing said envelope, with postage thereon fully prepaid, in the FEDERAL EXPRESS MAIL SERVICE BOX, in Sacramento, California, addressed to said party(ies).

 BY EXPRESS MAIL: By placing said documents(s) in a sealed envelope and depositing said envelope, with postage thereon fully prepaid, in the U.S.P.S. EXPRESS MAIL SERVICE BOX, in Sacramento, California, addressed to said party(ies).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 21, 2016, at Sacramento, California.


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