No. S194861

IN THE SUPREME COURT

OF THE STATE OF CALIFORNIA

CALIFORNIA REDEVELOPMENT ASSOCIATION, LEAGUE OF CALIFORNIA CITIES, CITY OF UNION CITY, CITY OF SAN JOSE, AND JOHN F. SHIREY,

Petitioners,

vs.

ANA MATOSANTOS, IN HER OFFICIAL CAPACITY AS DIRECTOR OF FINANCE, JOHN CHIANG, IN HIS OFFICIAL CAPACITY AS THE CONTROLLER OF THE STATE OF CALIFORNIA, PATRICK O'CONNELL, IN HIS OFFICIAL CAPACITY AS THE AUDITOR-CONTROLLER OF THE COUNTY OF ALAMEDA AND AS A REPRESENTATIVE OF THE CLASS OF COUNTY AUDITOR-CONTROLLERS,

Respondents.

Original Petition for Writ of Mandate

APPLICATION OF THE LOS ANGELES UNIFIED SCHOOL DISTRICT AND THE CALIFORNIA SCHOOL BOARD ASSOCIATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF; [PROPOSED] BRIEF IN SUPPORT OF RESPONDENTS

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APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF

TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE CALIFORNIA COURT OF APPEAL:

Pursuant to this Court's Order of September 2, 2011, and to Rule 8.200 of the California Rules of Court, the Los Angeles Unified School District (hereafter LAUSD) and the California School Boards Association (hereafter CSBA) respectfully move the Court for leave to file the accompanying proposed Amicus Curiae Brief in Support of Respondents.

INTEREST OF AMICI

LAUSD is the largest school district in California, and the second largest school district in the nation. Each year, LAUSD is charged with educating approximately 700,000 students at over 1,100 school sites across Los Angeles County. Each year, LAUSD loses many millions of dollars of local property tax revenue to redevelopment agencies that operate within its geographical boundaries as a result of the diversion of property tax increment to those agencies. (In fiscal year 2008-2009, LAUSD lost in the aggregate approximately $72,600,000 to redevelopment.) In the courts, LAUSD has long been a prominent advocate for the interests of all schools in California, particularly in the arena of school funding. In recent years, LAUSD led the charge to compel redevelopment agencies to pay schools the full measure of pass-through payments mandated under the Community

Redevelopment Reform Act of 1993. (*Los Angeles Unified School District v. County of Los Angeles et al.* (2010) 141 Cal.App.4th 181, rev. denied April 28, 2010.)

CSBA is a non-profit, member-driven association composed of nearly 1,000 K-12 school district governing boards and county boards of education throughout California. CSBA supports local school board governance and advocates on behalf of school districts and county offices of education. CSBA's Education Legal Alliance represents its members, nearly 800 of California's 1,000 school districts and county offices of education, by addressing issues of statewide concern to its members. As part of the CSBA, the Alliance strives to ensure that local school boards retain the authority to fully exercise the responsibilities vested in them by law to make appropriate policy and fiscal decisions for their local educational agencies. The Alliance's activities include initiating and joining in litigation where the interests of public education are at stake.

State and local funding of education is vitally important to the members of CSBA. Statewide policy decisions that have the potential to impact education either positively or negatively are therefore also of concern to CSBA. The policy decisions reflected in the State's recently enacted redevelopment statutes are examples of a broader fiscal policy with significant ramifications for education. The outcome of this case will thus

have a direct impact on CSBA member school districts.

Amici are familiar with the papers filed by all parties to the original writ petition before this Court. Amici suggest that, as the state's largest school District and an organization advocating on behalf of nearly 1,000 other local educational agencies throughout the state, they have acquired knowledge and a perspective regarding the effect of redevelopment on school funding that would be of assistance of this Court in considering the questions before it.

No party or counsel for a party has authored any part of this brief, nor has any person or entity made a monetary contribution intended to fund the preparation or submission of the brief, other than the amici curiae, their members, and their counsel of record.

NEED FOR ADDITIONAL BRIEFING

Amici submit the attached brief to: (1) clarify the extent of the need for additional funding of public education in California through the provisions of ABX1 16 and ABX1 27; and (2) to provide an additional argument demonstrating that nothing in the Constitution prohibits the state from revoking the ability of redevelopment agencies to incur further debt.

Therefore, Amici respectfully move for leave to file the accompanying Amicus Curiae Brief in Support of Respondents.

Dated: September 30, 2011

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[PROPOSED] AMICUS CURIAE BRIEF IN SUPPORT OF RESPONDENTS

INTRODUCTION

In its advocacy and sponsorship passage of Proposition 22, the California Redevelopment Association (hereafter CRA) portrayed its member agencies as standing shoulder-to-shoulder with schools, fire departments, police departments, and other agencies tasked with the provision of critical public services in California. While some redevelopment agencies (RDAs) have leveraged tax increment to accomplish laudable public-minded projects, many have not. Regardless of the debatable accomplishments of redevelopment in California, the voters have never granted redevelopment agencies a permanent place at the table of local tax revenues. And nothing in Proposition 22 evinces an intent of the People to deprive the Legislature of its power to determine that the diversion of incremental growth in property tax revenues to redevelopment, on balance, does more harm than good to the operation of the other, true local government agencies that are tasked with serving the public weal.

The Legislature acted fully within its powers in reaching such a conclusion with the passage of ABX1 26 and ABX1 27. Article XVI of the Constitution plainly grants the Legislature the right to authorize redevelopment as well as the corollary right to abolish it. Indeed, all parties to the instant Petition appear to agree that there is no express prohibition on

the Legislature to dissolve this particular form of statutory creature. (Pet. Rep. Br., at p. 13.)

Petitioner California Redevelopment Association nonetheless argues that legislative dissolution has been *implicitly* forbidden by the passage of Proposition 22 and by the passage of time since the first authorization of redevelopment in 1952. These arguments are weightless. Contrary to the mischaracterizations offered by the CRA, nothing in ABX1 26 restricts, suspends, or otherwise interferes with the ability of redevelopment agencies to make full payment of all indebtedness they have incurred. Because redevelopment agencies are only allocated tax increment to the extent that they have incurred indebtedness, and because ABX1 26 ensures that all such indebtedness will be timely paid during the "winding-down" of redevelopment, the CRA cannot argue that ABX1 26 violates either the text or spirit of Proposition 22.

Amici respectfully request that the Court deny the instant writ petition in its entirety.

ARGUMENT

I. THE FUNDING PROMISED BY ABX1 26 AND ABX1 27 ARE CRITICAL TO THE FUTURE OPERATION OF SCHOOLS IN CALIFORNIA

A. California Schools Remain Chronically Underfunded to Accomplish Their Core Mission.

In the 1980s, as education funding in California fell further and further behind other states, the voters decided to create a minimum funding floor for schools by adopting Proposition 98. (*County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1275, fn. 8.) This minimum funding floor does not constitute, and must not be confused with, a guarantee of *sufficient* funding for schools. Indeed, Proposition 98 does not provide sufficient funding for our schools — in part because the formulae for calculating support for schools do not account for changes in mandatory educational programs adopted since its passage, but, more critically, because the Proposition 98 funding "guarantee" is regularly circumvented through budgetary schemes that delay, and in some cases permanently diminish, the funding actually provided to schools.

The Proposition 98 minimum funding formulas are based on 1986-1987 education spending, adjusted for cost-of-living and changes in the size of the student population. These formulas have not been adjusted to take into account the rigorous academic standards that have been implemented in the last decade, and have not been adjusted for changes in student

demographics or student needs. Indeed, the Proposition 98 formulas have not been altered to account for any of the significant changes in educational programs and services that have taken place since the measure passed in 1988.

Although widely considered a minimum funding "guarantee," Proposition 98 can be suspended by a two-thirds vote of the Legislature. (Cal. Const., art. XVI, §8, subd. (h).) Proposition 98 was most recently suspended for fiscal year 2010-2011, thereby providing schools with less funding than what was required under the Proposition 98 minimum funding calculations. When Proposition 98 funding is suspended, schools simply do not receive the minimum floor the voters deemed necessary in 1988. The effects of suspension (as well as any legislative inability to provide the cost of living increases otherwise set forth in Proposition 98) are expressed through the application of "deficit factors" to the calculation of Proposition 98 funding that is actually distributed to schools. These deficit factors reflect the shortfall in the actual Proposition 98 funding due, and defer payment of that shortfall to subsequent fiscal years. In the three most recent fiscal years, these deficit factors have ranged between 18.355% and 19.754% of the actual Proposition 98 funding owed to schools. In other words, schools across California have in recent years received only four-fifths of the Proposition 98 funding they were otherwise "guaranteed."

Though the state is required to make up for suspension shortfalls over the course of subsequent years, schools receive those necessary funds only after the fiscal year in which those costs are incurred. As a result, schools are forced to lay off teachers and impose other cuts that directly harm their ability to fulfil their core educational mission. The risk of suspension exists every year.

Even when Proposition 98 has not been suspended, its operation has been manipulated to keep the state's minimum funding guarantee artificially low. For example, a common form of such manipulations are cross-year deferrals that substantially delay payment to schools. In the aggregate, these cross-year deferrals have now reduced school funding statewide by approximately $9.3 billion. Further, when a cash apportionment is delayed, it does not contribute to the formulaic calculation of base funding for subsequent years. Thus, In adopting the 2009-2012 budget, the state "reverted" $1.6 billion of prior year Proposition 98 appropriations for K-12 categorical programs. This reversion effectively "de-appropriated" previous Proposition 98 funding and resulted in a *permanent* $1.6 billion reduction to the minimum guarantee.

In terms of personal income, California spends 6.3 percent more than the national average on state and local government, while spending 7.5 percent less than the national average on K-12 public education. California

spends less on K-12 education than other states because of policy decisions to spend more on other governmental services: California spends 53 percent more than the per capita national average on corrections, 39 percent more per capita on police and fire protection, 24 percent more on health and hospitals, and 18 percent more on interest on debt.

Though the school-age proportion of California's population is high, the state chooses to spend a small share of its revenues on education. As a result per-pupil spending falls well below the national average. When Proposition 98 was adopted, California ranked 30th among the states in per-pupil spending. Despite having the most diverse and challenging student population in the nation, California per-pupil spending in 2008-09 was $2,131.00 below the national average, ranking the State 44th in the nation. Indeed, California's per-pupil spending fell far below each of the largest 10 states in the nation, with New York spending almost $6.000.00 more per pupil. When adjusted for regional cost differences, California spending was $2,856.00 less per pupil than the national average, or an abysmal 47th in the country.

The objective consequences of the State's failure to create a sound, stable and sufficient school finance system are impossible to ignore. In 2008-2009, California ranked 50th among the states in teacher-student ratios. The most recent data for other school staffing ratios is from 2007-

2008, prior to the recent budget cuts. Even then, California ranked 49th in total school staff, 47th in principals and assistant principals, 49th in guidance counselors, 50th in librarians and 49th in access to computers. California educates over 1.5 million students more than Texas, but does so with 28,800 less teachers. Just to reach the national average, California would need an additional 121,000 teachers.

B. ABX1 26 and ABX1 27 Would Provide Much Needed Support for the School Fisc

In adopting ABX1 26 and ABX1 27, the Legislature expressly recognized the urgent fiscal needs of schools, and specifically the harms to the school fisc caused by the regular diversion of the incremental growth of tax revenues to redevelopment. Articulating one of its core motivations in adopting the bill, the Legislature observed that "[s]chools have faced reductions in funding that have caused school districts to increase class size and layoff teachers, as well as make other hurtful cuts" while "[t]he expansion of redevelopment agencies has increasingly shifted property taxes away from services provided to schools . . . ." (ABX1 26, § 1(d) & (e).) In conjunction with the adoption of ABX1 27, the Legislature likewise observed that "[t]he diversion of over five billion dollars ($5,000,000,000) in property tax revenue to redevelopment agencies each year has made it increasingly difficult for the state to meet its funding obligations to the schools." (ABX1 27, § 1(b).) These observations emerge

from the understanding that the diversion of local property tax revenues to redevelopment undermines the state's ability to satisfy its Proposition 98 obligations.

As fully discussed in the briefing submitted by the State and the California Teachers' Association, ABX1 27 would divert $1.7 billion in funding for K-14 education in 2011-2012 through the Educational Revenue Augmentation Fund. (Amicus Brief of the California Teachers' Association, at pp. 8-15.)[1] While this diversion of funds would not reflect a direct augmentation of the school fisc, it would alleviate a strain on the state's General Fund, thereby freeing up revenues to be spent on other state costs, such as health and human services, higher education, the judicial system, and other state-funded operations. As a result, the pressure to manipulate or otherwise defer the state's Proposition 98 obligation to schools would be substantially diminished.

In subsequent years, beginning in fiscal year 2012-2013, additional money would be diverted to schools each year, but critically, this money reflects true income to schools because it would be expressly exempted from the calculations of the schools' Proposition 98 guaranteed school

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[1] Amici have some detailed concerns about how certain formulae set forth in ABX1 27 might be applied in certain circumstances, but any such concerns are not relevant to the facial Constitutional challenge lodged by the CRA in this writ action.

funding. Thus, for the long term lifetime of redevelopment projects that adopt the voluntary payment model, ABX1 27 would provide $340 million annually to K-12 schools, on top of the Proposition 98 guarantee.

Standing alone, ABX1 26 would provide significant financial support for schools. In conjunction with the first efforts to legislate a wind-down for redevelopment, the state estimated that dissolution would provide an additional $1.1 billion annually in funding for schools, based upon the eventual reversion of tax increment to schools and other local taxing agencies. (February 2011 Legislative Analyst Report, State Respondents' Request for Judicial Notice, Exh. A, fig. 2 and pp. 9-10.) Each dollar released back to schools in this manner would relieve the state General Fund and thereby reduce the incentive to suspend or otherwise manipulate Proposition 98.

II. THE LEGISLATURE HAS THE AUTHORITY TO PROHIBIT REDEVELOPMENT AGENCIES FROM INCURRING ADDITIONAL DEBT.

Conceding that nothing in Proposition 22 expressly prohibits the state from dissolving the redevelopment creatures of statute that it created, the CRA expends considerable effort trying to construct an argument that Proposition 22, or the Constitution itself, somehow *implicitly* prohibit the state from adopting ABX1 26. Its argument is premised on a distortion of the voter's intent in adopting Proposition 22, and a more fundamental

misstatement of the effects of ABX1 26.

A. Because ABX1 26 Does Not Take, Suspend, or Otherwise Interfere With Revenues Dedicated to Funding Services Provided by Local Government, It Does Not Violate the Intent of the Voters in Adopting Proposition 22

The CRA resolutely confuses the actual purpose and effect of ABX1 26 — to wind down and dissolve redevelopment agencies by revoking their authority to incur new debt — with the actions arguably prohibited by Proposition 22. Invoking the principle that a legislature "may not do indirectly, what it cannot do directly," the CRA claims that the state indirectly undermines the express purpose of Proposition 22 by adopting ABX1 26. (Pet. Rep. Br., at p. 13-15.) To make this argument, the CRA first cites a passage from the Proposition 22 statement of purpose indicating that the measure was passed to prevent the state from "seizing, diverting, shifting, borrowing, transferring, suspending, or otherwise interfering with revenues that are *dedicated to* funding services provided by local government." (Pet. Rep. Br., at p 14; Proposition 22, § 2.5 [emphasis added].) It then asserts that ABX1 26 was passed for "no reason *other* than to seize [the RDAs] money." (*Id.*, at p. 14.) Elsewhere, on a similar vein, the CRA concedes that "neither Article XIII, section 25.5(a)(7)(A) nor Article XVI, section 16 prevents the Legislature from dissolving the RDAs for other reasons," but also claims that "it cannot do so for the sole purpose of grabbing "approximately $1.1 billion annually for local services." (Pet.

Rep. Br., at p. 13.) This argument fails for two obvious reasons.

The first and most obvious rejoinder to this argument is that "seizing money" is not the express, much less sole purpose of ABX1 26. Indeed, the CRA's circular rhetoric makes it effectively impossible that the state could ever exercise the authority the CRA concedes it has to dissolve redevelopment. Reduced to a syllogism, the CRA's argument goes as follows: (1) should the Legislature dissolve redevelopment, $1.1 billion of local tax increment revenues would revert to the core, original local taxing entities who would otherwise receive those taxes, thereby relieving the state of various fiscal burdens; (2) such fiscal relief must be characterized as the sole purpose of any effort to dissolve redevelopment; (3) ergo, the dissolution of redevelopment must have been taken for an improper purpose, indirectly violating Proposition 22. The CRA cannot simultaneously concede that the state has the authority to dissolve redevelopment and claim that any such dissolution would implicitly violate the Constitution because a fiscal benefit would redound to the state and local governmental agencies.

More critically, nothing in ABX1 26 involves the suspension of, or interference with, "revenues that are *dedicated* to funding services" because *the only tax increment revenues allocated to redevelopment are those revenues necessary to pay off existing indebtedness.* (Health & Saf. Code, §

33675, subds. (c) & (g).) Nothing in the Constitution suggests that RDAs have a vested, dedicated right to all incremental growth in property taxes within a redevelopment area, and the Legislature recognized this principle when it required RDAs to produce evidence of their indebtedness as a precondition to the receipt of their yearly allocation of tax revenues.

Subdivision (g) of Health and Safety Code section 33675, provides that RDAs shall be paid only that portion of the incremental growth in property tax revenues to which the RDAs demonstrate an entitlement by documentation of the indebtedness they have incurred, as follows:

> (g) The county auditor or officer shall, at the same time or times as the payment of taxes into the funds of the respective taxing entities of the county, allocate and pay the portion of taxes provided by subdivision (b) of Section 33670 to each agency. The amount allocated and paid shall not exceed the amount determined pursuant to subparagraph (C) of paragraph (1) of subdivision (c) minus the amount determined pursuant to subparagraph (D) of paragraph (1) of subdivision (c).

Subdivision (c) of section 33675 provides that the "Statement of Indebtedness" referenced in subdivision (g) must reflect "the total amount of principle and interest remaining to be paid for each loan, advance, or indebtedness" incurred by the RDA. (Health & Saf. Code, § 33675, subd. (c)(1)(C).) These provisions thus specify that RDAs are only entitled to be paid a portion of the tax increment defined by subdivision (b) of Health & Safety Code section 33670.

The CRA's claims regarding the recondite meanings of

Proposition 22 is premised on a notion that RDAs have some vested right to *prospective* tax increment beyond any right that has ever been reflected in the Constitution or the laws adopted to effectuate the redevelopment law. In effect, the RDAs are claiming a right to a future revenues stream to which they have no statutory or constitutional claim. Nothing in Proposition 22 supports this radical notion. Because RDAs are only allocated revenues to pay off existing indebtedness, a measure that prevents them from incurring additional, future indebtedness, cannot logically interfere with the any revenues "dedicated" to RDAs.

The CRA elides an essential, related point concerning ABX1 26: the Legislature scrupulously provided in that bill that all existing indebtedness incurred by redevelopment agencies will be honored. (ABX1 26, section 1, subdivision (j); Health & Saf. Code section 34167, subd. (a).) Accordingly, the only aspect of the fiscal operation of RDAs dissolved by ABX1 26 is the prospective ability of those entities to incur *additional, future debts* which debts would require *additional, future* diversion of property tax increment to RDAs.

ABX1 26 prevents RDAs from incurring new obligations, while ensuring that existing obligations will be paid. Thus, it does not and cannot interfere with any existing allocation, or any stream of revenue "dedicated" to redevelopment. Accordingly, the CRA's arguments regarding a conflict

between ABX1 26 and the stated purposes of Proposition 22 has no merit.

B. The Ballot Materials for Proposition 22 Evince No Intent to Insulate Redevelopment From Dissolution.

On a related vein, the CRA seeks refuge for its claims in vague allusions to the intent of the voters in adopting Proposition 22. It urges the Court to divine from Proposition 22 the voters' supposed intent to grant redevelopment agencies a perpetual right to exist, or a vested right to incure future indebtedness, but the voters could not have intended a result that they knew nothing about. (*Woo v. Superior Court* (2000) 83 Cal.App.4th 967, 977 [holding that "[a]bsent some indication that the voters were aware of and intended" a given result, court "cannot adopt a construction that would require that result"].) The ballot materials do not support a finding of an implicit, specific intent to prohibit legislative action dissolving redevelopment because those materials speak primarily to the preservation of funding streams for core local services and transportation, which are largely if not exclusively beyond the purview of redevelopment activity.

The ballot argument and analysis regarding Proposition 22 in the November 2, 2010 Official Voter Information Guide clearly show that the measure was intended to prevent the Legislature from diverting tax dollars away from basic local government services like police, fire, and transportation — services that redevelopment agencies are not in the business of providing. Indeed, the ballot argument in favor of Proposition

22 exclusively emphasized that passage of the provision would prevent the Legislature from diverting resources from "vital local services like 9-1-1 emergency response, police, fire, libraries, senior services, road repairs, and public transportation improvements." (Official Voter Information Guide, Gen. Elec. (Nov. 2, 2010) argument in favor of Prop. 22.) The word "redevelopment" is not once mentioned.

The "locally delivered services" that the Proposition 22 ballot argument identifies as needing protection from State raids are: (1) "Police and sheriff patrols"; (2) "9-1-1 emergency dispatch"; (3) "Paramedic response"; (3) "Fire protection"; (4) "Senior services"; (5) "Youth anti-gang and after school programs"; (6) "Neighborhood parks and libraries"; (7) "Public transportation, like buses and commuter rail"; and (8) "Local road safety repairs." (Official Voter Information Guide, Gen. Elec. (Nov. 2, 2010) argument in favor of Proposition 22.)

Moreover, the Legislative Analyst's analysis of Proposition 22 confirms that the measure "prohibits the state from enacting new laws that require redevelopment agencies to *shift funds* to schools or other agencies," but says absolutely nothing about redevelopment agencies' ability to raise *new funds* in the future. (Official Voter Information Guide, Gen. Elec. (Nov. 2, 2010) analysis of Proposition 22 by the Legislative Analyst [emphasis added].) A prohibition on *shifting* existing revenues away from local governments — and the attendant services those government provide — in no way implies a corresponding "right" of existing redevelopment agencies to raise new revenues to fund new projects in

perpetuity. In other words, while Proposition 22 may fairly be interpreted to prohibit diversion of funds already allocated or dedicated to redevelopment, it cannot be fairly read to foreclose the power of the Legislature to prevent redevelopment from incurring new debts. Nothing in the official analysis or other ballot materials of Proposition 22 even implies an inviolable right of redevelopment agencies to continue to amass debt that must be serviced out of future local property taxes.

CONCLUSION

The Constitution empowers the Legislature to divert growth in local property tax revenues to redevelopment agencies; it likewise empowers the Legislature to reverse such a decision — without disturbing the repayment of existing indebtedness — whenever the Legislature deemed such a course of action necessary. Schools across California, who desperately need the funding promised by ABX1 16 and ABX1 17, respectfully request that the Court deny the instant writ petition.

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Dated: September 30, 2011

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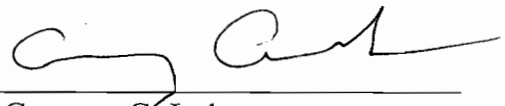
By 
Gregory G. Luke

Attorneys for Amici LAUSD and CSBA

CERTIFICATE OF COMPLIANCE
WITH RULE 8.204(c)(1)

I certify that, pursuant to Cal. App. Rule 8.204(c)(1), the attached APPLICATION OF THE LOS ANGELES UNIFIED SCHOOL DISTRICT AND THE CALIFORNIA SCHOOL BOARDS ASSOCIATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF; [PROPOSED] BRIEF IN SUPPORT OF RESPONDENTS is proportionately spaced, has a typeface of 13 points or more and contains 4179 words, as determined by a computer word processor word count function.

Dated: September 30, 2011

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Byron F. Kahr
STRUMWASSER & WOOCHER LLP

By _____
Gregory G. Luke

Attorneys for Amicus LAUSD

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Re: *California Redevelopment Association et al. v. Ana Matosantos, et al.*
Case No. S194861

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 10940 Wilshire Boulevard, Suite 2000, Los Angeles, California 90024.

On September 30, 2011, I served the foregoing document(s) described as **Application of the Los Angeles Unified School District and the California School Boards Association for Leave to File Amicus Curiae Brief; [Proposed] Brief in Support of Respondents** on all appropriate parties in this action, as listed below, by the method stated.

☐ If fax service is indicated, by facsimile transmission this date to the fax number stated, to the attention of the person named, pursuant to Code of Civil Procedure section 1013(f).

☒ If electronic-mail service is indicated, by causing a true copy to be sent via electronic transmission from Strumwasser & Woocher LLP's computer network in Portable Document Format (PDF) this date to the e-mail address(es) stated, to the attention of the person(s) named.

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 30, 2011, at Los Angeles, California.

Paula M Klein

Paula M. Klein