Case No. S242034

IN THE CALIFORNIA SUPREME COURT

CATHERINE A. BOLING; T. J. ZANE AND STEPHEN B. WILLIAMS
Petitioners,

v.

CALIFORNIA PUBLIC EMPLOYMENT RELATIONS BOARD
Respondent.

CITY OF SAN DIEGO; SAN DIEGO MUNICIPAL EMPLOYEES ASSOCIATION; DEPUTY CITY ATTORNEYS ASSOCIATION; AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO, LOCAL 127 AND SAN DIEGO CITY FIREFIGHTERS LOCAL 145
Real Parties in Interest.

PETITIONERS' CONSOLIDATED ANSWER TO AMICUS BRIEFS FILED IN SUPPORT OF UNION REAL PARTIES IN INTEREST AND RESPONDENT BY INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL EMPLOYEES LOCAL 21, OPERATING ENGINEERS LOCAL UNION NO. 3, AND MARIN ASSOCIATION OF PUBLIC EMPLOYEES; THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS; SAN DIEGO POLICE OFFICERS ASSOCIATION; SERVICE EMPLOYEES INTERNATIONAL UNION, CALIFORNIA STATE COUNCIL; AND ORANGE COUNTY ATTORNEYS ASSOCIATION

Petition For Review and/or Disposition to Court of Appeal to Hear Motion at the Court of Appeal From Public Employment Relations Board Decision No. 2464-M.
(Case Nos. LA-CE-746-M; LA-CE-752-M; LA-CE-755-M; and LA-CE-758-M)

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CONSOLIDATED ANSWER TO AMICUS BRIEFS

Petitioners, Catherine A. Boling, T.J. Zane and Stephen B. Williams ("Proponents/Petitioners"), in accordance with California Rules of Court, rule 8.520, subd. (f)(7), respectfully submit this consolidated Answer to Amicus Briefs filed by amici curiae International Federation of Professional and Technical Employees Local 21, Operating Engineers Local Union No. 3, and Marin Association Of Public Employees; the International Association of Fire Fighters; San Diego Police Officers Association; Service Employees International Union, California State Council; and Orange County Attorneys Association — by Respondent, California Public Employment Relations Board (PERB or Respondent) and Real Parties in Interest, San Diego Municipal Employees Association, Deputy City Attorneys Association, American Federation of State, County and Municipal Employees, AFL-CIO, Local 127, and San Diego City Firefighters Local 145 (collectively Real Party Unions — in support of Union Real Parties In Interest and PERB's Petitions for Review of the Decision of the Court of Appeal, Fourth Appellate District, Division One, published in Case No. D069626 (consolidated with D069630), hereinafter referred to as *Boling v. Public Employment Relations Bd.* (2017) 10 Cal.App.5th 853 (Opinion).

I. AMICI ARE FURTHERING THE EFFORTS OF PERB AND THE UNIONS TO OVERRIDE ESTABLISHED CONSTITUTIONAL RIGHTS.

Amici, like PERB and the Unions, attempt to expand the scope of the MMBA, and broaden PERB's reach, to citizen's initiatives. They are not, despite their claims to the contrary, attempting to maintain the historic application of Meyers-Milias-Brown Act (MMBA) or the established judicial deference to PERB. Amici reiterate arguments raised by PERB and Real Party Unions, none of which warrant the reversal of the Opinion.

They also proclaim that the Opinion's limited deference to PERB creates inconsistencies in the law; while simultaneously ignoring the uniformity established by the Opinion's answer to the question posed by the Supreme Court, in Footnote 8 of *People ex rel. Seal Beach Police Officers Assn. v. City of Seal Beach* (1984) 36 Cal.3d 591, as to whether the MMBA meet and confer requirements applied to "charter amendments proposed by initiative." (*Seal Beach*, fn. 8.) That answer was "no":

> We conclude the meet-and-confer obligations under the MMBA apply only to a proposed charter amendment placed on the ballot by the governing body of a charter city, **but has no application when such proposed charter amendment is placed on the ballot by citizen proponents through the initiative process.** (Opinion, p. 6; emphasis added.)

Amici dance around the undisputed evidence that the CPRI was a legitimate citizen sponsored initiative requiring the City to comply with strict procedural requirements that cannot be disregarded in favor of the MMBA. (*i.e.* AR 3:26:00731) (Opinion, at 41-43.) In direct contrast to the arguments presented by Amici, PERB's Decision found "no evidence" that the Proponents were agents of the City. Nor was there any evidence of control of the CPRI campaign by the Mayor. (AR 10:156:002660.) PERB and the Unions in fact admit that Proponents are the legal proponents who circulated the CPRI and obtained over 145,000 signatures. (Real Party Unions' Brief, p. 15; PERB Brief, p. 19.) (Elec. Code, § 342; *Perry v. Brown* (*Perry*) (2011) 52 Cal.4th. 1116, 1127, 1141, 1144 (fn. 14).)

Because the Mayor neither controlled the independent campaign nor received any public funds, PERB could not legally link the City Council, through the Mayor, to a private initiative campaign. CPRI was a citizen's initiative, controlled by citizens. And the Mayor, as a citizen and as a

municipal employee, had the right to participate in a citizen's group supporting the CPRI. (See *League of Women Voters v. Countywide Criminal Justice Coordination Comm.* (1988) 203 Cal.App.3d 529, 555.) Amici's attempt to further the contrary argument made by PERB and the Unions continues their effort to undermine the purpose behind the adoption of direct democratic methods. Proponents continue to vehemently oppose the efforts of PERB and Amici to deprive the People of their reserved constitutional rights.

II. THE MMBA DOES NOT APPLY TO CITIZEN'S INITIATIVES.

Government Code section 3505, on its face, applies to "the governing body of a public agency, or such boards, commissions, administrative officers or other representatives as may be properly designated by law or by such governing body." (Gov. Code, § 3505.) Section 3504.5 is likewise applicable to the "governing body of a public agency." (Gov. Code, § 3504.5.) Consistent with the holding in *Seal Beach*, the Opinion acknowledges that the procedures set forth in those sections are consistent with, and applicable to, city sponsored initiatives. (Opinion p. 33, citing *Seal Beach*, at 601 and 602.)

A voter's initiative, however, is entirely outside the scope of those sections' procedural meet and confer requirements. Proponents, and the electorate, are not the "governing body" or a "public agency." (See, *California Cannabis Coalition v. City of Upland* (*Upland*) (2017) 3 Cal.5th 924, fn. 11.) This is consistent with the bright line, established in the Constitution between a council-sponsored and citizen-sponsored charter amendment made by "initiative **or** by the governing body." (Cal. Const. Art. XI, § 3, subd. (b) and (c); emphasis added.) This distinction applies to all initiative subjects. (*i.e., Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165.) In *Sierra Madre*, this Court reasoned that CEQA

applies to a council-sponsored measure because the act of placing the measure on the ballot is a discretionary act. CEQA applies to "discretionary acts" of a "public agency" unless exempted. (Pub. Res. Code, § 21080(a).) The term "public agency" includes charter cities. (Pub. Res. Code, § 21063.) As such, CEQA is a matter of "statewide concern". However, CEQA, like the MMBA, is not applicable to a circulated citizen initiative. (*See, Friends of Sierra Madre, supra.*) The procedural requirements of the MMBA are not consistent with the strict procedures a City must follow in placing a citizen sponsored initiative on the ballot.

The broad scope of initiative power is "jealously guarded", subject to "precious few limits" and not constrained by "procedural requirements imposed on the Legislature and local governments.... **without evidence that such was their intended purpose**." (*Upland,* at 935, citing *Rossi v. Brown* (1995) 9 Cal.4th 688, 695; see also *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 775; *Associated Home Builders etc, Inc. v. City of Livermore* (1976) 18 Cal.3d. 582, 588, 593-596*; and Kennedy Wholesale, Inc. v. State Bd. of Equalization* (1991) 53 Cal.3d 245, 251-252; emphasis added.) Evidence of intent to restrict the initiative power must be clear and cannot be implied. "**Only by approving a measure that is unambiguous in its purpose to restrict the electorate's own initiative power can the voters limit such power**..." (*Upland,* at 948; emphasis added.)

In *Upland*, this Court compared the merits of two constitutional provisions, each enacted by the electorate. In a delicate exercise, it found one to be immune from the impacts of the other. The task before the Court in this case is less difficult than in *Upland*, the solution more clear-cut. Here, we compare the imperatives of Article XI against the procedures set forth in the MMBA, a statutory scheme. The application of MMBA is being matched against a reserved power of the constitution. PERB is impermissibly attempting to apply the procedural requirements of the MMBA to the voter

initiative procedure, thereby depriving Proponents, and the electorate, of constitutionally reserved initiative rights and serving as the basis for Proponents' as applied challenge before the Court of Appeal (Case No. D069626; See, *Mathews v. Harris* (2017) 7 Cal. App. 5th 334 [defining the "as applied" challenge to the unconstitutional application of an otherwise valid statutory scheme."]. Plainly stated, the application of the MMBA may not conflict with Constitutionally reserved rights. Accordingly, the California Legislature never intended to, and did not apply the MMBA to slow down or halt the "jealously guarded" citizens' direct petitioning process for the purpose of protecting public sector labor bargaining[1]. This is further evidence by PERB's administrative procedures excluding initiative proponents, and PERB's active efforts to remove Proponents from the action before the Court of Appeal.

PERB vehemently argued, in its substantive briefing before the Court of Appeal, that the MMBA does not apply to proponents of a voter initiative. It asserted that allowing "non-parties," such as Proponents, to seek judicial review runs contrary to the legislative intent behind the MMBA, to address issues "**between public employers and public employee organizations.**" (PERB's Resp. Brief, Case No. D069626, pp. 41-42.) PERB also argued, in its Motions to Dismiss Proponents' Appeal and to dismiss Proponents from their role as Real Parties in Interest in

[1] As discussed in Boling's Answer Brief on the Merits at pp. 24-25, the City was required to follow "an **expeditious and complete procedure** for the exercise by the people of the initiative" consistent with the policies of prompt action embodied in the Elections Code, the City's Charter, Article III, section 23 (Amendment voted November 8, 1988; effective April 3, 1989) (emphasis added.) Additionally, the CPRI specified a July 1, 2012 date for pension benefit calculations, and the date on which an initiative is placed on the ballot must respect the deadlines set forth therein. (AR 16:193:004076 (City's Exh. E); *Jeffrey v. Superior Court* (2002) 102 Cal.App.4th 1, 9-10.)

the City's Appeal, that PERB's administrative proceedings challenging the validity of the CPRI were never intended to include, much less account for, initiative Proponents. PERB thus admitted that its rules were not designed to regulate a citizens' initiative. (see, 8 Cal. Code Regs., §§ 32210, 32410, 32602, 32603 and 33210; PERB's Motion to Dismiss, Case No. D069630, p. 17.)

The very process of placing a citizen sponsored initiative on the ballot renders the MMBA's meet and confer obligation inapplicable. The City entirely lacks discretion to "do anything other than to place a properly qualified initiative on the ballot." (Opinion, at p. 30, citing *Farley v. Healy* (1967) 67 Cal.2d. 325, 327; *Save Stanislaus Area Farm Economy v. Board of Supervisors* (1993) 13 Cal.App.4th 141, 148; see *Native Am. Sacred Site & Env'l Protection Ass'n v. City of San Juan Capistrano* (2004) 120 Cal.App.4th 961, 966 [governing body must place the initiative on the ballot without alteration].) The City Council of Real Party in Interest, City of San Diego (City) properly exercised its mandatory duty to place the CPRI on the ballot[2]. The MMBA does not – and was never intended to – supersede these mandates.

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[2] Amici, like Respondent and the Unions, argue that the City should have met and conferred over a competing measure. (See, PERB Brief, pp. 73 – 75; Unions Brief, pp. 63-64; Amicus Curia Brief of Service Employees International Union, California State Council p. 9; Brief of Amicus Curia Orange County Attorneys Association in Support of Union Real Parties In Interest and Respondent, pp. 10-11) However, the Unions never proposed a competing measure; they only demanded meeting and conferring over the CPRI/Proposition B. The City Attorney's Office accordingly responded to the latest request to "meet and confer" over the terms of CPRI. (AR 1:1:00043-00047 (Exh. 1(G) to SDMEA UPC).) Moreover, Amici, PERB and the Unions cite no authority for the proposition that the City was required to propose a competing measure.

III. THE *DE NOVO* STANDARD OF REVIEW OF PERB'S DECISION IS PROPER.

A. The Court of Appeal Correctly Applied the *De Novo* Standard of Review to PERB's Decision.

This is not a case that warrants the deferential standard of review established under *Banning Teachers Assn. v. PERB (Banning)* (1988) 44 Cal.3d. 799, 804, as this is not a matter that was properly within the purview of PERB. Voter initiative measures are outside the scope of the MMBA and beyond the purview of PERB's expertise. The Opinion properly applied to PERB the *de novo* standard set forth in *Yamaha Corp. of America v. State Bd. of Equalization (Yamaha)* (1998) 19 Cal.4th 1.

Quoting *Yamaha*, the Opinion states:

> " **'The standard for judicial review of agency interpretation of law is the independent judgment of the court, giving deference to the determination of the agency appropriate to the circumstances of the agency action.' "** *Yamaha's* conceptual framework noted that courts must distinguish between two classes of interpretive actions by the administrative body—those that are "quasi-legislative" in nature and those that represent interpretations of the applicable law—**and cautions that "because of their differing legal sources, [each] command significantly different degrees of deference by the courts**. (citations omitted) (Opinion, p. 24, citing *Yamaha*, at 8 and 10.)

The *Yamaha* decision, "recognized that... an agency's interpretation of the law does not implicate the exercise of a delegated lawmaking power but 'instead ... represents the agency's view of the statute's legal meaning and effect, questions lying within the constitutional domain of the courts."' (Opinion, p. 25, quoting *Yamaha* at 11; *see also, Azusa Land Partners v. Dep't of Indus. Relations* (2010) 191 Cal.App.4th 1, 14.)

PERB has acknowledged that it is the duty of the reviewing court to "construe the meaning of the statute at issue." (PERB Brief, p. 37; citing *Cumero v. Public Employment Relations Bd.* (1989) 49 Cal.3d. 575, 587.) This Court's holding in *Cumero*, supports the proposition that it is "the duty of this court, ... to state the true meaning of the statute ... even though this requires the overthrow of an earlier erroneous administrative construction." (*Cumero*, at 587; *City of Palo Alto v. California Public Employment Relations Bd.* (2016) 5 Cal.App.5th 1271, 1288.) And as stated in *American Coatings Assn. v. South Coast Air Quality Management Dist.* (2012) 54 Cal.4th 446, cited on pp. 38 and 61 of PERB's Brief, "[h]ow much weight to accord an agency's construction is "situational," and greater weight may be appropriate when an agency has a "'comparative interpretive advantage over the courts.'" (*American Coatings Assn.*, at 431, citing *Yamaha.*)

The key distinction made in *Yamaha*, and correctly relied on in the Opinion, is that the "expertise" which forms the basis for greater deference to an agency's interpretation of the law, arises when the agency interprets "legal principles within its administrative jurisdiction and, as such 'may possess special familiarity with satellite legal and regulatory issues.'" (Opinion, citing *Yamaha* at 11.) The judiciary, as the branch of government "charged with the final responsibility to determine questions of law" must ultimately decide when, and how much, weight will be given to an agency's legal interpretation. (Opinion, citing *Yamaha* at 11; see also *Los Angeles Unified School Dist. v. Public Employment Relations Bd.* (1983) 191 Cal.App.3d 551, 556-557 (no deference when the decision "does not adequately evaluate and apply common law principles" Opinion, p. 26, fn. 21).)

PERB's expertise lies in the application of the MMBA to labor relations between public employees and public employers. (*San Diego Teachers Assn. v. Super. Ct.* (1979) 24 Cal.3d. 1, 12; *Santa Clara County*

Counsel Attorneys Ass'n v. Woodside (1994) 7 Cal.4th 525, 539; Unions Brief, pp. 37-38.) The greater deference under *Banning* would apply only if this was merely an issue of labor relations involving employers and employees. (*Banning*, at 803-804.) By PERB's own admission, its expertise does not lie with the interpretation of constitutional issues. (AR 11:186:003006; 11:186:003017.)

Application of the *Banning* rule to this case would extend PERB's expertise beyond its true parameters. PERB's lack of expertise in this case is evidenced, among other things, by PERB ignoring City's mandatory duty to place a qualified measure on the ballot because an elected official gave it political support. (Cal. Const. Art. XI, §§ 3, subd. (c) and 5, subd. (b); *Upland*, at 934-935, *Farley v. Healy* (1967) 67 Cal.2d 325, 327; *Save Stanislaus Area Farm Economy v. Board of Supervisors* (1993) 13 Cal.App.4th 141, 148; *Native Am. Sacred Site & Env'l Protection Ass'n v. City of San Juan Capistrano* (2004) 120 Cal.App.4th 961, 966; *Blotter v. Farrell* (1954) 42 Cal.2d 804.)

Amici, like PERB and the Unions, cite no law establishing PERB's expertise over voter initiatives, or related constitutional and election issues[3]. (see, Opinion, p. 41, fn. 32, appropriately distinguishing the decision in *City of Palo Alto v. California Public Employment Relations Bd.* (2016) 5 Cal.App.5th 1271, which acknowledged PERB's discretion regarding meet and confer obligations associated with a city sponsored initiative, not a voter's initiative.) As evidenced by the inaccuracy of PERB's conclusions, PERB likewise has no "comparative interpretive advantage over the courts"

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[3] For example, *San Mateo City School Dist. v. PERB* (1983) 33 Cal.3d 850 and Local 1814, *International Longshoremen's Assn. v. National Labor Relations Board* (D.C. Cir. 1984) 735 F.2d 1384, cited by Amici Orange County Attorneys Association, at p. 14, in support of the proposition that PERB deserves greater deference, have no analysis or reference to constitutional issues associated with voter initiatives, and thus have no bearing on this case.

in deciding agency principles in the context of constitutional issues associated with voter's initiatives. (See, *California State Teachers' Retirement System v. County of Los Angeles* (2013) 216 Cal.App.4th 41, 55.) PERB's lack of expertise regarding agency principles applicable to initiatives is demonstrated by its interpretation of "agency" resulting in a Mayor, in his official capacity, becoming the legal representative of a citizen's initiative despite the constitutional separation between citizen and local government. (Cal. Const. Art. XI, § 3, subd. (c); see generally *Perry v. Brown* (2011) 52 Cal.4th 1116; *Rossi v. Brown* (1995) 9 Cal.4th 688.) PERB also attempted to apply "agency" theory to a City Council that was under a mandatory duty to place the charter measure on the ballot, without alteration, under content neutral election laws. (See, *Native Am. Sacred Site & Env'l Protection Ass'n v. City of San Juan Capistrano* (2004) 120 Cal.App.4th at 966 [governing body must place the initiative on the ballot without alteration]; *Save Stanislaus Area Farm Economy v. Board of Supervisors* (1993) 13 Cal.App.4th at 147-148.]

The law is consistent that no "deference" is owed "to the administrative agency's view of the First Amendment." (*McDermott v. Ampersand Publishing, LLC* (9th Cir. 2010) 593 F.3d 950, 961; *see also Ampersand Publishing, LLC v. National Labor Relations Board* (D.C. Cir. 2012) 702 F.3d 51, 55 ["We owe no deference to the Board's resolution of constitutional questions."].). A court must exercise its independent judgment because "'[the] abrogation of the right is too important to the [Proponents] to relegate it to exclusive administrative extinction.'" (*Strumsky v. San Diego County* (1974) 11 Cal.3d 28, 34; *Hardesty v. Sacramento Metro. Air Quality Mgmt. Dist.* (2011) 202 Cal.App.4th 404, 414.) These fundamental rights deserve a standard of review commensurate with their responsibilities to protect the right of the People to propose legislation without impediment.

Amici fight to apply the *Banning* standard of review, despite PERB's admission that the constitutional issues involved were beyond its depth. In so doing they perpetuate PERB's and the Unions' efforts to expand the degree of deference courts must grant to PERB. They do not seek to maintain historically established parameters, rather, they demand an unprecedented and legally unsupportable expansion of such parameters.

IV. THE COURT OF APPEAL DEFERRED TO PERB'S FACTUAL FINDINGS IN REACHING ITS HOLDING.

Amici repeat PERB's and the Unions' arguments that the Court of Appeal would have reached a different conclusion applying Government Code section 3509.5 (Brief of Amicus Curiae the International Association of Fire Fighters in Support of Union Real Parties in Interest, pp. 20-21; Unions Brief, p. 40; PERB Brief pp. 62- 64) and that Section 3509.5 mandates application of the substantial evidence standard of review. (PERB Brief, p. 43; Unions Brief, p. 41.)

However, the Opinion expressly defers to PERB's dispositive factual findings. (Opinion, p. 22.) The Court of Appeal expressly states that "the evidence was undisputed (and PERB did not conclude to the contrary) the charter amendment embodied in the CPRI was placed on the ballot because it qualified for the ballot under the "citizens' initiative" procedures for charter amendments." (Opinion, p. 41). The Opinion goes on to note that "there was no evidence, and PERB did not find, that the charter amendment embodied in the CPRI was placed on the ballot because it qualified as a ballot measure sponsored or proposed by the governing body of City." (Opinion, p. 42.)

Based on those undisputed factual findings, the Court of Appeal evaluated,

> whether PERB's decision, which appears to rest on the theory that the participation by a few government officials and employees in drafting and campaigning for a citizen-sponsored initiative somehow converted the CPRI from a citizen-sponsored initiative into a governing-body-sponsored ballot proposal, **is erroneous under applicable law**. (Opinion, pp. 42-43; emphasis added; see also p. 65.)

Thus, even applying the more deferential standard to PERB's factual findings Court of Appeal's analysis resulted in its conclusion that "PERB's determination was error." (Opinion, p. 43.)

Moreover, Section 3509.5, further demonstrates the lack of Legislative intent to apply the MMBA to voter initiatives. (*Upland*, at 945-946.) On its face, Section 3509.5, subd. (a) makes no reference to initiative proponents among the list of parties authorized to bring a petition for extraordinary relief. (See, Gov. Code, § 3509.5, sub. (a) listing the "charging party, respondent, or intervenor".) Section 3509.5 thus underscores the very reason why PERB should not be afforded deference, as citizens initiatives are beyond the scope of PERB's expertise and, as demonstrated by PERB's efforts to exclude Proponents in violation of *Perry v. Brown*[4], beyond its jurisdiction. (*Perry v. Brown* (2011) 52 Cal.4th at 1127.)

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[4] *Perry v. Brown* is clear that the proponents of an initiative must be able to participate to defend their initiative.

V. CONCLUSION

For the reasons stated above, and in Proponents' Answer on the Merits, Amici's arguments in support of PERB and the Unions should be rejected, and the Court of Appeal's Opinion should be upheld.

DATED: January 29, 2018

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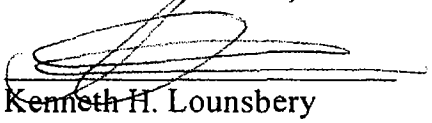
CERTIFICATE OF WORD COUNT

Pursuant to California Rules of Court, Rule 8.520(c), I certify that this Consolidated Answer to Amicus Briefs is proportionally spaced, has a typeface of 13 points or more, and contains 3,591 words, excluding the cover, the tables, the signature block and this certificate, which is less than permitted by the Rules of Court. Counsel relied on the word count feature of the word processing program used to prepare this brief.

DATED: January 29, 2018

LOUNSBERY FERGUSON ALTONA & PEAK, LLP



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SUPREME COURT NO. S242034

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PROOF OF SERVICE

Catherine Boling, et al,
Petitioner
v.
Public Employment Relations Board
Respondent;

City of San Diego,
Real Parties in Interest
California Fourth District Court of Appeals Case No. D069626, consolidated with Case No. D069630

I, Kathleen Day, declare that I am over 18 years of age, employed in the City of Escondido, and am not a party to the instant action. My business address is 960 Canterbury Place, Ste. 300, Escondido, California. On January 26, 2018, I served the **PETITIONERS' CONSOLIDATED ANSWER TO AMICUS BRIEFS FILED IN SUPPORT OF UNION REAL PARTIES IN INTEREST AND RESPONDENT BY INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL EMPLOYEES LOCAL 21, OPERATING ENGINEERS LOCAL UNION NO. 3, AND MARIN ASSOCIATION OF PUBLIC EMPLOYEES; THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS; SAN DIEGO POLICE OFFICERS ASSOCIATION; SERVICE EMPLOYEES INTERNATIONAL UNION, CALIFORNIA STATE COUNCIL; AND ORANGE COUNTY ATTORNEYS ASSOCIATION** ; to the recipients listed below via the following methods:

BY MAIL I placed each such sealed envelope, with postage thereon fully prepaid for first-class mail for collection and mailing at Lounsbery Ferguson Altona & Peak LLP, Escondido, California, following ordinary business practices. I am familiar with the practice of Lounsbery Ferguson Altona & Peak LLP for collection and processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for collection.

VIA EMAIL: Pursuant to California Rules of Court, Rule 8.78, I sent the documents via email addressed to the email address listed for each recipient, and in accordance with the Code of Civil Procedure and the California Rules of Court. I am readily familiar with the firm's practice of preparing and

serving documents via email, which practice is that when documents are to be served by email, they are a scanned into a .pdf format and sent to the addresses on that same day and in the ordinary course of business.

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