

SUPREME COURT COPY

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January 4, 2012

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Supreme Court of California
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Attn: Frederick K. Ohlrich, Court Administrator
and Janell Hunter, Deputy Clerk

**SUPREME COURT
FILED**

JAN -4 2012

Frederick K. Ohlrich Clerk

Deputy

Re: *Julie Vandermost v. Debra Bowen*, No. S198387

Dear Clerk of the Court:

Pursuant to the Court's Order dated December 29, 2011 in the above-captioned action, I have enclosed for filing the Citizens Redistricting Commission's Supplemental Letter Brief. Hard copies will follow by hand delivery this afternoon.

Thank you for your assistance with this fax filing.

Respectfully submitted,



James J. Brosnahan

cc: See Proof of Service attached to Supplemental Letter Brief

January 4, 2012

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Attn: Frederick K. Ohlrich, Court Administrator
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Re: *Julie Vandermost v. Debra Bowen*, No. S198387

To the Honorable Tani Gorre Cantil-Sakauye, Chief Justice, and the Honorable Associate Justices of the Supreme Court of the State of California:

Pursuant to the Court's Order dated December 29, 2011, we write to respond to the Court's question: "What significance does the signature validity rate from the completed random sampling process have for the issue of whether a referendum is 'likely to qualify' under article XXI, section 3, subdivision (b)(2) of the California Constitution?"

The signature validity rate from the incomplete random sampling process is discussed in the Commission's Return to the Order to Show Cause at pages 14-15, and in the Secretary of State's Preliminary Opposition at pages 3-8 and in her Return at pages 3-4. As the prior briefs explain, at least 555,236 signatures are required to qualify Vandermost's proposed referendum by random sampling.¹ To date, counties have reported verification data for less than one-half of the 709,013 "raw" (unverified) signatures submitted by Vandermost—most of which have been checked by random sampling. For the reasons explained in the prior briefs, the Secretary of State's considered opinion that, at best, it is too soon to tell whether the proposed referendum is "likely to qualify" should be afforded substantial weight.

¹ (Secty. of State's Preliminary Opp. at pp. 4-5; see also <http://www.sos.ca.gov/elections/pend_sig/init-sample-1499-122911.pdf> (Jan. 4, 2012).) Based on the low "raw" count of unverified signatures submitted by Vandermost, her signatures would need a validity rate of 78.3% to qualify the proposed referendum by random sampling—which is the only type of verification process that is expected to be completed before mid-March 2012. (Secty. of State's Prelim. Opp. at pp. 7-8.)

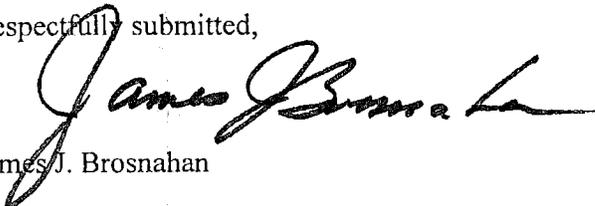
Supreme Court of California
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(Secty. of State's Prelim. Opp. at pp. 4-8; Commission's Return at p. 14.) Accordingly, while a signature validity rate from a completed random sample could, in some circumstances, support a determination that a referendum is "likely to qualify," Vandermost's low "raw" count of signatures here—coupled with early reporting data from the random sampling process as interpreted by the Secretary of State—compel the conclusion that Vandermost has not met her burden to show that it is more probable than not that the referendum will actually qualify for the ballot.

The amicus brief and Request for Judicial Notice submitted by Senator Steinberg, President Pro Tem of the State Senate, further support the conclusion that Vandermost has not met her burden to show the proposed referendum is likely to qualify. As the amicus brief notes, Los Angeles County, which accounts for 209,163 of Vandermost's 709,013 unverified signatures, has not reported verification data, and Los Angeles County typically returns validity rates lower than the statewide average. (Steinberg Br. at p. 9; Metzker Decl. ¶¶ 6-8.) This is consistent with a trend that appears to be emerging in data from the random sample for Vandermost's proposed referendum—larger, urban areas reporting lower validity rates than counties with predominantly rural or suburban populations.²

For the reasons explained in the Commission's prior briefs, the Commission respectfully submits that Vandermost's Petition should be denied based on her failure to demonstrate that it is more probable than not that her proposed referendum actually will qualify the ballot.

Respectfully submitted,



James J. Brosnahan

cc: See Attached Proof of Service

1154064

² <http://www.sos.ca.gov/elections/pend_sig/init-sample-1499-122911.pdf>.

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market St., 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 January 4, 2012, I served a copy of:

SUPPLEMENTAL LETTER BRIEF

X BY ELECTRONIC SERVICE [Code Civ. Proc sec. 1010.6; CRC 2.251] by electronically mailing a true and correct copy through Morrison & Foerster LLP's electronic mail system from bkeaton@mofoco.com to the email addresses stated on the attached service list per instructions of the Court and in accordance with Code of Civil Procedure section 1010.6.

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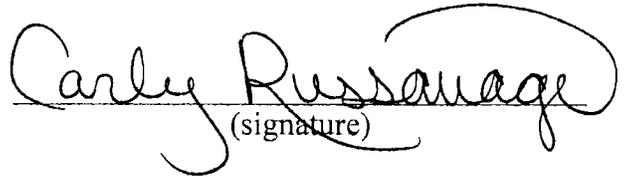
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I declare under penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

Executed at San Francisco, California, this 4th day of January, 2012.

Carly Russavage
(typed)


(signature)