

**In the Supreme Court of the State of California**

**RON BRIGGS and JOHN VAN de KAMP,**

Petitioners,

v.

**JERRY BROWN, in his official capacity as  
the Governor of California; KATHLEEN  
A. KENEALY, in her official capacity as  
the Acting Attorney General of California;  
and California's Judicial Council, and  
Does I through XX,**

Respondents.

Case No. S238309

**SUPREME COURT  
FILED**

**JAN 09 2017**

**Jorge Navarrete Clerk**

**Deputy**

**RESPONDENT JUDICIAL COUNCIL'S PRELIMINARY  
RESPONSE TO PETITIONERS' AMENDED AND RENEWED  
PETITION FOR EXTRAORDINARY RELIEF**

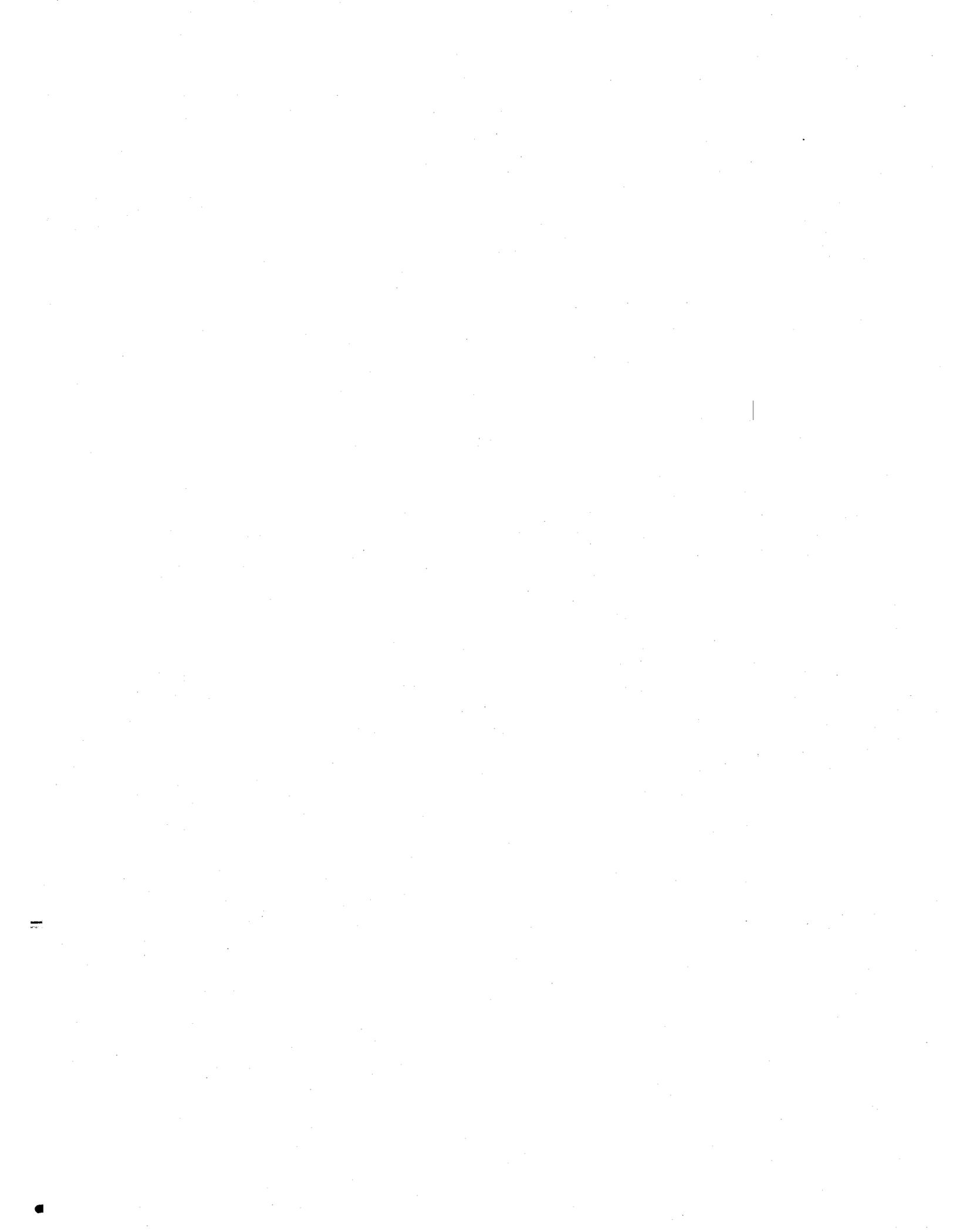
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Acting Attorney General of California  
DOUGLAS J. WOODS  
Senior Assistant Attorney General  
MARC A. LEFORESTIER  
Supervising Deputy Attorney General  
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*Attorneys for Respondent California  
Judicial Council*

Petitioners filed an Amended and Renewed Petition for Extraordinary Relief, seeking relief against, among other parties, the California Judicial Council.

As petitioners state, respondent Judicial Council of California is the policymaking body of the California courts. (Am. Pet. at p. 5 ¶ 13.) Article VI, section 6 of the California Constitution states, “To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute.” (Cal. Const., art. VI, § 6, subd. (d).)

Proposition 66 requires that the Judicial Council “adopt initial rules and standards of administration designed to expedite the processing of capital appeals and state habeas corpus review,” as well as “continuously monitor the timeliness of review of capital cases” and amend these rules to ensure that the Proposition’s time limitations are met. (New Pen. Code, § 190.6, subd. (d).) It also requires that the Judicial Council adopt “binding and mandatory competency standards for the appointment of counsel” in direct criminal and habeas proceedings in capital cases, taking into consideration certain specified factors. (New Gov. Code, § 68665, subd. (b).)

Petitioners do not challenge the Judicial Council’s constitutional rulemaking authority, nor its duty to perform other functions prescribed by statute. Therefore, the Judicial Council submits that it is not a proper respondent/defendant in this action. (*California Court Reporters Ass’n v. Judicial Council of Cal.* (1995) 39 Cal.App.4th 15, 21 [“[T]he Judicial Council may not adopt rules that are inconsistent with governing statutes”].) The Judicial Council respectfully informs the Court that it takes

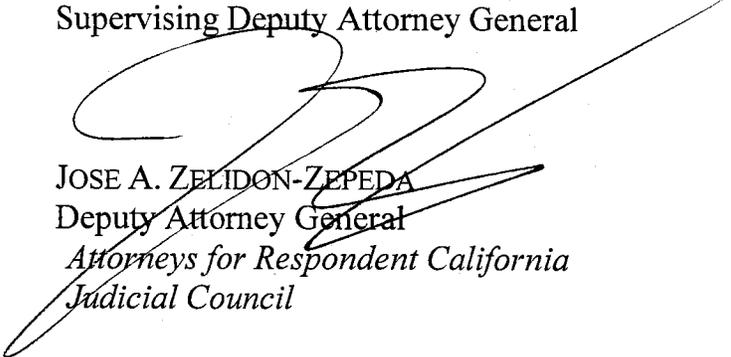


no position on the claims raised by petitioners, or regarding the constitutionality or other challenges to Proposition 66, at this juncture.

Dated: January 9, 2017

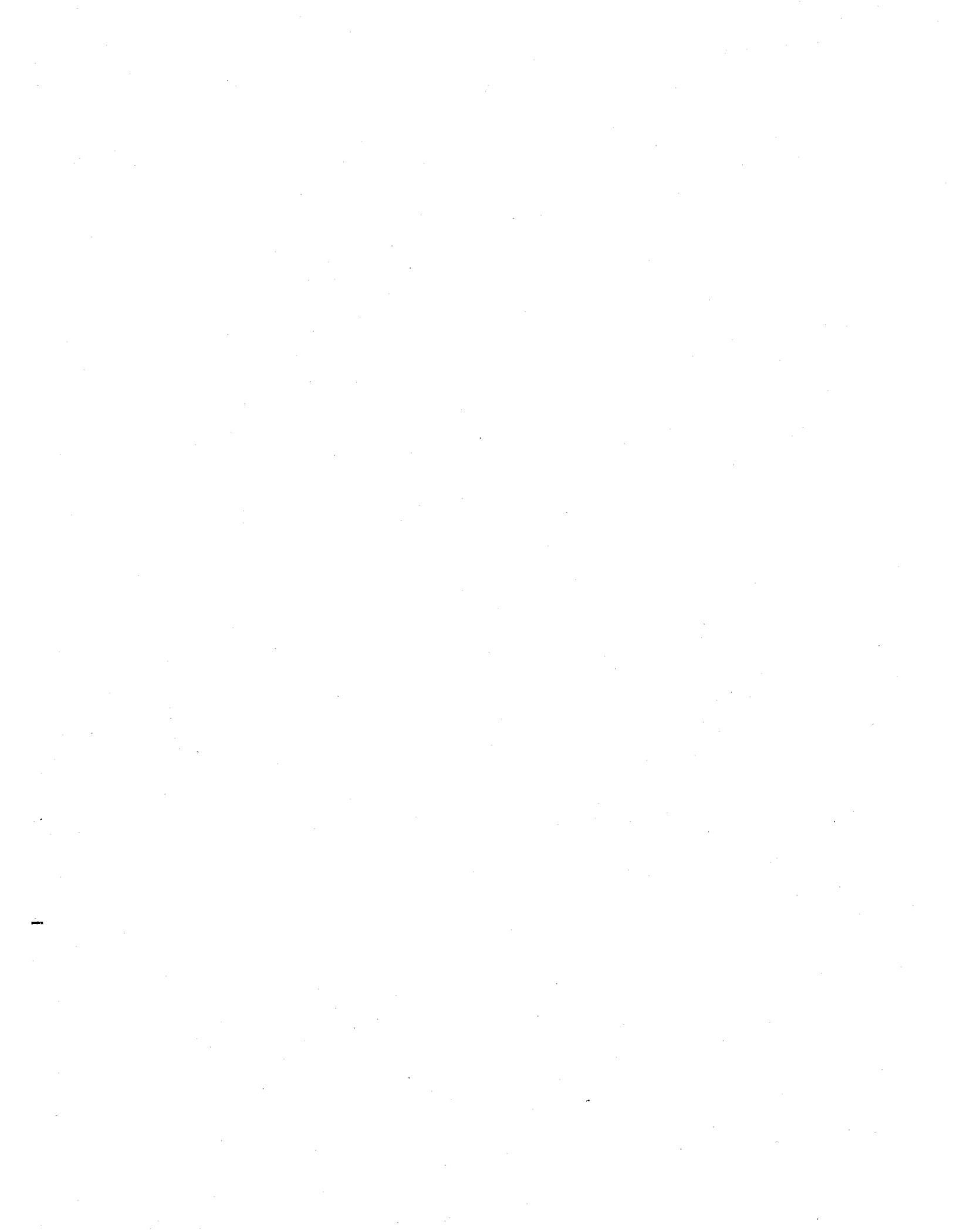
Respectfully submitted,

KATHLEEN A. KENEALY  
Acting Attorney General of California  
DOUGLAS J. WOODS  
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MARC A. LEFORESTIER  
Supervising Deputy Attorney General



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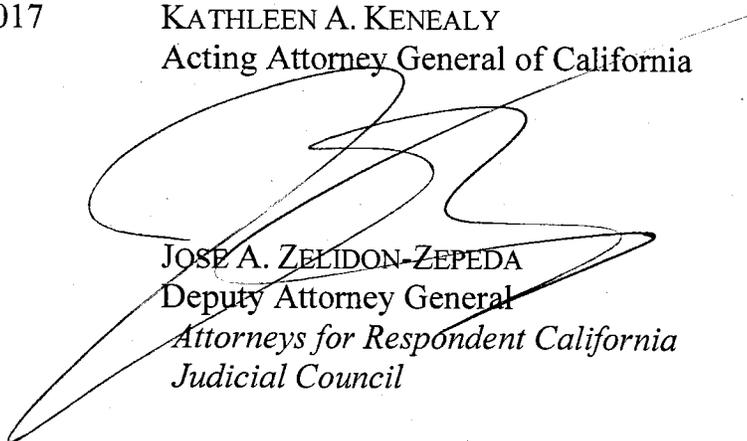


**CERTIFICATE OF COMPLIANCE**

I certify that the attached RESPONDENT JUDICIAL COUNCIL'S PRELIMINARY RESPONSE TO PETITIONERS' AMENDED AND RENEWED PETITION FOR EXTRAORDINARY RELIEF uses a 13 point Times New Roman font and contains 293 words.

Dated: January 9, 2017

KATHLEEN A. KENEALY  
Acting Attorney General of California



JOSE A. ZELIDON-ZEPEDA  
Deputy Attorney General  
*Attorneys for Respondent California  
Judicial Council*



**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: *Briggs, Ron, et al. v. Jerry Brown, et al.*

No.: **S238309**

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 collection and processing of correspondence for mailing with the United States Postal Service. 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.

On January 9, 2017, I served the attached **RESPONDENT JUDICIAL COUNCIL'S PRELIMINARY RESPONSE TO PETITIONERS' AMENDED AND RENEWED PETITION FOR EXTRAORDINARY RELIEF** by placing 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:

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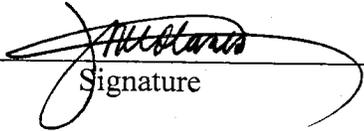
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Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on January 9, 2017, at San Francisco, California.

M. T. Otnes

Declarant

  
Signature

