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*Attorney General*

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**DEPARTMENT OF JUSTICE**



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State Bar No. 204257

November 17, 2017

Honorable Jorge E. Navarrete  
Clerk of the California Supreme Court  
350 McAllister Street, First Floor  
San Francisco, CA 94102-4797

RE: *People v. Garton*,  
Case No. S097558 (Capital Case)

Dear Mr. Navarrete:

This case is scheduled for oral argument on December 6, 2017. Appellant's counsel has notified the Court that he expects to focus his argument on the trial court's instructing the jury with an incorrect version of CALJIC No. 8.69, which is Argument IV in his opening brief and reply brief. (By separate letter, counsel has directed the Court's attention to new authority, *People v. Sanchez* (2016) 63 Cal.4th 665, bearing on Argument III in his opening brief. However, counsel does not identify Argument III as a focus issue.)

Counsel for respondent does not wish to identify any other specific issues for argument. Instead, I will be prepared to discuss the instructional issue identified by appellant's counsel, and to answer any questions posed by this Court on that and other issues.

Sincerely,

DANIEL B. BERNSTEIN  
Supervising Deputy Attorney General

For XAVIER BECERRA  
Attorney General

DBB:bt

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

Case Name: **People v. Garton**  
No.: **S097558**

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 November 17, 2017, I served the attached **Letter to Court Re Oral Argument** 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 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Jeffrey J. Gale  
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Grass Valley, CA 95945-6518  
Attorney for Appellant

The Honorable Stephen Carlton  
Shasta County District Attorney  
1355 West Street  
Redding, CA 96001

Russell J. Swartz  
Swartz & Associates  
1824 West Street  
Redding, CA 96001  
Counsel for Defendant/Appellant

April Boelk  
Automatic Appeals Unit Supervisor  
Supreme Court of the State of California  
350 McAllister Street, 1st Floor  
San Francisco, CA 94102-7303

Clerk of the Superior Court  
Shasta County  
1500 Court Street, Rm. 219  
Redding, CA 96001

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 November 17, 2017, at Sacramento, California.

/S/ Daniel B. Bernstein

Signature

STATE OF CALIFORNIA  
Supreme Court of California

**PROOF OF SERVICE**

STATE OF CALIFORNIA  
Supreme Court of California

Case Name: **PEOPLE v. GARTON (TODD JESSE)**

Case Number: **S097558**

Lower Court Case Number:

1. At the time of service I was at least 18 years of age and not a party to this legal action.
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Jeffrey Gale Jeffrey J. Gale 095140	jeffgale@comcast.net	e-Service	11-17-2017 5:32:02 PM

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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.

11-17-2017

Date

/s/Daniel Bernstein

Signature

Bernstein, Daniel (204257)

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Last Name, First Name (PNum)

DOJ Sacramento/Fresno AWT Crim

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Law Firm