

Supreme Court of the State of California

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| <p>PEOPLE OF THE STATE OF CALIFORNIA,</p> <p><i>Plaintiff-Respondent,</i></p> <p>vs.</p> <p>JAMES LEO CARNEY, <i>et al.</i></p> <p><i>Defendants-Petitioners.</i></p> |
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No. S260063
Appeal No. C077558
Sacramento County Superior Court
No. 11F00700

PETITIONERS LOUIS AND LONNIE MITCHELL'S
OPPOSITION TO APPLICATION TO FILE AMICUS BRIEF

Honorable Kevin McCormick, Judge

**PETITIONERS LOUIS AND LONNIE MITCHELL'S
OPPOSITION TO APPLICATION TO FILE AMICUS BRIEF**

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Supreme Court of the State of California

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff-Respondent,

vs.

JAMES LEO CARNEY, *et al.*

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Petitioners Louis and Lonnie Mitchell oppose the application to file an amicus brief submitted by Amicus Populi because it does not comply with the applicable Rules of Court concerning applications to file amicus briefs.

California Rules of Court 8.520(f)(3) provides “that the application must state the applicant’s interest and explain how the proposed amicus curiae brief will assist the court in deciding the matter.” The application generally states that applicant’s interest is in preserving reduced crime rates, but does not state what applicant’s interest is in the subject matter of this particular review proceeding. Nor does applicant

explain how its proposed brief would help this court decide this petition. This court should not be expected to have to review a proposed brief on its own to determine whether or not the brief would be helpful.

California Rules of Court 8.520(f)(1) provides that any “person or entity” may file an application for permission to file an amicus brief. The application is filed on behalf on an entity called “Amicus Populi”, which “represents individuals who worked as prosecutors during the past three decades . . .” An internet search for Amicus Populi shows that it has a website at <https://amicuspopuli.org>. An image of the website is attached as Exhibit “A” to petitioners’ request to take judicial notice.

The only member of Amicus Populi listed on this website is counsel for applicant, who the site described as the organization’s “director.” The website contains no information on whether there are any other members, or contain any directions on how a prosecutor, former prosecutor, or any other interested individual might join Amicus Populi. According to the website, applicant’s counsel has not worked as a prosecutor, but is described as a a former Deputy Attorney General.

California criminal lawyers’ organizations typically have actual members, as well as directions for joining and becoming part of the organization. See, e.g., California District Attorney’s Association

(<https://www.cdaa.org/about-us/join-cdaa>), Prosecutors' Alliance California (<https://prosecutorsalliance.org/membership/>), California Public Defender's Association (<https://www.claraweb.us/cpda-membership-join-renew-page>), California Attorneys for Criminal Justice (https://cacj.org/general/register_member_type.asp?), and California Appellate Defense Counsel, (<https://cadc.net/join-or-renew/?s2-ssl=yes>.)

Petitioners have not been able to locate any independent information that Amicus Populi is an actual entity or association that has a status separate from its counsel. The website makes it appear as if Amicus Populi is a mere trade name for its counsel.

Rule 8.520(f)(1) would allow Amicus Populi's counsel to file an amicus brief as an individual. However, as applicant himself is apparently a former Deputy Attorney General, there is no showing that his interest as an individual is truly distinct from the Attorney General's office, which has already filed its own brief on behalf of respondent.

Dated: Oakland, California, Tuesday, February 2, 2021.



Paul McCarthy
Attorney for Petitioners.

PROOF OF SERVICE

I, the undersigned, depose and state: I reside or do business within the County of Alameda. I am over eighteen years of age and not a party to this action. My business address is 1 Kaiser Plaza, Suite 2300, Oakland, CA 94612-3642. I served the following documents:

Petitioners Louis and Lonnie Mitchell’s Opposition to Application to File Amicus Brief

I served the following persons by the Truefiling system on Tuesday, February 2, 2021.

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| Office of the State Attorney General P.O. Box 944255 Sacramento, CA 94244-2550 Attorney for <i>Respondent</i> | Mitchell Keiter 424 South Beverly Drive Beverly Hills, CA 90212 Attorney for <i>Applicant AMICUS POPULI</i> |
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| Kimberley A. Donohue P.O. Box 944255 Sacramento, CA 94244-2550 kimberley.donohue@doj.ca.gov Attorney for <i>Respondent</i> | Steven Greenberg P.O. Box 754 Nevada City, CA 95959-0754 Attorney for <i>Appellant JAMES CARNEY</i> |
|--|--|

I served the following persons by mail on Monday, July 6, 2020:

| | |
|--|--|
| Sacramento District Attorney 901 G Street Sacramento, CA 95814 | Clerk, Sacramento Superior Court 720 9th Street Sacramento, CA 95814 |
| Louis Mitchell AV1575 P. O. Box 1050 Soledad, CA 93960-1050 | Lonnie Mitchell AV1574 P.O. Box 8800 Corcoran, CA 93212-8309 |

I declare under penalty of perjury that the above is true. Executed in Oakland, California on Tuesday, February 2, 2021.



STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v. CARNEY**

Case Number: **S260063**

Lower Court Case Number: **C077558**

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: **nazcalito@gmail.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

| Filing Type | Document Title |
|-----------------------------|-------------------------------|
| REQUEST FOR JUDICIAL NOTICE | judicial notice + exhibit |
| OPPOSITION | opposition-amicus application |

Service Recipients:

| Person Served | Email Address | Type | Date / Time |
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| Mitchell Keiter Keiter Appellate Law | mkeiter@msn.com | e-Serve | 2/2/2021 5:32:00 PM |
| Office Office Of The State Attorney General Court Added | sacawtruefiling@doj.ca.gov | e-Serve | 2/2/2021 5:32:00 PM |
| Stephen Greenberg Court Added 88495 | sgberg1@mac.com | e-Serve | 2/2/2021 5:32:00 PM |
| Mitchell Keiter Keiter Appellate Law 156755 | Mitchell.Keiter@gmail.com | e-Serve | 2/2/2021 5:32:00 PM |
| Paul McCarthy Beles & Beles Law Offices 139497 | nazcalito@gmail.com | e-Serve | 2/2/2021 5:32:00 PM |
| Kimberley Donohue Office of the Attorney General 247027 | kimberley.donohue@doj.ca.gov | e-Serve | 2/2/2021 5:32:00 PM |
| Jeralyn Keller Attorney at Law 72565 | jbk@kellerlaw.net | e-Serve | 2/2/2021 5:32:00 PM |

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.

2/2/2021

Date

/s/Robert Beles

Signature

McCarthy, Paul (139497)

Last Name, First Name (PNum)

Beles & Beles Law Offices

Law Firm