IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

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| Ron Briggs and John Van de Kamp,<br><br>Petitioners,<br><br>vs.<br><br>Jerry Brown, in his official capacity as the Governor of California; Xavier Becerra, in his official capacity as the Attorney General,<br><br>Respondents,<br><br>Californians to Mend, Not End, the Death Penalty – No on Prop. 62, Yes on Prop. 66,<br><br>Intervenors. | No. S238309 |



# AMICUS CURIAE BRIEF ON THE MERITS

**Orange County District Attorney's Application to File Amicus Curiae Brief and Amicus Curiae Brief in Support of Respondents and Intervenors**

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Attorneys for Amicus Curiae,
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TO THE HONORABLE TANIA CANTIL-SAKAUYE, CHIEF JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT:

Pursuant to California Rule of Court, rule 8.520, and through this application, the District Attorney for the County of Orange, California, hereby requests leave for permission to file an amicus curiae brief in the matter of *Briggs v. Brown*, Supreme Court of California No. S238309, in support of respondents, Jerry Brown, in his official capacity as the Governor of California

and Xavier Becerra, in his official capacity as the Attorney General of California, and intervenors, Californians to Mend, Not End, the Death Penalty - No on Prop. 62, Yes on Prop 66.

This application is timely, filed in accordance with the expedited briefing schedule set by this Court. A copy of the proposed brief is attached hereto.

## INTEREST OF AMICUS CURIAE

The District Attorney of Orange County is concerned the will of the People will be thwarted if the petitioners' relief is granted in this case. He stands with victims of murdered family members to defend public safety and protect their constitutional rights. The District Attorney of Orange County has the critical responsibility of filing and prosecuting criminal charges against defendants, including special circumstance murders which involve the death penalty as an available punishment. This case of course presents a statewide interest to California prosecutors, but it is of particular interest to Orange County as 65 of the inmates on California's death row were convicted of murder in Orange County. Those 65 Orange County murderers on death row are serial killers (including California's arguably most prolific serial killer, Randy Kraft), cold-blooded killers, entrenched and hardened gang members, rapists, child molesters, child killers, killers of pregnant women and the

elderly, hate-crime killers, cop-killers, and career criminals. The District Attorney of Orange County has a particular interest in seeing that those 65 murderers are given the penalty they were sentenced to and justly deserve.

## NEED FOR FURTHER BRIEFING

The author of this brief on behalf of the District Attorney of Orange County has read the parties' briefs and believe its proposed amicus curiae brief would aid this Court in resolution of this matter.[1] Drawing on its concern for public safety and the broader impact of this case on victims' rights, the District Attorney of Orange County addresses issues not fully covered in the parties' briefs, namely that any invalid or unconstitutional provisions in Proposition 66, should this Court deem them so, are severable from the valid and uncontested

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[1] Pursuant to California Rules of Court, rule 8.520(f)(4), the District Attorney of Orange County believes that no party or party's counsel authored this brief in whole or in part; no party or party's counsel made a monetary contribution intended to fund the preparation or submission of this brief; and no party or entity other than amicus or its counsel made a monetary contribution to this brief's preparation or submission

provisions in Proposition 66. Hence, to properly inform the Court on these and other related matters, permission to file the attached amicus brief is respectfully requested.

Dated this 29th day of March, 2017.

Respectfully submitted,

TONY RACKAUCKAS, DISTRICT ATTORNEY
COUNTY OF ORANGE, STATE OF CALIFORNIA

BY: _____
HOLLY M. WOESNER
DEPUTY DISTRICT ATTORNEY

## AMICUS CURIAE BRIEF

## ARGUMENT

### SINCE PROPOSITION 66 DOES NOT VIOLATE THE SINGLE-SUBJECT RULE, THERE IS NO BASIS FOR PETITIONERS' REQUEST TO WHOLLY ENJOIN PROPOSITION 66 AND ANY INVALID PROVISIONS ARE SEVERABLE.

As fully addressed by respondents, intervenors, and amicus curiae, the multifaceted components of Proposition 66 unite to form a comprehensive death penalty reform package. Thus, Proposition 66 does not violate the single-subject rule and petitioners' request to wholly enjoin it must be denied.

Outside of that argument, petitioners advance three more arguments: 1) Proposition 66 interferes with the jurisdiction of California Courts; 2) Proposition 66 violates the separation of powers doctrine; and 3) Proposition 66 violates the Equal Protection Clause. Since the counterarguments by respondents and intervenor are fully developed, this brief focuses solely on severability. In the unlikely event this Court finds that any of the petitioners' arguments have merit, this Court should sever that portion of the initiative and uphold the remainder of Proposition 66.

"Indeed, invalid provisions of a statute should be severed whenever possible to preserve the validity of the remainder of the statute." (*Hollywood Park Land Co., LLC v. Golden State Transp. Financing Corp.* (2009) 178 Cal.App.4th 924, 941-942, citing *Raven v. Deukmejian* (1990) 52 Cal.3d 336, 355-356 and *In re Kapperman* (1974) 11 Cal.3d 542, 550.) Courts look first to any severability clause. (*California Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4th 231, 270.) Here, the voters adopted the following severability clause in Proposition 66:

> If any provision of this act, or any part or any provision, or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remaining provisions and applications which can be given effect without the invalid or unconstitutional provision or application shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

(Ballot Pamp., Gen. Elect. (Nov. 8, 2016), text of Prop. 66, § 21, p. 218.) This broadly worded severability clause covers the situation here and could not be any clearer.

Accordingly, there is a presumption in favor of severance. (*California Redevelopment Assn. v. Matosantos, supra,* 53 Cal.4th at p. 270; see also *Santa Barbara Sch. Dist. v. Superior Court* (1975) 13 Cal.3d 315, 330 [holding that a severability clause normally calls for sustaining the valid part of the enactment].) However, " '[t]he invalid provision must be grammatically, functionally, and volitionally separable.' " (*California Redevelopment Assn. v. Matosantos, supra,* 53 Cal.4th at p. 271, citing *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805, 821.)

> " It is 'grammatically' separable if it is 'distinct' and 'separate' and, hence, 'can be removed as a whole without affecting the wording of any' of the measure's 'other provisions.' [Citation.] It is 'functionally' separable if it is not necessary to the measure's operation and purpose. [Citation.] And it is 'volitionally' separable if it was not of critical importance to the measure's enactment. [Citation.]"

(*Hollywood Park Land Co., LLC v. Golden State Transp. Financing Corp., supra,* 178 Cal.App.4th at p. 942, citing *Hotel Employees and Restaurant Employees Intern. Union v. Davis* (1999) 21 Cal.4th 585, 613, modification in original.)

In turn, this brief addresses each of the severability criteria looking carefully at the sections to which the petitioners protest, namely, newly enacted or amended:

1. Penal Code[2] sections 190.6, subdivision (d) (third sentence only);

2. Penal Code section 190.6, subdivision (e) (second and third sentence only);

3. Penal Code section 1239.1, subdivisions (a) (third sentence only) and (b);

4. Penal Code section 1509, subdivisions (a) (third sentence only), (d), and (f) (second sentence only);

5. Penal Code section 1509.1;

6. Penal Code section 3604.1, subdivision (c); and

7. Government Code section 68662.

### A. Grammatical Severability

The petitioners continue to conflate grammatical and functional severability. Grammatical severability turns on whether "the invalid parts 'can be removed as a whole without affecting the wording' or coherence of what remains. [Citations.]" (*California Redevelopment Assn. v. Matosantos, supra,* 53 Cal.4th at p. 271.) Grammatical severability certainly works here. The

---

[2] Unless otherwise noted, all further statutory references are to the Penal Code.

above-mentioned sections, in particular section 1509.1,[3] are freestanding provisions or sentences, and are unconnected grammatically to the rest of the enactment. In other words, the challenged provisions are separate and distinct and can be removed without affecting the wording of any other provision. After severance, the enactment still reads perfectly coherent.

For example, if the five-year time limit is excised, then amended Penal Code section 190.6, subdivision (d) would read:

> The right of victims of crime to a prompt and final conclusion, as provided in paragraph (9) of subdivision (b) of Section 28 of Article I of the California Constitution, includes the right to have judgments of death carried out within a reasonable time. Within 18 months of the effective date of this initiative, the Judicial Council shall adopt initial rules and standards of administration designed to expedite the processing of capital appeals and state habeas corpus review. The Judicial Council shall continuously monitor the timeliness of review of capital cases and shall amend the rules and standards as necessary to complete the state appeal and initial state habeas corpus proceedings within the period provided in this subdivision.

---

[3] Penal Code section 1509.1 is contained in a discrete separate section and therefore it is grammatically severable.

If the ability of a party or a victim to file a petition for writ of mandate is deleted, Penal Code section 190.6, subdivision (e) would read:

> The failure of the parties or of a court to comply with the time limit in subdivision (b) shall not affect the validity of the judgment or require dismissal of an appeal or habeas corpus petition. Paragraph (1) of subdivision (c) of Section 28 of Article I of the California Constitution, regarding standing to enforce victims' rights, applies to this subdivision and subdivision (d).

Section 190.6 still makes sense as a matter of linguistics. Section 190.6, subdivision (d)'s first sentence, which is of course not challenged, merely clarifies that a victim's constitutional right to "prompt and final conclusion" includes a right "to have judgments of death carried out within a reasonable time." Subdivision (e) of Penal Code section 190.6 still applies to this constitutional requirement irrespective of the outcome of the five-year limit. And, though petitioners seem to suggest otherwise (Traverse at p. 50), the time limit for the opening appellate brief mentioned in subdivision (b) is unchanged by Proposition 66.

If the challenged sentence and section of Penal Code section 1239.1 was deleted, it would read:

> (a) It is the duty of the Supreme Court in a capital case to expedite the review of the case. The court shall appoint counsel for an indigent appellant as soon as possible.

Again, this section still makes perfect grammatical sense, and by the way, furthers the initiative's overall goal to improve the efficiency and expedite capital cases.

If the challenged sentences in section 1509 were excised, it would read:

> (a) This section applies to any petition for writ of habeas corpus filed by a person in custody pursuant to a judgment of death. A writ of habeas corpus pursuant to this section is the exclusive procedure for collateral attack on a judgment of death. A petition filed in or transferred to the court which imposed the sentence shall be assigned to the original trial judge unless that judge is unavailable or there is other good cause to assign the case to a different judge.
>
> [¶] ... [¶]
>
> (d) [deleted]
>
> [¶] ... [¶]
>
> (f) Proceedings under this section shall be conducted as expeditiously as possible, consistent with a fair adjudication. On decision of an initial petition, the court shall issue a statement of decision explaining the factual and legal basis for its decision.

Petitioners argue that sections 1509, subdivision (f) and all of section 1509.1 would be "incoherent" without the third sentence in section 1509, subdivision (a). (Traverse at p. 49.) This sentence, deleted above, deals with the transfer of habeas corpus petitions to the original trial court if filed anywhere else. Again, petitioners are incorrect. These sections do not reference a transfer and make sense linguistically on their own. And, they continue to have meaning when transfers are required. The first and third

sentences of section 1509, subdivision (f) apply irrespective of what court the habeas corpus proceeding is in.

Moreover, the second sentence of section 1509, subdivision (f) and all of section 1509.1 apply even when an initial habeas corpus proceeding is heard in Superior Court, no matter how it arrived there. Before Proposition 66, some death row inmates chose to file their initial habeas corpus petitions in Superior Court. (See *In re Carpenter* (1995) 9 Cal.4th 634, 642.) Now that Government Code section 68662 is enacted and the authority to appoint counsel rests with the Superior Court, many more habeas petitions will be filed in Superior Court. Thus, the wording of these sections still makes sense and they remain perfectly coherent.

Petitioners only challenge one sentence in section 3604.1 – the first sentence of subdivision (c). The petitioners challenge the "exclusive" jurisdiction part of that sentence. The word "exclusive" is reasonably separable from the remaining portions and still makes grammatical sense. Recall, to be grammatically severable, "the valid and invalid parts can be separated by paragraph, sentence, clause, phrase, or even single words. [Citations.]" (*In re Blaney* (1947) 30 Cal.2d 643, 655; *Abbott Laboratories v. Franchise Tax Bd.* (2009) 175 Cal.App.4th 1346, 1358.)

Finally, petitioners note the interrelation between the untimeliness and successive petition bars and their exceptions. Of course there is a relation. It would be impossible to write a statute dealing with untimely and successive petitions without such a relation. Despite the time limits and their exceptions are intertwined, they remain severable from the rest of the initiative. Petitioners provide no argument why they are not severable.

Thus, the grammatical component of the test for severance is met by the severability clause considered in conjunction with the separate and discrete provisions of Proposition 66. Grammatical severability exists because any invalid parts can be removed as a whole without affecting the wording or coherence of what remains; the revised provisions above are perfectly coherent. The remaining provisions can be made grammatically correct without adding any additional words or punctuation. The challenged portions of the proposition can be stricken without confusion or uncertainty. And, severance of the challenged portions will not impair operation of the rest of the statutory scheme.

### B. Functional Severability

Invalid provisions are functionally severable if the remaining provisions can stand on their own, unaided by the invalid provisions, are capable of separate enforcement, can be given effect, or can operate entirely independently of the invalid provisions. (*Raven v. Deukmejian, supra*, 52 Cal.3d at p. 355; *Legislature v. Eu* (1991) 54 Cal.3d 492, 535; *People's Advocate, Inc. v. Superior Court* (1996) 181 Cal.App.3d 316, 332.) The remaining provisions must neither be rendered vague by the absence of the invalid provisions "nor inextricably connected to them by policy considerations." (*Ibid.*) Some connection between the two does not mean it is an inextricable one. (*McMahan v. City and County of San Francisco* (2005) 127 Cal.App.4th 1368, 1379.)

If this Court finds any of the challenged sections invalidated, those sections in no way affect the measure's operation and purpose, making it functionally severable. There is functional severability because the remainder of the statutes are complete in themselves. The revised provisions would of course have a reduced scope, but the Proposition is complete, has coherent functionality, and does not conflict with any of the other provisions. Even if any of the revisions are invalidated, many of the provisions are capable of separate effective enforcement.

Penal Code section 1509, subdivision (b), together with Government Code section 68662, can operate entirely independently from the rest of the initiative. Pre-Proposition 66 Government Code section 68662 is California's attempt to implement 28 U.S.C. section 2261, subdivision (c),[4] which is one of the requirements to qualify for the "fast track" through federal habeas corpus. (See *Habeas Corpus Resource Center v. U.S. Dept. of Justice* (9th Cir. 2016) 816 F.3d 1241, 1243-1244, cert. den. (Mar. 20, 2017, No 16-880) ___ U.S. ___ [2017 WL 120939].) Proposition 66 amended Government Code section 68662 merely to shift the appointment of counsel authority from the Supreme Court to the Superior Court, which is fully within the right of the People's legislative authority. Penal Code section 1509, subdivision (b) is a

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[4] 28 U.S.C. section 2261, subdivision (c) reads in relevant part:

> (c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record –
>
> (1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;
>
> (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or
>
> (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

cross-reference and nothing more. It imposes no additional duties outside of what was already in Government Code section 68662.

Petitioners argue that sections 1509 and 190.6 are not functionally separable "because they create an interlocking system of deadlines for postconviction review." (Traverse at p. 51.) But, the one-year limitation for habeas corpus proceedings in Superior Court in the second sentence of section 1509, subdivision (f) does not depend on the five-year limit mentioned in the third sentence in section 190.6, subdivision (d). In fact, the one-year limitation in section 1509 could be implemented without the five-year limitation in section 190.6 and vice versa. And, the Judicial Council has been tasked with creating specific rules to achieve the time limit. Proposition 66 provides numerous reforms to further the goal of effectively and efficiently executing death penalty judgments. The time limits, while an important part of the initiative, are not necessary to the other reforms, e.g. habeas corpus reforms, the Administrative Procedure Act reform, the protection of assisting medical professionals, and restitution for victims.

Finally, petitioners complain that section 1239.1 and Government Code section 68665 are not functionally separable from one another.[5] However, newly enacted section 1239.1, subdivision (b) and amended Government Code section 68665 both address the problems with the appointment of counsel in capital cases but do so with different aims. Section 1239.1 seeks to widen the pool of qualified attorneys in the event of a "substantial backlog." Government Code section 68665 mandates the Judicial Council and the Supreme Court adopt and evaluate competency standards for the appointment of counsel in death penalty cases. Each furthers the goal without the other and thus those sections are functionally severable.

Because the remaining parts of Proposition 66 operate independently, are not rendered vague in the absence of any invalid provisions, and are capable of separate enforcement, the provisions are functionally severable. The unchallenged portions of Proposition 66 accomplish the law's core purpose of a comprehensive death penalty reform. Since most, if not all, of the

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[5] Petitioners also claim without any argument or support that section 1239.1 and Government Code 68665 are not separable from section 190.6 and 1509. Of course they are. As already mentioned, section 1239.1 and Government Code section 68665 work to alleviate the inordinate amount of time it takes for appointment of counsel. Sections 190.6 and 1509 work to shorten the timelines and to eliminate frivolous and unnecessary claims.

initiative should remain intact and a substantial portion of the electorate's purpose is achieved, any invalidated parts can and should be severed and given operative effect. (*Gerken v. Fair Political Practices Com.* (1993) 6 Cal.4th 707, 715.) Any invalid provisions constitute only a minute portion of a lengthy, detailed, and comprehensive measure designed to make the death penalty more efficient and effective.

### C. Volitional Severability

The final consideration, volitional severability, depends on whether the remainder of the initiative is " 'complete in itself' " and would have been adopted by the voters had they " 'foreseen the partial invalidation of the statute.' " (*Santa Barbara Sch. Dist., supra*, 13 Cal.3d at p. 331, citing *In re Bell* (1942) 19 Cal.2d 488, 498.) For ballot initiatives,

> The test for volitional severability is whether it can be said with confidence that the electorate's attention was sufficiently focused upon the parts to be severed so that it would have separately considered and adopted them in the absence of the invalid portions. [Citations.]

(*Gerken v. Fair Political Practices Com., supra*, 6 Cal.4th at pp. 714-715, emphasis omitted.) That is, even in the absence of the severed segments, the

remaining provisions centrally address the voters' stated concerns. An invalid portion of an ordinance is " ' "volitionally" separable if it was not of critical importance to the measure's enactment.' " (*Jevne v. Superior Court* (2005) 35 Cal.4th 935, 961, quoting *Hotel Employees and Restaurant Employees Intern. Union v. Davis, supra*, 21 Cal.4th at p. 613.) Also, it is "eminently reasonable to suppose that those who favor[ed] the proposition would be happy to achieve at least some substantial portion of their purpose, ...." (*Santa Barbara School Dist., supra,* 13 Cal.3d at p. 332.) In applying this test, the courts may examine the proposition itself, as well as the ballot materials. (*Gerken v. Fair Political Practices Com., supra,* 6 Cal.4th at p. 717.)

Whether the ordinance includes a severability clause is a significant consideration in deciding whether the invalid portion is volitionally separable because the clause expresses the legislative body's intent that any invalid portion of the ordinance should be severed to the extent possible. (*Gerken v. Fair Political Practices Com., supra*, 6 Cal.4th at pp. 714-715.)

> " 'Although not conclusive, a severability clause normally calls for sustaining the valid part of the enactment, especially when the invalid part is mechanically severable....' "

(*Id.* at p. 714, citation omitted.)

Perhaps most tellingly, Proposition 66 added a severability clause, which expressly states the voters' intent that the provisions of this law are

severable should any provision or the application thereof to any person or circumstance be held invalid for any reason. (Ballot Pamp., Gen. Elect. (Nov. 8, 2016), text of Prop. 66, § 21, p. 218.) There is no good reason for this Court to deviate from the presumption in favor of severance.

The description of Proposition 66 provided in the ballot materials described the many aspects of the initiative. The text of the initiative underscored its primary objectives. The "Findings and Declarations" lists the various ways in which the death penalty can and should be reformed in California. These and other materials in the record demonstrate convincingly that several changes in California's death penalty law were presented to the voters as a distinct goal of Proposition 66. The various provisions reflect separable methods of achieving this purpose. That is,

> "[T]he electorate's attention was sufficiently focused upon the parts to be severed so that it would have separately considered and adopted them in the absence of the invalid portions."

(*Gerken v. Fair Political Practices Com., supra,* 6 Cal.4th at pp. 714-715, quoting *People's Advocate, Inc. v. Superior Court, supra,* 181 Cal.App.3d at pp. 332-333, emphasis omitted.)

The ballot materials demonstrate the cornerstone of the initiative was a comprehensive reform of many parts. The ballot materials articulated a commitment to making capital cases more efficient and the judgments

effective. The initiative's primary goal was the one embodied by its title: death penalty reform and savings. The problem the initiative sought to address was mentioned immediately in the "Findings and Declaration": "California's death penalty system is ineffective" and "Families of murder victims should not have to wait decades for justice." (Ballot Pamp., Gen. Elect. (Nov. 8, 2016), text of Prop. 66, § 2, paras. 1, 3, pp. 212, 213.) Each of the reforms in Proposition 66 is aimed at ameliorating this problem. Petitioners' myopic view that Proposition 66 was aimed only at fixing the review process and nothing else is patently absurd and disingenuous.

The unchallenged amendments and enactments of sections 1227, 2700.1, 3600, 3604, 3604.3 and Government Code sections 68660.5, 68661.1, 68664, and 68665 were accomplished through the explicit language contained in the initiative's sections 4, 8, 9, 10, 12, 13, 14, 15, 17, and 18, which are distinct and independent provisions. There is simply no basis to conclude that any of these sections were presented to the electorate in the initiative in such a manner that their significance could not be seen and independently evaluated in light of the express purpose of the initiative. Any voter who read even the first few paragraphs of the proposition itself would have known that such an extensive reform would call for several areas of the law to be amended.

The code amendments were clearly apparent *in the initiative,* and this was enough to focus voter attention on it.

The People of the State of California voted to have capital cases carried out efficiently and effectively. The provisions expressing this change of policy would have received the endorsement of the vast majority of voters, even if, for example, the initial habeas corpus cases are not transferred to Superior Court or the five-year limit is absent. This is true even if the case transfer and the five-year limit are the "heart" of Proposition 66 since many substantive provisions would still remain. (See *Gerken v. Fair Political Practices Com., supra,* 6 Cal.4th at p. 719.)

Viewing the ballot materials as a whole, the overall purpose of Proposition 66 was sufficiently highlighted such that the unchallenged provisions would have been adopted in the absence of the challenged ones. That is, the valid portions can and should be severed from any that are deemed invalid and should remain in effect.

Petitioners assume success and that most of the provision will be found unconstitutional or invalid. As respondents and intervenors have argued, most of the petitioners' challenges are meritless. Even if this Court finds merit in just one or two of petitioners' challenges, the court must examine whether the voters would have adopted this multifaceted reform without a few of its parts.

The answer is a resounding yes. The People voted to mend, not end the death penalty. Any one of the parts of Proposition 66 would no doubt help further that goal, even if only a substantial portion of that goal is accomplished.

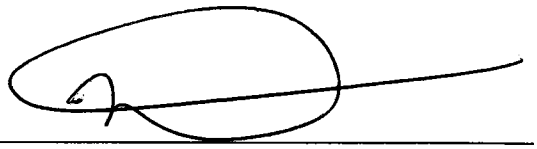
## CONCLUSION

Amici curiae respectfully request this Court deny the Petition for Extraordinary Relief.

Dated this 29th day of March, 2017.

Respectfully submitted,

TONY RACKAUCKAS, DISTRICT ATTORNEY
COUNTY OF ORANGE, STATE OF CALIFORNIA

BY: 

HOLLY M. WOESNER
DEPUTY DISTRICT ATTORNEY

## CERTIFICATE OF WORD COUNT

**[California Rules of Court, Rule 8.204(c)]**

The text of the Application to File an Amicus Curiae Brief and the Amicus Curiae Brief consists of 4,280 words as counted by the word-processing program used to generate this brief.

Dated this 29th day of March, 2017.

Respectfully submitted,

TONY RACKAUCKAS, DISTRICT ATTORNEY
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BY: _____
HOLLY M. WOESNER
DEPUTY DISTRICT ATTORNEY

**PROOF OF SERVICE BY MAIL**

STATE OF CALIFORNIA )
)
COUNTY OF ORANGE )

RE: BRIGGS V. BROWN
SUPREME CASE NO. S238309

I am a citizen of the United States; I am over the age of eighteen years and not a party to the within entitled action; my business address is: Office of the District Attorney, County of Orange, 401 Civic Center Drive West, Santa Ana, CA 92701.

On March 29, 2017, I served the **APPLICATION TO FILE AMICUS CURIAE BRIEF AND AMICUS CURIAE BRIEF** on the interested parties in said action by placing a true copy thereof enclosed in a sealed envelope, in the United States mail at Santa Ana, California, that same day, in the ordinary course of business, postage thereon fully prepaid, addressed as follows:

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*Amicus Curiae, Association of Deputy District Attorneys for Los Angeles, Riverside County Deputy District Attorneys Association, San Diego County Deputy Attorneys Association, Association of Orange County Deputy District Attorneys, Ventura County Prosecutor's Association, Kern County Prosecutor's Association, Sacramento County Deputy District Attorneys Association, Yolo County Deputy District Attorneys Association, Solano County Association of Deputy District Attorneys, and Sonoma County Prosecutor's Association.*

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 29, 2017 at Santa Ana, California.

Judy Najera
ATTORNEY CLERK II