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6 RODNEY MARTIN

7  
8 CALIFORNIA SUPERIOR COURT  
9 COUNTY OF SAN FRANCISCO

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11 MONA FIELD, RICHARD WINGER,  
STEPHEN A. CHESSIN, JENNIFER  
12 WOZNIAK, JEFF MACKLER, and  
RODNEY MARTIN,

13 *Plaintiffs,*

14 vs.

15 DEBRA BOWEN, et al.

16 *Defendants,*

17 vs.

18 ABEL MALDONADO, et al.

19 *Intervenors-Defendants.*  
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CASE NO. CGC-10-502018

**PLAINTIFFS' OPPOSITION TO  
DEFENDANT NEAL KELLEY'S  
DEMURRER; POINTS AND  
AUTHORITIES; SUPPORTING  
DECLARATION OF GAUTAM DUTTA**

HEARING DATE: Jan. 20, 2011  
HEARING TIME: 9:30 am  
JUDGE: Hon. Charlotte Walter Woolard  
DEPARTMENT: 302

1 Memorandum of Points and Authorities

2 **I. Introduction**

3 This Demurrer – which alleges that Defendant Kelley was misjoined because he  
4 purportedly is not a necessary party – must be overruled for three reasons: (1) Defendant Kelley  
5 was not misjoined, for Plaintiff Wozniak has standing to sue Defendant Kelley; (2) Defendant  
6 Kelley has waived his opportunity to litigate the issues of both standing and misjoinder; and (3)  
7 Defendant Kelley is a necessary party to this litigation.  
8

9 Put another way, there is a justiciable controversy between Plaintiff Wozniak and  
10 Defendant Kelley. As Orange County’s voter registrar, Defendant Kelley has independent  
11 authority to interpret, implement, and enforce Senate Bill 6, which is poised to violate the  
12 fundamental rights of Plaintiff Wozniak and similarly situated Orange County voters. What is  
13 more, the Secretary of State *has no legal authority to grant relief to Plaintiff Wozniak on*  
14 *Defendant Kelley’s behalf*. Thus, without Defendant Kelley’s legal participation, Plaintiff  
15 Wozniak would be deprived of the full relief that she seeks in her First Amended Complaint.  
16 Therefore, since Defendant Kelley is a properly named Defendant, the Court must overrule this  
17 Demurrer.  
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19 **II. Background**

20 Plaintiffs assert that two critical pieces of SB 6 are unconstitutional: its write-in voting  
21 provisions and its party-label provisions.<sup>1</sup> Specifically, Plaintiffs claim that Senate Bill 6 (SB 6)  
22 unconstitutionally (1) bans lawfully cast write-in votes from being counted (the “Vote Counting  
23 Ban”), and (2) foists minor-party candidates with the party label of “No Party Preference” (the  
24 “Party Preference Ban”). During briefing for Plaintiffs’ Motion for Preliminary Injunction,  
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27 <sup>1</sup> Plaintiffs bring their claims in the public interest, pursuant to Code of Civil Procedure §1021.5 and  
28 42 U.S.C. §1988(b). Although Defendant Kelley suggests otherwise, the First Amended Complaint does  
not challenge the constitutionality of Proposition 14.

1 Defendant Kelley took no position with respect to Plaintiffs' claims.<sup>2</sup> In contrast, Defendant  
2 Bowen and Intervenor argued that Plaintiffs had no standing to bring their claims. After the  
3 issue was fully briefed, the Court ruled that Plaintiffs have standing to bring all of their legal  
4 claims, under the U.S. Supreme Court's holding in *Storer v. Brown*.<sup>3</sup>

### 6 **III. Defendant Kelley Is Not a Misjoined Party, Because Plaintiff Wozniak Has Standing**

7 At the outset, Defendant Kelley is not a misjoined party, for the Court *has already ruled*  
8 *that every Plaintiff has standing* to bring all of their claims.<sup>4</sup> As a matter of law, a litigant has  
9 waived the opportunity to plead that he was misjoined, if that litigant made no timely objection  
10 "to his being named a party defendant."<sup>5</sup> During briefing on Plaintiffs' Motion for Preliminary  
11 Injunction, Defendant Bowen and Intervenor had vigorously challenged Plaintiffs' standing.<sup>6</sup>  
12 Yet at that critical juncture, Defendant Kelley "made no objection to his being named a party  
13 defendant", and took no position with respect to Plaintiffs' standing.<sup>7</sup> In so doing, Defendant  
14 Kelley *waived his opportunity to litigate the issues of standing and misjoinder*.<sup>8</sup> Thus, Defendant  
15 Kelley is barred from re-litigating both issues in his Demurrer.

17 In any event, Plaintiff Wozniak (an Orange County voter and taxpayer) has standing to

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19 <sup>2</sup> Oct. 5, 2010 Order Denying Plaintiffs' Motion for Preliminary Injunction (the "Order"), *attached*  
20 *as Exhibit 1 to the Jan. 6, 2011 Declaration of Gautam Dutta ("Dutta Declaration")*, at 1:5-7.

21 <sup>3</sup> "Plaintiffs have standing to file their claims and bring this motion (*citing Storer v. Brown* (1974)  
22 415 U.S. 724, 737 n.8). Order, Dutta Declaration Exh. 1, at 1:14-15.

23 <sup>4</sup> *Id.*

24 <sup>5</sup> *See, e.g., Wuest v. Wuest* (1942) 53 Cal.App.2d 339, 344 (cited by Defendant Kelly's Points and  
25 Authorities in Support of Demurrer [hereinafter, "Moving Papers"] at 6:21-22).

26 <sup>6</sup> Defendant Bowen's Aug. 30, 2010 Opposition to Plaintiffs' Motion for Preliminary Injunction, at  
27 14:1-15:3; Intervenor's Aug. 30, 2010 Opposition to Plaintiffs' Motion for Preliminary Injunction, at 14:2-  
28 15:6.

<sup>7</sup> *See Wuest, supra* note 5, 53 Cal.App.2d at 344 (emphases added).

<sup>8</sup> "[A]ny point not appearing in a party's brief will ordinarily be deemed waived." *People v. Boyd*  
(1979) 24 Cal.3d 285, 294 n.6 (emphasis added, citation omitted); *Wuest, supra* note 5, 53 Cal.App.2d at  
344 (a litigant has waived the opportunity to argue that he or she was misjoined, if he or she made no  
timely objection "to his being named a party defendant."). Misjoinder "may be remedied by amendment."  
*DLSE v. Barnes* (1962) 205 Cal.App.2d 337, 345.

1 sue Defendant Kelley (Orange County’s voter registrar), for she needs judicial relief to enjoin him  
2 from violating her fundamental rights. As the U.S. Supreme Court has made clear, a voter or  
3 candidate has standing to ask a court to enjoin an election law from being implemented and  
4 enforced, if that law will on its face violate his or her constitutional rights.<sup>9</sup> Here, as he himself  
5 concedes, Defendant Kelley is poised to implement SB 6, including its unlawful Vote Counting  
6 Ban.<sup>10</sup> As soon as Defendant Kelley implements the Vote Counting Ban for an election in  
7 Plaintiff Wozniak’s district, she will suffer irreparable harm.<sup>11</sup> Therefore, since Plaintiff Wozniak  
8 has standing to sue Defendant Kelley, this Demurrer must be overruled.

#### 10 **IV. There Is a Justiciable Controversy Between Plaintiff Wozniak and Defendant Kelley**

11 Nevertheless, Defendant Kelley insists that Plaintiff Wozniak has failed to state a claim  
12 against him – because, he argues, there is no “justiciable” controversy between him and Plaintiff  
13 Wozniak. In a nutshell, Plaintiff Kelley contends that he should not have been named a  
14 Defendant, because Plaintiff Wozniak allegedly lacks standing to sue him. However, Defendant

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16 <sup>9</sup> “One does not have to await the consummation of a threatened injury to obtain preventive relief.”  
17 *Babbitt v. United Farm Workers* (1979) 442 U.S. 289, 299; *Cook v. Gralike* (2001) 531 U.S. 510, 516 &  
18 n.6, 517 n.8 (plaintiff has standing to challenge the constitutionality of an election law, if that law will on  
19 its face violate his or her constitutional rights); *Storer, supra* note 3, 415 U.S. at 737 n.8 (admonishing  
20 courts to hear facial challenges before the election at issue is held); *County of San Diego v. San Diego*  
*NORML* (2008) 165 Cal.App.4<sup>th</sup> 798, 814 (to show standing, a plaintiff challenging a statute’s  
21 constitutionality must “show that he personally has suffered some actual or threatened injury as a result of  
22 the putatively illegal conduct of the defendant”) (*quoting Valley Forge College v. Americans United*  
(1982) 454 U.S. 464).

21 <sup>10</sup> “Should [SB 6] remain in effect, Kelley, as a ministerial officer, will comply and implement [SB  
22 6.]” Moving Papers, at 6:26-27 (emphasis added).

23 <sup>11</sup> Defendant Kelley suggests that Plaintiff Wozniak cannot bring any claims against him until he has  
24 harmed her constitutional rights. Moving Papers, at 6:23. That is, Plaintiff Wozniak must wait until  
25 Defendant Kelley has implemented SB 6 for an election in her district, whether for any special election  
26 called this year or for the June 2012 statewide primary election. Yet as the U.S. Supreme Court has  
27 admonished, “[o]ne does not have to await the consummation of a threatened injury to obtain preventive  
28 relief.” *Babbitt v. United Farm Workers, supra* note 9, 442 U.S. at 299. Moreover, the High Court has  
made it clear that a plaintiff has standing to bring a facial challenge – even if the election at issue is nearly  
two years away. *Gralike, supra* note 9, 531 U.S. at 516 n.6, 517 n.8; *see also Storer, supra* note 3, 415  
U.S. at 737 n.8 (admonishing courts to hear facial challenges before the election at issue is held). Here, it  
is undisputed that SB 6 is poised to be implemented for the 2012 statewide election. Therefore, all  
Plaintiffs have standing to bring all of their legal claims.

1 Kelley’s argument fails, for Plaintiff Wozniak’s claims satisfy the requirements of justiciability.

2 Justiciability “involves the intertwined criteria of ripeness and standing.”<sup>12</sup> As shown  
3 earlier, Plaintiff Wozniak has standing to sue Defendant Kelley, and Defendant Kelley has  
4 waived his opportunity to challenge her standing. Moreover, Plaintiff Wozniak’s claims against  
5 Defendant Kelley are ripe under both federal and state law, for she will suffer irreparable harm *as*  
6 *soon as he implements* SB 6’s Vote Counting Ban for an election in her district.<sup>13</sup> Because  
7 Plaintiff Wozniak has satisfied the “intertwined criteria” of ripeness and standing, all of her  
8 claims against Defendant Kelley are justiciable as a matter of law.<sup>14</sup>

#### 10 **V. Defendant Kelley Is a Necessary Party to this Litigation**

11 Finally, Defendant Kelley may not be dismissed as a Defendant, because he is a necessary  
12 party to this litigation. A party is “necessary” if its legal participation would “enable the court to  
13 offer “complete relief” to the parties.<sup>15</sup> As this Opposition has already shown, Plaintiff Wozniak  
14 cannot secure the “complete relief” that she seeks, unless Defendant Kelley participates in this  
15 litigation. Therefore, Defendant Kelley is a necessary party as a matter of law.

17 Nevertheless, Defendant Kelley denies that he is a necessary party, because he argues that

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19 <sup>12</sup> *San Diego NORML, supra* note 9, 165 Cal.App.4<sup>th</sup> at 813 (quoting *Calif. Water & Telephone Co. v. County of Los Angeles* (1967) 253 Cal.App.2d 16, 22).

20 <sup>13</sup> *E.g., Babbitt, supra* note 9, 442 U.S. at 299 (“One does not have to await the consummation of a  
21 threatened injury to obtain preventive relief.”); *Gralike, supra* note 9, 531 U.S. at 516 n.6, 517 n.8 (U.S.  
22 Supreme Court holds that a facial challenge is ripe even if the election at issue is nearly two years away);  
23 *Storer, supra* note 3, 415 U.S. at 737 n.8 (High Court admonishes courts to hear facial challenges before  
the election at issue is held); *Calif. Water & Telephone Co., supra* note 12, 253 Cal.App.2d at 22-23 (a  
plaintiff’s claims are ripe if he or she has “suffered” or “is about to suffer any injury of sufficient  
magnitude reasonably to assure that all of the relevant facts and issues will be adequately presented.”).

24 <sup>14</sup> *San Diego NORML, supra* note 9, 165 Cal.App.4<sup>th</sup> at 813 (quoting *Calif. Water & Telephone Co., supra* note 12, 253 Cal.App.2d at 22).

25 <sup>15</sup> Code of Civil Procedure §389(a) (“A person who is subject to service of process and whose  
26 joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a  
27 party in the action if (1) *in his absence complete relief cannot be accorded* among those already parties”) (emphases added); *see also Winter v. Gnaizda* (1979) 90 Cal.App.3d 750, 755-56 (a defendant has been  
28 properly named if he or she can provide “definitive, conclusive relief” to the plaintiff); *see also Pinnacle Holdings, Inc. v. Simon* (1995) Cal.App.4<sup>th</sup> 1430, 1437 (same).

1 he has no de facto authority to grant any relief to Plaintiff Wozniak. Specifically, Defendant  
2 Kelley claims that he must follow the Secretary of State’s bidding on how SB 6’s Vote Counting  
3 Ban must be interpreted, implemented, and enforced. However, California law contradicts  
4 Plaintiff Kelley’s claim, for Plaintiff Kelley is vested with independent authority to interpret,  
5 implement, and enforce SB 6’s Vote Counting Ban.  
6

7 As a starting point, Defendant Kelley has the power to *refuse to implement and enforce*  
8 election laws such as SB 6. As the Court of Appeal noted in *Billig v. Voges*, the California  
9 Constitution grants elections officials the power to “refuse to enforce a statute”, if an appellate  
10 court has declared it unconstitutional.<sup>16</sup> Suppose that Defendant Kelley (Orange County’s voter  
11 registrar) were not a party in this litigation, and that the First District Court of Appeal declared  
12 SB 6 unconstitutional. In such an event, the Court of Appeal’s ruling *would not bind Defendant*  
13 *Kelley*, because the First District does not encompass Orange County. In such an event,  
14 Defendant Kelley *would still have the power to enforce SB 6’s Vote Counting Ban* – and thereby  
15 deprive Plaintiff Wozniak (an Orange County resident) of her fundamental rights as a voter.  
16 Because Defendant Kelley thus has the power to inflict irreparable harm on Plaintiff Wozniak, he  
17 is a necessary party to this litigation.  
18

19 Furthermore, Defendant Kelley has independent authority to interpret election laws.  
20 Elections officials have the “ministerial duty” to interpret election laws like SB 6, in order that  
21 they may responsibly implement and enforce them.<sup>17</sup> In *Billig*, a city clerk asked her counsel  
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23 <sup>16</sup> *Billig v. Voges* (1990) 223 Cal.App.3d 962, 273 Cal.Rptr. 91, 96 (*citing* CAL.CONST. art. iii  
24 §3.5 (a) & (c) (“An administrative agency ... has no power ... (a) [t]o declare a statute unenforceable, or  
25 *refuse to enforce a statute*, on the basis of it being unconstitutional unless an appellate court has made a  
26 determination that such statute is unconstitutional ... [or] (c) [t]o declare a statute unenforceable, or to  
27 *refuse to enforce a statute* on the basis that federal law or federal regulations prohibit the enforcement of  
such statute unless an appellate court has made a determination that the enforcement of such statute is  
prohibited by federal law or federal regulations.”) (emphases added)).

28 <sup>17</sup> *See, e.g., Billig, supra* note 16, 223 Cal.App.3d 962, 273 Cal.Rptr. at 96-97 (*citing* *Farley v. Healey* (1967) 67 Cal.2d 325, 327); *see also* *Alliance for a Better Downtown Millbrae v. Wade* (2003) 108

1 whether an initiative petition complied with the Elections Code.<sup>18</sup> After her counsel concluded it  
2 did not, the city clerk declined to put the petition on the ballot – without consulting the Secretary  
3 of State.<sup>19</sup> Affirming her interpretation of the Elections Code, the Court of Appeal ruled that the  
4 city clerk “had the ministerial duty to reject” the petition, because it did violated the Elections  
5 Code’s requirements.<sup>20</sup> Thus, election officials have independent authority to interpret election  
6 laws.  
7

8 As *Billig* shows, California law vests local elections officials like Defendant Kelley with  
9 significant authority to interpret, implement, and enforce election laws. Indeed, the Secretary of  
10 State’s lacks the authority to directly enforce the Elections Code.<sup>21</sup> If an elections official  
11 declines to follow her interpretation of an election law, the Secretary of State’s only recourse is to  
12 refer the matter to the Attorney General or appropriate District Attorney.<sup>22</sup> In one recent  
13 example, Santa Clara County elections officials decided last May to allow residents to register to  
14 vote using iPhones, iPads, and other mobile touchscreen devices.<sup>23</sup> Although she questioned  
15 whether registering voters in this way would be legal, the Secretary of State admitted that she  
16 lacked the authority to stop Santa Clara County from doing so.<sup>24</sup>  
17

18 Like the elections official in *Billig*, Defendant Kelley has independent authority to  
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21 Cal.App.4<sup>th</sup> 123, 132, 136 (re-affirming *Billig*).

22 <sup>18</sup> *Billig*, *supra* note 16, 223 Cal.App.3d 962, 273 Cal.Rptr. at 97.

23 <sup>19</sup> *Id.* at 97.

24 <sup>20</sup> *Id.* at 97 (emphases added).

25 <sup>21</sup> “If, at any time, the Secretary of State concludes that state election laws are not being enforced, the  
Secretary of State *shall call the violation to the attention of* the district attorney of the county or to the  
*Attorney General.*” Gov’t Code §12172.5 (emphases added).

26 <sup>22</sup> *Id.*

27 <sup>23</sup> “Santa Clara County accepts nation’s first electronic voting registrations”, San Jose *Mercury*  
*News*, May 14, 2010, *attached as* Exhibit 4 to the Dutta Declaration, at 1.

28 <sup>24</sup> *Id.* at 1.

1 interpret, implement, and enforce SB 6’s Vote Counting Ban with respect to Plaintiff Wozniak.<sup>25</sup>

2 In light of this independent authority, the Secretary of State (a) has no legal authority to compel  
3 Defendant Kelley to grant any relief to Plaintiff Wozniak, and (b) has no legal authority to grant  
4 Plaintiff Wozniak any relief *on Defendant Kelley’s behalf*. Thus, Defendant Kelley is a necessary  
5 party to this litigation, for the Court cannot grant “complete relief” to Plaintiff Wozniak without  
6 Defendant Kelley’s legal participation.<sup>26</sup> Accordingly, this Demurrer must be overruled, for  
7 Defendant Kelley is a necessary – and not a misjoined – party as a matter of law.

## 9 VI. Conclusion

10 There is no legal basis for sustaining this Demurrer under CCP §430.10(d) or (e), because  
11 Defendant Kelley is a properly named Defendant. Far from being misjoined, Defendant Kelley is

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12 <sup>25</sup> Because Defendant Kelley has independent authority to interpret, implement, and enforce SB 6  
13 against Plaintiff Wozniak, the misjoinder cases cited in his Moving Papers do not apply here. *Cf. The*  
14 *Sperry and Hutchinson Co. v. Calif. State Bd. of Pharmacy* (1966) 241 Cal.App.2d 229, 236 (individual  
15 members of a government body were misjoined because they individually had no authority to take actions  
16 on behalf of that body); *State of Calif. v. Superior Court* (1974) 12 Cal.3d 237, 255 (the State of California  
17 and two State employees were misjoined because they had no authority to issue a permit on behalf of the  
18 government body that had been named as a defendant). Moreover, Defendant Kelley is a real party in  
19 interest, for he is a properly named defendant whom Plaintiff Wozniak has standing to sue. *Sonoma*  
20 *County Nuclear Free Zone ’86 v. Superior Court* (1987) 189 Cal.App.3d 167, 173 (defining “real party in  
21 interest” as “any person or entity whose interest will be directly affected by the proceeding”) (citation  
22 omitted).

23 Without citing any legal authority, Defendant Kelley argues that Plaintiff Wozniak cannot gain  
24 standing to sue him, unless Plaintiffs have sued all 58 county voter registrars. Moving Papers, at 8:4-6.  
25 However, like the plaintiffs in the federal constitutional challenge to Proposition 8, Plaintiffs had no legal  
26 duty to sue the appropriate officials of all 58 counties. Indeed, the *Perry* plaintiffs sued the appropriate  
27 officials of only two counties (i.e., Alameda and Los Angeles Counties). *See Perry v. Schwarzenegger*  
28 (N.D. Cal. 2010) 704 F.Supp.2d 921 (Los Angeles County Register-Recorder / County Clerk Dean Logan  
and Alameda County Clerk-Recorder Patrick O’Connell named as Defendants).

Here, all six Plaintiffs independently have standing to sue their respective county voter registrars.  
Like Defendant Kelley, the other five voter registrars have independent authority to interpret, implement,  
and enforce SB 6’s Vote Counting Ban and Party Preference Ban. In this light, all six Plaintiffs need  
judicial relief to enjoin their respective voter registrars from implementing and enforcing SB 6’s unlawful  
provisions. Because all six voter registrars-defendants can provide Plaintiffs with “definitive, conclusive  
relief”, Plaintiffs have standing to sue all six voter registrars. *See Winter, supra* note 15, 90 Cal.App.3d at  
755-56. Accordingly, Plaintiffs properly named Defendant Kelley and the five other county voter  
registrars as Defendants.

<sup>26</sup> Code of Civil Procedure §389(a)(1); *see also Winter, supra* note 15, 90 Cal.App.3d at 755-56 (a  
defendant has been properly named if he or she can provide “definitive, conclusive relief” to the plaintiff);  
*Pinnacle Holdings, supra* note 15, 31 Cal.App.4<sup>th</sup> at 1436 (same).

1 a necessary party to this litigation, for the Court cannot grant Plaintiff Wozniak full relief without  
2 Defendant Kelley's legal participation. As this Opposition has shown, Plaintiff Wozniak has  
3 standing to sue Defendant Kelley, and Defendant Kelley has waived the opportunity to litigate the  
4 issues of standing and misjoinder. Therefore, because this case requires Defendant Kelley's  
5 legal participation, the Court must overrule this Demurrer.  
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8 DATED: January 5, 2011

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Respectfully submitted,

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By: \_\_\_\_\_  
GAUTAM DUTTA, ESQ.

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Attorney for Plaintiffs

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MONA FIELD, RICHARD WINGER,  
STEPHEN A. CHESSIN, JENNIFER  
WOZNIAK, JEFFREY MACKLER, and  
RODNEY MARTIN

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1 PROOF OF SERVICE

2 On penalty of perjury under the laws of the State of California, I attest the following:

3 I am over 18 years of age and am not a party in this matter. On January 6, 2011, I served  
4 the following document(s): Plaintiffs' Opposition to Defendant Neal Kelley's Demurrer;  
5 Supporting Declaration of Gautam Dutta.

6 I sent the aforementioned document(s) via U.S. Mail, in a sealed envelope with the  
7 postage fully prepaid, to the following individuals:

8 A. Mark Beckington, Esq., Office of the Attorney General, 300 S. Spring St., Ste.  
9 1702, Los Angeles, CA 90013-1320 (attorney for Defendant Debra Bowen)

10 B. Steve Mitra, Esq., Office of Santa Clara County Counsel, 70 W. Hedding St., 9<sup>th</sup>  
11 Floor, East Wing, San Jose, CA 95110 (attorney for Defendant Jesse Durazo)

12 C. Raymond Lara, Esq., Office of Alameda County Counsel, 1221 Oak St., Ste. 450,  
13 Oakland, CA 94612 (attorney for Defendant Dave Macdonald)

14 D. Mollie Lee, Esq., Office of the San Francisco City Attorney, 1 Dr. Carlton B.  
15 Goodlet Place, Ste. 234, San Francisco, CA 94102 (attorney for Defendant John Arntz)

16 E. Wendy J. Phillips, Esq., Office of Orange County Counsel, 333 W. Santa Ana  
17 Blvd., Ste. 407, Santa Ana, CA 92702 (attorney for Defendant Neal Kelley)

18 F. Kathleen Taylor, Esq., Office of Tulare County Counsel, 2900 W. Burrel St.,  
19 Visalia, CA 93291 (attorney for Defendant Rita Woodard)

20 G. Patrice Salseda, Esq., Office of Los Angeles County Counsel, 500 W. Temple St.,  
21 Rm. 648, Los Angeles, CA 90012 (attorney for Defendant Dean Logan)

22 H. Marguerite Mary Leoni, Esq., Nielsen Merksamer, 2350 Kerner Blvd., Ste. 250,  
23 San Rafael, CA 94901 (attorney for Intervenors Abel Maldonado, California Independent Voter  
24 Project, and Yes on 14).

25 Dated: January 5, 2011

26 By: \_\_\_\_\_

27 GAUTAM DUTTA