

Case No.: S238309

**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;
Kamala Harris, in her official capacity as the Attorney General of
California; California's Judicial Council; and Does I through XX**

Respondents.

**PETITIONER'S MOTION FOR JUDICIAL NOTICE IN SUPPORT
OF PETITION FOR WRIT OF MANDATE**

ORRICK, HERRINGTON & SUTCLIFFE, LLP

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Attorneys for Petitioners Ron Briggs and John Van de Kamp

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Attorneys for Petitioners Ron Briggs and John Van de Kamp

MOTION FOR JUDICIAL NOTICE

Pursuant to California Rules of Court 8.54 and 8.252, and Evidence Code section 452, Petitioners move the Court to take judicial notice of the following matters, submitted as Exhibits 1 through 4, respectively, to Petitioners' concurrently filed Amended and Renewed Petition for Extraordinary Relief, Including Writ of Mandate and Request for Immediate Injunctive Relief.

1. The text of Proposition 66, which is reproduced in the Official Voter Information Guide for General Election November 8, 2016, pp. 212-218 (available at <http://vig.cdn.sos.ca.gov/2016/general/en/pdf/complete-vig.pdf>)
2. The Official Title and Summary of Proposition 66, and the Analysis by the Legislative Analyst for Proposition 66, which were printed in the Official Voter Information Guide for General Election November 8, 2016, pp. 104-107 (available at <http://vig.cdn.sos.ca.gov/2016/general/en/pdf/complete-vig.pdf>)
3. Correspondence dated October 16, 2015, from Kermit Alexander to Initiative Coordinator, Office of the Attorney General, attaching the text of proposed Initiative 15-0096, which was submitted to voters as Proposition 66 (available at https://oag.ca.gov/system/files/initiatives/pdfs/15-0096%20%28Death%20Penalty%29_0.pdf)

4. Certified results of the November 8, 2016 General Election reflecting passage of Proposition 66 by 6,626,159 “yes” votes to 6,333,731 “no” votes (51.1% to 48.9%), which are found in the Statement of Vote for November 8, 2016 General Election, pp. 12, 74-76 (available at <http://www.sos.ca.gov/elections/prior-elections/statewide-election-results/general-election-november-8-2016/statement-vote/>)

MEMORANDUM OF POINTS AND AUTHORITIES

This Court may take judicial notice of Exhibits 1 through 4 pursuant to Evidence Code section 452, subdivision (c), which provides that judicial notice may be taken of “[o]fficial acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.” This Court routinely takes judicial notice of ballot materials and the text of initiatives, which constitute a part of the legislative history. *E.g.*, *People v. Canty*, 32 Cal. 4th 1266, 1281 & n.4 (2004); *Horwich v. Superior Court*, 21 Cal. 4th 272, 277 n.4 (1999).

The submitted exhibits are relevant to this Petition for Writ of Mandate because they relate to the facts underlying the Petition, including the text of challenged Proposition 66 and the official information presented to voters regarding Proposition 66. As this is an original jurisdiction proceeding filed initially in this Court, and no proceedings have taken place in any superior court or Court of Appeal, there is no lower court record or

other means by which these materials otherwise may be brought to the Court's attention.

Exhibits 1 through 4 may also be judicially noticed under Evidence Code section 452, subdivisions (g) and (h), which provide that judicial notice may be taken of matters of "common knowledge" and "not reasonably subject to dispute."

Dated: December 19, 2016

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Christina Von der Ahe Rayburn". The signature is written in black ink and is positioned above the printed name.

Christina Von der Ahe Rayburn

Lillian Mao

ORRICK, HERRINGTON & SUTCLIFFE LLP

*Attorneys for Petitioners Ron Briggs and John Van
de Kamp*