

No. S159120 - CAPITAL CASE

In the Supreme Court of the State of California

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff and Respondent,
v.
ALEX DEMOLLE,
Defendant and Appellant.

Alameda County Superior Court, Case No. 140729
The Honorable Larry J. Goodman, Judge

**OPPOSITION TO APPELLANT'S MOTION TO TAKE JUDICIAL
NOTICE**

ROB BONTA (SBN 202668)
Attorney General of California
CHARLES C. RAGLAND (SBN 204928)
Chief Assistant Attorney General
JEFFREY M. LAURENCE (SBN 183595)
Senior Assistant Attorney General
SARAH J. FARHAT (SBN 228179)
Supervising Deputy Attorney General
*LISA ASHLEY OTT (SBN 164811)
Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3839
Fax: (415) 703-1234
Lisa.Ott@doj.ca.gov
Attorneys for Respondent

January 8, 2026

Respondent opposes appellant Alex Demolle’s January 2, 2026, motion to take judicial notice on the ground that the material he identifies is not subject to judicial notice by the rules of evidence or any other legal authority.

In lieu of filing a stand-alone supplemental opening brief in response to this Court’s October 29, 2025, order directing the parties to file simultaneous supplemental briefing on four questions arising under the Racial Justice Act (RJA), Demolle’s January 2, 2026, supplemental opening brief addresses only the fourth question. In response to the Court’s first three questions, Demolle has filed a motion asking the Court to take judicial notice of six briefs filed in *People v. Bankston* (S044739). These six briefs comprise approximately 223 pages of briefing, which Demolle attached as exhibits. Demolle also states in his supplemental opening brief addressing the Court’s questions that he “joins in the arguments in Mr. Bankston’s Fourth Supplemental Opening Brief, in response to the Court’s first three questions of law.” (Jan. 2, 2026, Supp. Opening Brief at 6.)

““Judicial notice is the recognition and acceptance by the court, for use by the trier of fact or by the court, of the existence of a matter of law or fact that is relevant to an issue in the action without requiring formal proof of the matter.”” (*Poseidon Development, Inc. v. Woodland Lane Estates, LLC* (2007) 152 Cal.App.4th 1106, 1117.) Judicial notice is an evidentiary tool, not a pleading tool. Respondent is aware of no mechanism by which a party can “join in” arguments made by a different party in an unrelated case, nor by which a court may assign to a party

an argument made by a different party in an unrelated case for purposes of adjudicating the merits of a legal claim.

Demolle cites Evidence Code sections 459, subdivision (a) and 452, subdivision (d) as the basis of his motion. (Mot. Jud. Notice at 1, 5.) Evidence Code section 459, subdivision (a) provides that a reviewing court “may take judicial notice of any matter specified in Section 452.” And Evidence Code section 452, subdivision (d) provides that judicial notice may be taken of “records” of any court of this state. However, the “records” for which judicial notice may be taken have been understood as limited to matters that are indisputably true, such as the existence of a document in a court file, as opposed to substantive arguments made in a brief. (See *Acre v. Kaiser Foundation Health Plan, Inc.* (2010) 181 Cal.App.4th 471, 482-483 [while a court may take judicial notice of court records, the truth of the matters asserted in such documents is not subject to judicial notice]; *Espinoza v. Calva* (2008) 169 Cal.App.4th 1393, 1396 [“We can take judicial notice of the fact the pleadings were filed, but not of the truth of the statements contained in them”]; *Day v. Sharp* (1975) 50 Cal.App.3d 904, 914 [court may take judicial notice of existence of each document in a court file, but only of the truth of facts asserted in documents such as orders, findings of fact and conclusions of law, and judgments].) Demolle fails to demonstrate that the briefing he is asking this Court to take judicial notice of is the sort of material that can be judicially noticed under the rules of evidence.

Demolle cites to two cases in which he asserts this Court has taken judicial notice of relevant pleadings, including amicus curiae briefs, under similar circumstances. (Mot. Jud. Notice at 5.) Both cases are distinguishable. In *Cortez v. Purolator Air Filtration Products* (2000) 23 Cal.4th 163, this Court granted a request by an amicus curiae to take judicial notice of a brief that *the same* amicus curiae had filed in a *companion* case. (*Id.* at p. 168, fn. 2.) Here, Demolle asks the Court to take judicial notice of briefs filed by *other parties* in a case that, while involving similar issues, is not a companion case. In *People v. Sanchez* (1995) 12 Cal.4th 1, this Court granted the People’s request for judicial notice of an amicus curiae brief filed in another case by the California Appellate Project on the ground that the amicus brief was relevant to the defendant’s contention that the California death penalty statute did not adequately narrow the field of death eligible murders because the brief represented the opinion of the California death penalty experts to the contrary. (*Id.* at p. 85, fn. 10.) Here, by contrast, Demolle has not identified any similar basis for judicial notice. Instead, his request is based only on the claim that the amicus briefs contain “helpful information.” (Mot. Jud. Notice at 4.)

Demolle supports his motion for judicial notice by asserting that he seeks to “conserve judicial resources” by adopting the arguments from Mr. Bankston’s brief. (Mot. Jud. Notice at 4.) However, Demolle does not explain how taking judicial notice of over 200 pages of briefing from another case would conserve this Court’s resources. To the contrary, it would conserve judicial

resources for Demolle to file one supplemental brief that addresses the Court’s questions by consolidating legal arguments made by other litigants and amicus curiae and then tailoring the arguments to the issues and procedural posture of his case.

Finally, Demolle characterizes the amicus curiae briefs for which he seeks judicial notice as containing “helpful information relevant to Mr. Demolle’s Second Supplemental Opening Brief and the Court’s resolution of his appeal.” (Mot. Jud. Notice at 4.) However, he does not describe the “helpful information,” nor does he explain whether he fully embraces all the assertions and arguments made in each of the amicus briefs, or only those the Court may deem “helpful” to his case.

For these reasons, Demolle’s request for judicial notice should be denied.

Respectfully submitted,

ROB BONTA

Attorney General of California

CHARLES C. RAGLAND

Chief Assistant Attorney General

JEFFREY M. LAURENCE

Senior Assistant Attorney General

SARAH J. FARHAT

Supervising Deputy Attorney General

/S/ LISA ASHLEY OTT

LISA ASHLEY OTT

Deputy Attorney General

Attorneys for Respondent

January 8, 2026

CERTIFICATE OF COMPLIANCE

I certify that the attached Opposition to Appellant's Motion to Take Judicial Notice uses a 13-point Century Schoolbook font and contains 955 words.

ROB BONTA

Attorney General of California

/s/ LISA ASHLEY OTT

LISA ASHLEY OTT

Deputy Attorney General

Attorneys for Respondent

January 8, 2026

SF2008400431

44923242.docx

DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S. MAIL

Case Name: **People v. Alex Demolle**

No.: **S159120**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On January 8, 2026, I electronically served the attached **Opposition to Appellant's Motion to Take Judicial Notice** by transmitting a true copy via this Court's TrueFiling system. Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on January 8, 2026, I placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

County of Alameda
Superior Court of California
isabio@alameda.courts.ca.gov
justtice@alameda.courts.ca.gov

California Appellate Project (SF)
filing@capsf.org

Bethany L. O'Neill
Deputy State Public Defender
State Public Defender's Office
bethany.oneill@ospd.ca.gov
erik.levin@ospd.ca.gov
christina.spaulding@ospd.ca.gov
lipsig@ospd.ca.gov
jolie.lipsig@ospd.ca.gov,
docketing@ospdca.gov

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on January 8, 2026, at San Francisco, California.

N. Bui
Declarant

/s/ N. Bui
Signature

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v. DEMOLLE (ALEX)**

Case Number: **S159120**

Lower Court Case Number:

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: **lisa.ott@doj.ca.gov**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
OPPOSITION	S159120_OPP_People

Service Recipients:

Person Served	Email Address	Type	Date / Time
Christina Spaulding Office of the State Public Defender 228631	christina.spaulding@ospd.ca.gov	e-Serve	1/8/2026 9:35:12 AM
Bethany O'Neill Office of the State Public Defender 184735	bethany.oneill@ospd.ca.gov	e-Serve	1/8/2026 9:35:12 AM
Erik Levin Office of the State Public Defender 208274	erik.levin@ospd.ca.gov	e-Serve	1/8/2026 9:35:12 AM
Office Office Of The Attorney General Court Added	sfagdocketing@doj.ca.gov	e-Serve	1/8/2026 9:35:12 AM
Superior Superior Court of Alameda County Court Added Pro Per	lsabio@alameda.courts.ca.gov	e-Serve	1/8/2026 9:35:12 AM
State State Public Defender Court Added	lipsig@ospd.ca.gov	e-Serve	1/8/2026 9:35:12 AM
Superior Superior Court of Alameda County Court Added	jsuttice@alameda.courts.ca.gov	e-Serve	1/8/2026 9:35:12 AM
Jolie Lipsig Office of the State Public Defender 104644	jolie.lipsig@ospd.ca.gov	e-Serve	1/8/2026 9:35:12 AM
Lisa Ott California Dept of Justice, Office of the Attorney General 164811	lisa.ott@doj.ca.gov	e-Serve	1/8/2026 9:35:12 AM
Office Office Of The State Public Defender-Sac	docketing@ospd.ca.gov	e-	1/8/2026

Timothy Foley, Sr. Deputy State Public Defender 000000		Serve	9:35:12 AM
---	--	-------	---------------

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.

1/8/2026
Date

/s/Nam Bui
Signature

Ott, Lisa (164811)
Last Name, First Name (PNum)

California Dept of Justice, Office of the Attorney General
Law Firm