

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; XAVIER
BECERRA, in his official capacity as the
Attorney General of California, and
California's Judicial Council, and Does I
through XX,

Respondents.

Case No. S238309

SUPREME COURT
FILED

FEB 27 2017

Jorge Navarrete Clerk

Deputy

RESPONDENT CALIFORNIA JUDICIAL COUNCIL'S RETURN
TO PETITION FOR A WRIT OF MANDATE

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**RETURN BY ANSWER TO AMENDED AND RENEWED
PETITION FOR A WRIT OF MANDATE**

Respondent California Judicial Council answers the Amended and Renewed Petition for Extraordinary Relief, Including Writ of Mandate, as follows. All allegations not expressly admitted are denied.

1 through 12. Respondent lacks information or belief sufficient to admit or deny the allegations of these paragraphs, and on that basis denies them.

13. Respondent admits that Article VI, section 6 of the California Constitution tasks the Judicial Council with surveying judicial business and making recommendations to the courts, making recommendations annually to the Governor and Legislature, adopting rules for court administration, practice and procedure, and performing other functions prescribed by statute, in order to improve the administration of justice. Except as expressly admitted, respondent lacks information or belief sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

14 through 18. Respondent lacks information or belief sufficient to admit or deny the allegations of these paragraphs, and on that basis denies them.

19. Respondent admits that Proposition 66 requires the Judicial Council to adopt rules and standards designed to expedite processing of capital appeals and state habeas corpus review, within 18 months of the measure's effective date. Except as expressly admitted, respondent lacks information or belief sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

20 through 42. Respondent lacks information or belief sufficient to admit or deny the allegations of these paragraphs, and on that basis denies them.

DEFENSES

1. The petition fails to state facts sufficient to state a cause of action against respondent.

PRAYER

Respondent prays that:

1. Judgment be entered in favor of respondent and against petitioners, and that petitioners take nothing by the petition.

2. Respondent be awarded costs of suit and any other relief that the Court deems proper.

DISCUSSION

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

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

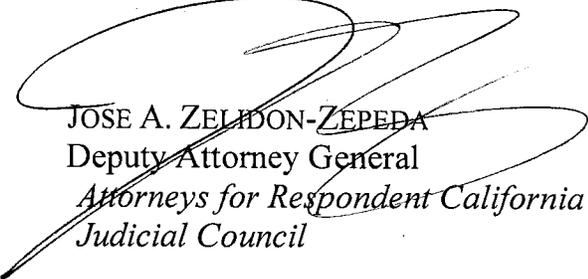
consideration certain specified factors. (New Gov. Code, § 68665, subd. (b).)

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.

Dated: February 27, 2017

Respectfully submitted,

XAVIER BECERRA
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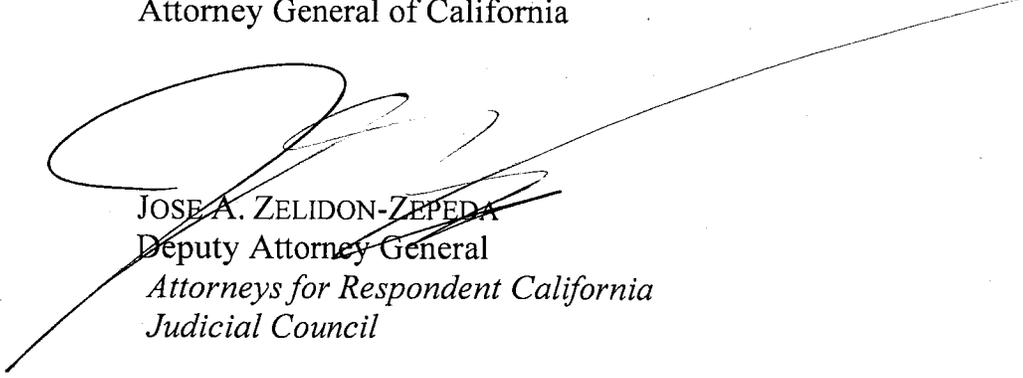
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CERTIFICATE OF COMPLIANCE

I certify that the attached **RESPONDENT CALIFORNIA JUDICIAL COUNCIL'S RETURN TO PETITION FOR A WRIT OF MANDATE** uses a 13 point Times New Roman font and contains **597** words.

Dated: February 27, 2017

XAVIER BECERRA
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: ***Ron Briggs, 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 February 27, 2017, I served the attached **RESPONDENT'S CALIFORNIA JUDICIAL COUNCIL'S RETURN TO PETITION FOR A WRIT OF MANDATE** 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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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 February 27, 2017, at San Francisco, California.

M. T. Otnes

Declarant



Signature