

SUPREME COURT  
**FILED**

DEC - 8 2011

Frederick K. Ohlrich Clerk

S198387

**IN THE SUPREME COURT  
OF THE STATE OF CALIFORNIA**

Deputy

**JULIE VANDERMOST,**

*Petitioner,*

v.

**DEBRA BOWEN, SECRETARY OF STATE OF  
CALIFORNIA,**

*Respondent.*

Intervention Requested Pursuant to Cal. Const., art. XXI, § 3, subd. (a)  
and Code Civ. Proc., § 387

**REPLY TO MOTION TO INTERVENE AND FOR LEAVE TO  
FILE PRELIMINARY OPPOSITION**

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**CITIZENS REDISTRICTING COMMISSION**

Petitioner Vandermost's response to the Citizens Redistricting Commission's motion to intervene cites no new or different authority and has no real response to the unambiguous grant of constitutional authority vested exclusively in the Commission:

"The commission has the sole legal standing to defend any action regarding a certified final map . . . ." (Cal. Const., art. XXI, § 3, subd. (a), emphasis added.)

The Petition filed by Vandermost is indisputably an "action" and "regarding" the Commission's certified final Senate map. No further analysis is necessary. (*Stockburger v. Jordan* (1938) 10 Cal.2d 636, 650 [where a constitutional provision controls, "[o]ur duty begins and ends with the interpretation of the language so used in the Constitution"].)

Vandermost's argument that her lawsuit is not "a challenge" to the Commission's maps also is wrong. (Reply at p. 7 [asserting that "[t]he Commission only has authority to defend challenges to the Commission's certified maps"].) The Petition seeks an immediate stay of the Commission's certified maps and urges the Court to replace them with Vandermost's preferred alternatives—based on her misinterpretation of Article XXI, section 3, which provides only a grant of standing if a referendum is "likely to qualify," not a right to stay or alter the certified final maps. (See, e.g., Pet. ¶¶ 8, 10, 13, 19, 26, 28, 31, 34, 38 & "Prayer for Relief.")

Incredibly, the Petition also asserts that the certified Senate districts "were created to further a partisan purpose or effect, and that they fail to meet the Commission's mandate to enact constitutional and impartial districts," an

allegation that has no factual support and was rejected correctly by this Court's denial of Vandermost's first petition. (Pet. ¶ 29.)<sup>1</sup>

In sum, the Commission is an indispensable party under Article XXI of the California Constitution and Code of Civil Procedure section 389. The Court should either grant the Commission leave to intervene or dismiss Vandermost's Petition for failure to name and serve the Commission.

Dated: December 8, 2011

Respectfully submitted,

MORRISON & FOERSTER LLP

By:



James J. Brosnahan

Attorneys for CITIZENS  
REDISTRICTING COMMISSION

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<sup>1</sup> Ironically, Vandermost's latest brief argues that the Commission is somehow "attempting to thwart" the people of California's will by seeking to intervene here. (Reply at p. 8.) A majority of California voters created the Commission by adopting Proposition 11, and they amended the Constitution to empower the Commission to respond to this lawsuit—a fact that stands in stark contrast to the limited public response to Vandermost's referendum drive.

### PROOF OF SERVICE

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California 94105-2482. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on December 8, 2011, I served copies of:

**REPLY TO MOTION TO INTERVENE AND FOR LEAVE TO  
FILE PRELIMINARY OPPOSITION; AND  
COVER LETTER TO COURT CLERK**

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Executed at San Francisco, California, this 8th day of December, 2011.

A handwritten signature in black ink, appearing to read 'B. Keaton', written over a horizontal line.

B. Keaton

(signature)

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