

FEB 26 2016

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Frank A. McGuire Clerk

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Deputy

February 26, 2016

*Via Federal Express & Email: frank.mcguire@jud.ca.gov*

Honorable Chief Justice Tani Cantil-Sakauye  
and Associate Justices  
Attention: Supreme Court Clerk/Administrator Frank A. McGuire  
California Supreme Court  
350 McAllister Street  
San Francisco, CA 94102

**Re: Brown v. Superior Court, et al.; Supreme Court Case No. S232642**

Dear Chief Justice Cantil-Sakauye and  
Associate Justices of the Supreme Court:

Real Parties, California District Attorneys Association and Anne Marie Schubert, hereby respond to Petitioners' letter to the Court submitted today.

The only emergency presented in Petitioners' writ petition is "of a do-it yourself variety." (*Shuey v. Superior Court* (1973) 30 Cal.App.3d 535, 541.) Six other initiative and referendum proponents have already qualified their measures for the November 8, 2016 ballot and several others are well into the signature-gathering process to qualify their respective measures for the November ballot. In fact, the Secretary of State's recommended calendar for initiative qualification, unambiguously advised initiative proponents to submit their initiative language to the Attorney General for issuance of a title and summary on August 25, 2015. (See, **Exh. A** hereto: "Suggested Deadlines to Qualify Initiatives;" prepared by the Secretary of State and available at sos.ca.gov.) In the present matter, the Governor waited five months after the recommended deadline to commence the qualification process. The urgency is all of his own making.

The recommended "remedy" offered by Petitioners in their February 26, 2016, letter would be unprecedented and wholly unenforceable. Petition sections are filed with all 58 county Registrars of Voters for signature verification. (Elec. Code, § 9030.) How is the Court going to issue an Order to 58 county officials, none of which are a party to this action? How are Real Parties to know that such an Order is carefully followed by 58

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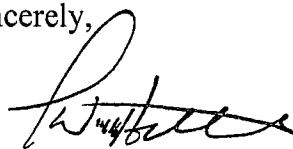
county Registrars of Voters since initiative petitions are not public records and not available for inspection? (Gov. Code, §§ 6250 et. seq.)

The error that occurred below undoubtedly affected the title and summary that Petitioners so desperately seek. The title and summary includes a summary of the fiscal impacts of the initiative as prepared by the Legislative Analyst (Elec. Code, § 9005(a).) Because of the Attorney General's error (corrected by the trial court), the Legislative Analyst was forced to prepare his fiscal analysis of a very complicated and sweeping initiative proposal in just 16 days instead of the 50 days provided by law. (Elec. Code, § 9005(c).) Thus, not only would Real Parties be prejudiced by an immediate stay, so too would the voters, who would be presented with an initiative petition containing a title and summary that was hastily prepared outside the statutory time period.

Lastly, Real Parties are entitled to some modicum of due process. This Court asked for an opposition brief which Real Parties are dutifully preparing. That brief will correct several misstatements of fact about the "urgency" alleged by Petitioners and mischaracterizations of Judge Chang's Order in the trial court proceedings.

As a result of the foregoing, this Court should deny the stay sought by Petitioners' February 26, 2016 letter. Real Parties also respectfully request the Court refrain from issuing any order until all parties have been heard on the merits of this matter pursuant to the Court's briefing schedule issued February 25, 2016.

Sincerely,



Thomas W. Hiltachk  
Counsel for Real Parties in Interest  
California District Attorneys Association and  
Anne Marie Schubert

TWH/cfd  
Enclosure as stated.

# EXHIBIT A

# **APPENDIX A**

## **Suggested Deadlines to Qualify Initiatives**

## **Appendix A: Suggested Deadlines to Qualify Initiatives**

The following suggested deadlines are not substitutes for California election laws, regulations, or policy. Other factors, such as amending the proposed initiative measure before circulation or the length of time for circulation, will affect the time it takes to complete the process.

Initiative and referendum measures can only qualify to appear on general elections ballots. (Cal. Const., art. II, § 8(c); Elections Code § 9016 (a).)

A proposed initiative measure may qualify using the "random sample method" if the projected number of signatures is over 110% of the required amount of signatures needed to qualify. The "full check method" must be used if the projected number of signatures falls between 95% and 110% and will add to the time it takes for the proposed initiative measure to qualify for the ballot. The time frames for both qualification methods are set forth below.

### **November 8, 2016, General Election Qualifying Using the Random Sample Method**

If the statewide raw count total equals 100% or more of the total number of signatures needed to qualify the initiative measure, each elections official is required to verify 500 signatures or 3% of the number of signatures filed in their office, whichever is greater. This process is referred to as a random sample. A county receiving less than 500 petition signatures is required to verify all the signatures filed in their office. If there is more than 110% of the required number of valid signatures, the petition will be qualified. (Elections Code § 9030.)

August 25, 2015 - Suggested last day for proponent(s) to submit proposed measure to the Attorney General and request a circulating title and summary.

October 29, 2015 - Attorney General prepares and issues the circulating title and summary; proponent(s) may begin circulation of the petition (includes time allotted for fiscal estimate).

April 26, 2016 - Last day for proponent(s) to file the petition with county elections officials.

May 6, 2016 - Last day for county elections officials to complete raw count totals and certify raw numbers to the Secretary of State.

May 13, 2016 - Last day for Secretary of State to receive raw count totals from each county elections official, determine whether the initiative petitions meet the minimum signature requirement, generate the random sample, and notify each county elections official of the results.

June 27, 2016 - Last day for county elections officials to verify and certify results of the random sampling of signatures to the Secretary of State.

June 30, 2016 (E-131) - Last day for Secretary of State to determine whether the measure qualifies for the ballot or 100% signature verification is necessary. At this point, if a 100% signature verification were necessary, it would not qualify for the November 8, 2016, General Election ballot.

## **November 8, 2016, General Election Qualifying Using the Full Check Method**

If the result of the random sample indicates that the number of valid signatures represents between 95% and 110% of the required number of signatures to qualify the initiative measure for the ballot, the Secretary of State directs the county elections officials to verify every signature on the petition. This process is referred to as a full check. Within 30 working days of receipt of this notification, the county elections officials determine the total number of qualified signatures and transmit this information to the Secretary of State. (Elections Code § 9031.)

July 7, 2015 - Suggested last day for proponent(s) to submit proposed measure to the Attorney General and request a circulating title and summary.

September 10, 2015 - Attorney General prepares and issues the circulating title and summary; and proponent(s) may begin circulation of the petition (includes time allotted for fiscal estimate).

March 8, 2016 - Last day for proponent(s) to file the petition with county elections officials.

March 18, 2016 - Last day for county elections officials to complete raw count totals and certify raw numbers to the Secretary of State.

March 23, 2016 - Last day for Secretary of State to receive raw count totals from each county elections official, determine whether the initiative petitions meet the minimum signature requirement, generate the random sample, and notify each county elections official of the results.

May 5, 2016 - Last day for county elections officials to verify and certify results of the random sampling of signatures to the Secretary of State.

May 13, 2016 - Last day for Secretary of State to determine whether the initiative petition qualifies or 100% signature verification is necessary.

June 27, 2016 - Last day for county elections officials to certify to the Secretary of State the results of the 100% signature check.

June 30, 2016 (E-131) - Last day for the Secretary of State to determine whether the measure qualifies for the ballot.

**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 February 26, 2016, I served the following: **CORRESPONDENCE DATED FEBRUARY 26, 2016 IN RESPONSE TO PETITIONERS' LETTER TO SUPREME COURT OF SAME DATE**

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 February 26, 2016, at Sacramento, California.



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CORIANNE DURKEE

**SERVICE LIST**

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*Via Electronic Mail*

Honorable ShelleyAnn Chang  
Sacramento Superior Court  
720 Ninth Street  
Sacramento, CA 95814

*Via Overnight Mail*

**Party Represented:**

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

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STATE OF CALIFORNIA, KAMALA  
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