Appellate Case No. C049642

CALIFORNIA COURT OF APPEAL
THIRD APPELLATE DISTRICT

CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION, et al.,

Defendants–Appellants,

v.

CITIZENS TO SAVE CALIFORNIA, et al.,

Plaintiffs–Respondents,

and

ARNOLD SCHWARZENEGGER, et al.,

Plaintiffs–Intervenors–Respondents.

Appeal From The Superior Court of California, County of Sacramento
Honorable Shellyanne W. L. Chang
Superior Court Case No. 05AS00555

BRIEF *AMICUS CURIAE* FOR THE CAMPAIGN LEGAL CENTER SUPPORTING APPELLANT CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION AND URGING REVERSAL

PAUL S. RYAN (CA BAR NO. 218212)
J. GERALD HEBERT
THE CAMPAIGN LEGAL CENTER, INC.
1640 Rhode Island Ave., NW Suite 650
Washington, DC 20036
Tel: (202) 736-2200

Counsel for Amicus Curiae
The Campaign Legal Center

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases Page

Statutes and Regulations

Ballot Initiatives

Law Review Articles

Miscellaneous Sources

SUMMARY OF ARGUMENT

The Campaign Legal Center, *amicus curiae* herein, respectfully submits this brief to provide the Court with an understanding of the constitutionality of limiting contributions to candidate controlled committees—regardless of the ends to which the contributions are ultimately put. The U.S. Supreme Court has long recognized that reasonable limits on contributions to candidates are a constitutionally permissible means of advancing a government's important interest in avoiding the threat of real and apparent political corruption posed by large contributions. This threat of corruption depends on a candidate's receipt of contributions, not on how a candidate chooses to spend those contributions.[1]

Applying the U.S. Supreme Court holdings detailed in this brief to the facts of this case leads to one inescapable conclusion—the Superior Court erred in its determination that 2 Cal. Code Regs. § 18530.9 (hereinafter "Regulation 18530.9") is not closely drawn to advance California's important interests in preventing real and apparent corruption and the circumvention of existing candidate contribution limits. If the candidate contribution limits of Cal. Gov't Code §§ 85301 and 85302 are a

[1] This brief does not address the threat of real and apparent corruption related to *solicitation* or *direction* by candidates of large, unregulated contributions to political committees or other entities. Although such solicitation and direction arguably poses a serious threat of real and apparent corruption, the issue is not before this Court.

reasonable and constitutional means of preventing real and apparent corruption of candidates, then the Fair Political Practices Commission (hereinafter "FPPC") regulation applying these limits to candidate controlled ballot measure committees is likewise constitutional. The regulation is closely drawn to advance the same government interests and prevent circumvention of the 85301 and 85302 limits.

As explained more fully below, the U.S. Supreme Court first considered the constitutionality of limits on contributions from individuals to candidates in its seminal campaign finance decision *Buckley v. Valeo*, 424 U.S. 1 (1976). The Court determined in *Buckley* that contribution limits entail only a marginal restriction on First Amendment rights and, as such, are not subject to strict scrutiny. Instead, a limit on contributions to candidates is constitutionally permissible so long as it is closely drawn to match a sufficiently important government interest. *Id.* at 25. The *Buckley* Court recognized the government's interest in preventing real and apparent corruption of candidates resulting from large contributions as sufficiently important to justify the federal $1,000 contribution limit. *Id*. at 29.

The Supreme Court has reiterated its reasoning and holding in *Buckley* over the past three decades, finding contribution limits constitutional whenever the potential for candidate corruption is present. In the Supreme Court's recent landmark ruling in *McConnell v. FEC*, 540 U.S. 93 (2003), detailed below, the Court upheld against First Amendment

challenge a new federal law prohibiting candidates from raising any funds in excess of federal contribution limits (*i.e.*, "soft money") in connection with any election—even state elections. *Id.* at 182–84. The Court found the soft money ban to be a closely drawn, constitutionally permissible means of preventing corruption and circumvention of existing contribution limits. The Court in *McConnell* made clear that contributions to candidates may be limited, "regardless of the ends to which those funds are ultimately put." *Id.* at 182.

Under California law, funds raised by candidates in excess of state contribution limits for deposit into candidate controlled ballot measure committees are analogous to the soft money now prohibited in federal elections. Just as the federal law prohibition of candidate acceptance of unlimited soft money contributions for any committee is constitutional, *see id*. at 184, so too is the FPPC Regulation prohibiting California candidates from accepting unlimited soft money contributions for ballot measure committees under their control.

Respondents made two principal arguments to the Superior Court. First, they argued that Regulation 18530.9 conflicts with California's Political Reform Act ("PRA"), Cal. Gov't Code §§ 81000 *et seq*. Second, Respondents alleged that the Commission's adoption and pending

enforcement of Regulation 18530.9 violates Respondents' rights under the First Amendment of the U.S. Constitution.[2]

The Superior Court examined possible conflicts between Regulation 18530.9 and the Political Reform Act and concluded that such conflicts "would not warrant the injunctive relief sought by the plaintiffs because the only harm occasioned by the bare statutory infirmities is the existence of an invalid regulation until the action is finally resolved." FINAL RULING ON MOTION FOR PRELIMINARY INJUNCTION at 19; RECORD ON APPEAL at 001529.

The Superior Court entry of a preliminary injunction was based entirely on the constitutional question—whether Regulation 18530.9 is

[2] The Court should be aware that the California Republican Party has taken a position directly in conflict with Respondents' claim in this lawsuit that the statutory term "candidate" may not be interpreted by regulation to include candidate controlled ballot measure committees. On September 28, 2005, counsel for Respondent Schwarzenegger filed a compliant with the FPPC on behalf of the California Republican Party alleging that six state elective officers violated Cal. Gov't Code § 85305 and 2 Cal. Code Regs. § 18535 by transferring funds to a candidate controlled ballot measure committee in excess of the contribution limits of Cal. Gov't Code § 85301(a). Cal. Gov't Code § 85305 prohibits a candidate from making a "contribution to any other candidate" in excess of the section 85301(a) contribution limits. Like the regulation challenged in this lawsuit, Regulation 18535 interprets the statutory term "candidate" to include candidate controlled ballot measure committees. The California Republican Party apparently supports this interpretation and is seeking enforcement of the regulation; while Respondents in this lawsuit argue that the term "candidate" may not be interpreted to include candidate controlled ballot measure committees. *See* Christian Berthelsen, *Speaker Núñez Returns Donations From 5 Dem Politicians*, SAN FRANCISCO CHRONICLE (September 30, 2005).

closely drawn to match California's important interests of preventing real and apparent corruption and preventing the circumvention of state candidate contribution limits. Respondents argued to the court below that the U.S. Supreme Court decision in *Citizens Against Rent Control v. City of Berkeley* ("*CARC*"), 454 U.S. 290 (1981) bars the state's enforcement of Regulation 18530.9. Respondents ignored, however, the key fact underpinning that Supreme Court decision—*CARC* involved no candidate controlled committee and, hence, no threat of candidate corruption. The Superior Court correctly recognized that *CARC* is not controlling authority in the examination of the constitutionality of limits on contributions to candidate controlled committees. *See* FINAL RULING ON MOTION FOR PRELIMINARY INJUNCTION at 19; RECORD ON APPEAL at 001529.

Nevertheless, the Superior Court granted the Respondents' motion for preliminary injunction on constitutional grounds. The Superior Court found it "difficult to comprehend" how unlimited contributions to candidate controlled ballot measure committees could "foster corruption, the appearance of corruption, or the circumvention of applicable campaign contribution limits." FINAL RULING ON MOTION FOR PRELIMINARY INJUNCTION at 21; RECORD ON APPEAL at 001531.

The Superior Court erred in this regard. Unlimited contributions to candidate controlled ballot measure committees can foster real and apparent

corruption, as well as the circumvention of the Political Reform Act's contribution limits. Thus, Regulation 18530.9 is a constitutional, closely drawn means of advancing the state's important interests in preventing real and apparent corruption and the circumvention of existing candidate contributions limits. For this reason, *amicus curiae* respectfully submits that this Court should reverse the Superior Court entry of a preliminary injunction.

BACKGROUND AND FACTS[3]

California candidates and officeholders have long been involved in ballot measure elections. In 1974, then-Secretary of State Jerry Brown cosponsored Proposition 9 (Political Reform Act) during his successful campaign to become governor. In 1990, then-Attorney General John Van de Kamp built his unsuccessful campaign for governor around three ballot initiatives—Propositions 128 (environmental protection), 129 (anti-crime), and 131 (term limits). Also in 1990, then-U.S. Senator Pete Wilson was closely associated with the campaign for Proposition 115 (anti-crime), at the same time he successfully ran for governor. Wilson continued his close association with ballot measures during his two terms as governor—including Propositions 184 ("three strikes") and 187 (immigration) in 1994, and 209 (anti-affirmative action) in 1996.[4] Of the 198 measures on California statewide election ballots between 1990 and 2004, nearly two-

---

[3] This Court may take judicial notice of the facts presented in this section as "[f]acts and propositions that are of such common knowledge within the territorial jurisdiction of the court that they cannot reasonably be the subject of dispute," and as "[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." *See* Cal. Evid. Code § 452.

[4] For a general discussion of candidate involvement in California ballot measure elections, *see* PETER SCHRAG, PARADISE LOST: CALIFORNIA'S EXPERIENCE, AMERICA'S FUTURE 226–41 (updated ed. 2004). *See also* Dan Berstein, *Initiatives Are At Top Of Politicians' Lists Of Favorite Things*, SACRAMENTO BEE, Aug. 5, 1996, *available at* http://www.sacbee.com/static/archive/news/projects/initiatives/politicians.html.

thirds of them (126) had ballot pamphlet arguments or rebuttals signed by a state elected official.[5]

In November 2000, California voters passed Proposition 34, which, among other things, established limits on contributions to candidates for state office. These limits prohibit candidates from accepting contributions exceeding amounts ranging from $3,300 to $22,300 (adjusted to reflect changes in the consumer price index), based on the office sought and the identity of the contributor. *See* Cal. Gov't Code §§ 85301 and 85302.

In June 2004, after seeking and receiving public comment in written form and at a public meeting, the FPPC adopted Regulation 18530.9 to make clear that candidate contribution limits established by Proposition 34, Cal. Gov't Code §§ 85301 and 85302, limit not only political contributions that a candidate chooses to deposit into his or her principal campaign committee, but also contributions that a candidate chooses to deposit into a ballot measure committee he or she controls.

In this lawsuit, Respondents—including Governor Schwarzenegger, who is actively campaigning for reelection[6]—allege that Regulation 18530.9 violates the First Amendment of the U.S. Constitution. The court

---

[5] *See* Richard L. Hasen, *Rethinking the Unconstitutionality of Contribution and Expenditure Limits in Ballot Measure Campaigns*, 78 S. Cal. L. Rev. 885, 898 (2005).

[6] *See, e.g.*, John Pomfret**,** *Schwarzenegger Declares He's Running for Governor Again*, WASHINGTON POST, Sept. 17, 2005 at A03 (detailing Gov. Schwarzenegger's Sept. 16, 2005 press conference in San Diego announcing his bid for reelection).

below granted a preliminary injunction, finding it "difficult to comprehend" how unlimited contributions to candidate controlled ballot measure committees could "foster corruption, the appearance of corruption, or the circumvention of applicable campaign contribution limits." FINAL RULING ON MOTION FOR PRELIMINARY INJUNCTION at 21; RECORD ON APPEAL at 001531.

We respectfully submit to this Court that all unlimited contributions to California candidates foster corruption, the appearance of corruption, and the circumvention of contribution limits—regardless of whether a candidate chooses to use the funds for advertising that features the candidate alone, or the candidate and a ballot measure. Indeed, California candidates and ballot measures are often inextricably linked. As one California journalist recently observed: "Californians won't choose a governor for 14 months, but thanks to Gov. Arnold Schwarzenegger, the state is experiencing a gubernatorial race far earlier and more intensely than in previous years."[7] The article continues: "The special election has allowed Schwarzenegger and his chief rivals to piggyback on the tens of millions of dollars being collected for the Nov. 8 initiative fight, promoting themselves along the way."[8] The *Los Angeles Business Journal* recently commented: "November's special [ballot measure] election is being viewed increasingly

[7] Robert Salladay, *Initiative Drive Puts '06 Governor's Race in Gear*, LOS ANGELES TIMES, Sept. 22, 2005.
[8] *Id.*

as a referendum on the governor's performance . . . . Indeed, some of Schwarzenegger's business allies contributed more than $10 million to his major initiative fund this year and—so far at least—have seen little in return."[9]

In fact, despite the existence of a $22,300 statutory limit on contributions to a gubernatorial candidate, Respondent and active candidate Governor Schwarzenegger has received more than 200 contributions this year in excess of $22,300—including more than 50 contributions of $100,000 or more, and at least five contributions of a whopping $1 million or more. Unable to deposit these contributions in his official reelection campaign committee which is subject to the $22,300 limit, Governor Schwarzenegger instead evaded the limit and deposited these contributions in another committee he controls, the "California Recovery Team." Governor Schwarzenegger's "California Recovery Team" has raised and spent more than $32 million in unlimited funds this year supporting ballot measures and getting a jump-start on his 2006 reelection campaign.[10]

---

[9] Howard Fine, *Concern Grows Among Governor's Supporters*, LOS ANGELES BUSINESS JOURNAL, Sept. 26, 2005.

[10] Governor Schwarzenegger currently controls four active political committees, but this year has conducted his fundraising through two of these committees: "Governor Schwarzenegger's California Recovery Team" (ID# 1261406), which is not subject to contribution limits; and "Californians for Schwarzenegger–2006" (ID# 1261585), which is subject to contribution limits. Campaign finance data for all of these committees is public information available via the Secretary of State's Cal-Access Web site: http://cal-access.ss.ca.gov.

Similarly, although contributions to California State Assembly Speaker Fabian Núñez's reelection campaign committee are limited to $3,300, Assemblyman Núñez has raised more than $1.8 million in unlimited contributions in 2005 for a ballot measure committee he controls, including more than 20 contributions of $25,000 or more.[11] Contributions to State Treasurer Phil Angelides' campaign committee for the 2006 gubernatorial election are limited to $22,300, yet Angelides has raised more than $1 million in contributions larger than $22,300 in 2005—including several $250,000 contributions—to oppose Propositions 73, 74, 75, 76, and 77, and to get a jump start on his 2006 campaign against Governor Schwarzenegger.[12]

In short, unlimited fundraising by California candidates to support or oppose ballot measures is inextricably linked to such candidates' reelection

---

[11] Assemblyman Núñez's reelection committee is named "Friends of Fabian Núñez 2006" (ID# 1271581). His ballot measure committee is named "Committee To Protect California's Future—NO ON 74, 75, 76 & 77" (ID# 1277456). Campaign finance data for both of these committees is public information available via the Secretary of State's Cal-Access Web site: http://cal-access.ss.ca.gov.

[12] Treasurer Angelides' gubernatorial campaign committee is named "Angelides 2006" (ID# 1253280). The committee into which Treasurer Angelides deposits unlimited contributions is named "Standing Up for California" (ID# 1269289). Campaign finance data for both of these committees is public information available via the Secretary of State's Cal-Access Web site: http://cal-access.ss.ca.gov. Angelides' use of unlimited contributions to get a jump start on his 2006 campaign against Governor Schwarzenegger is apparent from the "Standing Up for California" Web site (http://www.standingupforcalifornia.com), which is largely dedicated to criticizing Governor Schwarzenegger's performance.

efforts, enables such candidates to evade contribution limits and, at the very least, fosters an appearance of corruption. Regulation 18530.9 is a closely drawn means of advancing California's important interests in preventing real and apparent corruption and the circumvention of existing candidate contribution limits.

ARGUMENT

Respondents argued below that Regulation 18530.9 conflicts with the Political Reform Act, and further alleged that Regulation 18530.9 violates Respondents' rights under the First Amendment of the U.S. Constitution. The Superior Court examined possible conflicts between Regulation 18530.9 and the Political Reform Act and concluded that such conflicts would not warrant injunctive relief. FINAL RULING ON MOTION FOR PRELIMINARY INJUNCTION at 19; RECORD ON APPEAL at 001529. That conclusion was correct in our view. The Superior Court did, however, grant a preliminary injunction on constitutional grounds.

The dispositive legal issue on appeal, therefore, is whether Regulation 18530.9 is closely drawn to match California's important interests of preventing real and apparent corruption and preventing the circumvention of state candidate contribution limits. For the reasons explained in detail below, we urge this Court to reverse the Superior Court and hold that Regulation 18530.9 is a constitutionally permissible means for the State of California to advance these important interests.

I. *Buckley* And Its Progeny Make Clear That Limits On Contributions To Candidates Do Not Violate The First Amendment.

The U.S. Supreme Court first considered the constitutionality of limits on contributions to candidates in *Buckley v. Valeo*, 424 U.S. 1, 23-38

(1976). In *Buckley*, plaintiffs challenged on First Amendment grounds a federal law that limited contributions to candidates from individuals to $1,000.

The Court began its analysis by explaining the difference, with respect to constitutional analysis, between limits on contributions and limits on expenditures. Whereas a limitation on political expenditures represents substantial restraint on the quantity and diversity of political speech:

> a limitation upon the amount that any one person or group may contribute to a candidate or political committee entails only a marginal restriction upon the contributor's ability to engage in free communication. A contribution serves as a general expression of support for the candidate and his views, but does not communicate the underlying basis for the support. The quantity of communication by the contributor does not increase perceptibly with the size of his contribution, since the expression rests solely on the undifferentiated, symbolic act of contributing. . . . A limitation on the amount of money a person may give to a candidate . . . thus involves little direct restraint on his political communication . . . . While contributions may result in political expression if spent by a candidate . . . to present views to the voters, the transformation of contributions into political debate involves speech by someone other than the contributor.

Buckley, 424 U.S. at 20-21 (footnote omitted). According to the Court, "the primary First Amendment problem raised by the Act's contribution limitations is their restriction of one aspect of the contributor's freedom of political association." *Id.* at 24. However, the Court continued, it is clear that "neither the right to associate nor the right to participate in political

activities is absolute." *Id.* at 25 (quoting *CSC v. Letter Carriers*, 413 U.S. 548, 567 (1973)).

Having characterized the restriction on a contributor's First Amendment rights resulting from a contribution limit as "marginal," the *Buckley* Court then announced a less-than-strict standard of judicial review to be employed when analyzing the constitutionality of contribution limits. The Court reasoned, "Even a significant interference with protected rights of political association may be sustained if the State demonstrates a sufficiently important interest and employs a means closely drawn to avoid unnecessary abridgment of associational freedoms." *Buckley*, 424 U.S. at 25 (quoting *Cousins v. Wigoda*, 419 U.S. 477, 488 (1975)) (quotation marks omitted) (emphasis added).

Considering the government's proffered interests justifying the contribution limit, the Court determined it was "unnecessary to look beyond the Act's primary purpose to limit the actuality and appearance of corruption resulting from large individual financial contributions in order to find a constitutionally sufficient justification for the $1,000 contribution limitation." *Buckley*, 424 U.S. at 26. The Court upheld against constitutional challenge the federal contribution limit, concluding that "the weighty interests served by restricting the size of financial contributions to political candidates are sufficient to justify the limited effect upon First

Amendment freedoms caused by the $1,000 contribution ceiling." *Buckley*, 424 U.S. at 29.

The Supreme Court's *Buckley* decision makes clear that reasonable limits on contributions to candidates are a constitutional, closely drawn means of serving the state's important interest in limiting the actuality and appearance of corruption. Nowhere in *Buckley* does the threat of actual or perceived corruption hinge on the purposes for which a candidate actually uses the contributions. Rather, the touchstone in *Buckley* was a candidate's receipt of large contributions.

Like the federal law limit on contributions to candidates upheld in *Buckley*, the FPPC regulation limiting contributions to candidate controlled ballot measure committees is a constitutional means of reducing the threat of real and apparent corruption resulting from large contributions to candidates for California state office. The fact that a candidate uses contributions to support ballot measures in no way reduces the threat of corruption. The purposes for which a candidate uses contributions—whether it be to support ballot measures or the candidate's own election—is simply irrelevant to the constitutional analysis.

The Supreme Court's 1976 *Buckley* decision remains the cornerstone of constitutional analysis regarding limits on political contributions. As explained below, more recent Supreme Court decisions in *Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377 (2000), and *FEC v. Beaumont*,

539 U.S. 146 (2003) have reaffirmed and clarified *Buckley*'s analysis, providing additional authority for reversing the decision below.

A. The Supreme Court's Decision In *Nixon* Makes Clear That *Buckley* Is Controlling Authority For State Limits On Candidate Contributions.

In *Nixon v. Shrink Missouri Government PAC*, *supra*, a political committee challenged on First and Fourteenth Amendment grounds Missouri state law limits on contributions to candidates, which ranged from $275 to $1,075 depending on the office sought. *Nixon*, 528 U.S. at 383. The Court identified the principal issues in the case as whether *Buckley* "is authority for state limits on contributions to state political candidates and whether the federal limits approved in *Buckley*, with or without adjustment for inflation, define the scope of permissible state limitations today." *Id.* at 381-82. In *Nixon*, the Court held that *Buckley* provided authority for the constitutionality of state contribution limits and explicitly noted that the state limits need not be pegged to *Buckley*'s dollar amounts. *Id.* at 382.

The Supreme Court's opinion in *Nixon* is relevant to the present case in at least three respects. First, the Court in *Nixon* reiterated and clarified the appropriate level of judicial scrutiny for contribution limits, explaining:

> under *Buckley's* standard of scrutiny, a contribution limit involving significant interference with associational rights could survive if the Government demonstrated that contribution regulation was closely drawn to match a sufficiently important interest, though the dollar amount of the limit need not be fine tuned.

Id. at 387-88 (emphasis added) (internal quotation marks and citations omitted) (quoting *Buckley*, 424 U.S. at 25, 30.).

Second, by upholding Missouri's contribution limits, the Court in *Nixon* made clear that a state may constitutionally enact contribution limits which vary in amount based on the office sought by the candidate. The Court's statement that the dollar amount of a contribution limit need not be fine tuned, quoted above, was a reference to the Court's earlier pronouncement in *Buckley* that Congress' failure to fine tune the federal contribution limits on the basis of the office sought by the candidate did not invalidate the legislation. *See Buckley*, 424 U.S. at 30. "[I]f it is satisfied that some limit on contributions is necessary, a court has no scalpel to probe, whether, say, a $2,000 ceiling might not serve as well as $1,000." *Buckley*, 424 U.S. at 30. In short, it is constitutionally permissible, though not constitutionally required, for contribution limits to vary on the basis of the office sought by a candidate. The fact that Regulation 18530.9 applies varying contribution limits of Cal. Gov't Code §§ 85301 and 85302 to ballot measure committees controlled by candidates seeking or holding different offices does not invalidate the regulation. Further, California's candidate contribution limit amounts, which are much higher than those upheld by the Supreme Court in *Nixon*, are clearly reasonable.

Third, the Supreme Court made clear in its *Nixon* opinion that a state may rely on a broad range of evidence to support its conclusion that

unlimited contributions to state candidates pose a serious threat of real and apparent corruption. The Court accepted as sufficient evidence an affidavit from a state senator simply stating that large contributions have "the real potential to buy votes," along with several "newspaper accounts of large contributions supporting inferences of impropriety." *Nixon*, 528 U.S. at 393-94. Significantly, the fact that Missouri voters had approved the state contribution limits as a ballot proposition, observed the Court, "certainly attested to the perception . . . that contribution limits are necessary to combat corruption and the appearance thereof." *Nixon*, 528 U.S. at 394 (internal quotation marks omitted) (quoting *Carver v. Nixon*, 882 F. Supp. 901, 905 (W.D. Mo. 1995)). Given the high degree of deference to policymakers shown by the Court in *Nixon*, the FPPC will meet its burden of demonstrating an appearance of corruption that would surely ensue unless contributions to candidate controlled ballot measure committees are limited.

B. The Supreme Court's *Beaumont* Decision Reiterates The *Buckley* Holding That Strict Scrutiny Does Not Apply To Contribution Limits.

In *FEC v. Beaumont*, 539 U.S. 146 (2003), the Court considered an "as-applied" First Amendment challenge to the federal law prohibiting corporations from using treasury funds to make political contributions. The challenge was brought by the nonprofit advocacy corporation, North Carolina Right to Life, Inc. ("NCRL").

In *Beaumont, supra*, the Supreme Court upheld the federal law ban on corporate contributions as applied to nonprofit advocacy organizations. In doing so, the Court rejected NCRL's argument that the law should be subject to strict scrutiny and, instead, applied the "relatively complaisant review" established by the Court in *Buckley*. The Court explained that:

> the level of scrutiny is based on the importance of the political activity at issue to effective speech or political association. Going back to *Buckley v. Valeo*, . . . restrictions on political contributions have been treated as merely "marginal" speech restrictions subject to relatively complaisant review under the First Amendment, because contributions lie closer to the edges than to the core of political expression. While contributions may result in political expression if spent by a candidate . . . , the transformation of contributions into political debate involves speech by someone other than the contributor. This is the reason that instead of requiring contribution regulations to be narrowly tailored to serve a compelling governmental interest, a contribution limit involving significant interference with associational rights passes muster if it satisfies the lesser demand of being closely drawn to match a sufficiently important interest.

Beaumont, 539 U.S. at 161-62 (emphasis added) (internal quotation marks and citations omitted) (footnote omitted) (quoting *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 259 (1986), *FEC v. Colorado Republican Federal Campaign Committee*, 533 U.S. 431, 440-42 (2001), *Nixon*, 528 U.S. at 386-88, *Buckley*, 424 U.S. at 20-21, 25, 44-45).

II. The Supreme Court's Decision In *McConnell*, Upholding A Ban On Candidate Acceptance Of Unlimited Contributions Regardless Of The Ends To Which The Contributions Are Ultimately Put, Makes Clear That Regulation 18530.9 Is Constitutional.

Most recently, in *McConnell v. FEC*, 540 U.S. 93 (2003), the Supreme Court upheld against constitutional challenge a federal law prohibiting federal candidates from soliciting, receiving, directing, transferring or spending funds in connection with any election unless such funds are raised in compliance with the federal law contribution amount limits and source prohibitions (*i.e.*, so-called "hard money"). *McConnell*, 540 U.S. at 182–84. *See also* 2 U.S.C. § 441i(e)(1).

In the federal campaign finance law context, money not raised in compliance with contribution limits and source prohibitions is generally referred to as "soft money"—a term equally applicable to unregulated contributions accepted by California candidates and deposited into candidate controlled ballot measure committees. The baseless nature of the Respondents' claim in this lawsuit that the First Amendment prohibits limits on contributions to candidate controlled ballot measure committees is made evident by the Supreme Court's comments in *McConnell*:

> No party seriously questions the constitutionality of [the federal law] general ban on donations of soft money made directly to federal candidates and officeholders, their agents, or entities established or controlled by them. Even on the narrowest reading of *Buckley*, a regulation restricting donations to a federal candidate, regardless of the ends to which those funds are ultimately put, qualifies as a

> contribution limit subject to less rigorous scrutiny. Such donations have only marginal speech and associational value, but at the same time pose a substantial threat of corruption. By severing the most direct link between the soft-money donor and the federal candidate, [the federal law] ban on donations of soft money is closely drawn to prevent the corruption or the appearance of corruption of federal candidates and officeholders.

McConnell, 540 U.S. at 182 (emphasis added).

Unlike the FPPC regulation challenged in this lawsuit, which merely limits contributions to committees controlled by a candidate, the federal law challenged and upheld in *McConnell* goes further to prohibit a candidate from soliciting unregulated contributions for committees the candidate has no control over (*e.g.*, PACs and national party committees). Nevertheless, the Court in *McConnell* upheld the solicitation ban against constitutional attack, reasoning:

> [the] restrictions on solicitations are justified as valid anticircumvention measures. Large soft-money donations at a candidate's or officeholder's behest give rise to all of the same corruption concerns posed by contributions made directly to the candidate or officeholder. Though the candidate may not ultimately control how the funds are spent, the value of the donation to the candidate or officeholder is evident from the fact of the solicitation itself. Without some restriction on solicitations, federal candidates and officeholders could easily avoid [federal law] contribution limits by soliciting funds from large donors and restricted sources to like-minded organizations engaging in federal election activities.

McConnell, 540 U.S. at 182–83 (emphasis added). *See also FEC v. Colorado Republican Federal Campaign Committee*, 533 U.S. 431, 465

(2001) (party expenditures coordinated with a candidate may be limited to minimize circumvention of candidate contribution limits).

The *McConnell* Court thus upheld a ban on candidate solicitation of unrestricted contributions for committees over which the candidate has no control and regardless of the ends to which those funds are ultimately put—as a closely drawn, constitutionally permissible means of preventing corruption and circumvention of existing contribution limits. In this case, the contributions at issue are being made to committees under candidate control. Applying the reasoning of *McConnell* to this case, the FPPC regulation limiting contributions to candidate controlled ballot measure committees is likewise a closely drawn, constitutionally permissible means of preventing corruption and circumvention of existing contribution limits.

III. The Superior Court Correctly Held That The Supreme Court Decision In *Citizens Against Rent Control* Does Not Bar Limits On Contributions To Candidate Controlled Ballot Measure Committees.

Respondents relied below on the U.S. Supreme Court decision in *Citizens Against Rent Control v. City of Berkeley* (*"CARC"*), 454 U.S. 290 (1981), as the legal authority for their claim that Regulation 18530.9 violates their First Amendment constitutional rights. *See* CITIZENS MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF

MOTION FOR PRELIMINARY INJUNCTION, 11; RECORD ON APPEAL at 000038.

The Superior Court correctly held that the Supreme Court decision in *CARC* is not controlling authority in this case. FINAL RULING ON MOTION FOR PRELIMINARY INJUNCTION at 19; RECORD ON APPEAL at 001529. In *CARC*, a non-candidate-controlled political committee challenged on First Amendment grounds a generally applicable $250 limit on contributions made in support of or in opposition to a ballot measure. *CARC*, 454 U.S. at 292. The Court explicitly noted that, in its *Buckley* decision, the Court had "identified a single narrow exception to the rule that limits on political activity were contrary to the First Amendment. The exception relates to the perception of undue influence of large contributors to a candidate[.] . . . *Buckley* thus sustained limits on contributions to candidates and their committees." *CARC*, 454 U.S. at 296-97 (emphasis added).

Unlike the limit on contributions to candidates and their committees challenged and upheld in *Buckley*—and recognized as constitutional in the *CARC* opinion—the Berkeley ordinance challenged in *CARC* limited contributions to a plaintiff committee not controlled by or associated with any candidate.

The Court in *CARC* reasoned, "Referenda are held on issues, not candidates for public office. The risk of corruption perceived in cases

involving candidate elections simply is not present in a popular vote on a public issue." *CARC*, 454 U.S. at 298 (quoting *First National Bank of Boston v. Bellotti*, 435 U.S. 765, 790 (1978)). Based on this reasoning, the Supreme Court determined that the Berkeley ordinance did not advance the same governmental interest recognized in *Buckley*—avoiding real and apparent corruption of candidates. The Court concluded that the Berkeley ordinance did not "advance a legitimate governmental interest significant enough to justify its infringement of First Amendment rights" and declared the ordinance unconstitutional. *CARC*, 454 U.S. at 299.

In short, the ordinance at issue in *CARC* was not closely drawn to match the government's important interest in limiting the real and apparent corruption of candidates because the Berkeley limit was unrelated to candidates or committees that operated under candidate control. FPPC Regulation 18530.9, by contrast, imposes contribution limits on committees controlled by candidates, which provides a link between the contributions and the candidates, and thus triggers the state's important interest in limiting real and apparent corruption. The Supreme Court recognized—in *CARC*, *Buckley*, *Nixon*, *Beaumont* and *McConnell*—that the prevention of candidate corruption is a government interest sufficiently important to justify the marginal First Amendment restriction resulting from the imposition of reasonable limits on contributions to candidates and committees they control. Regulation 18530.9 is constitutional because it is

"closely drawn to match" California's important interest of preventing real and apparent corruption.

IV. The Superior Court Incorrectly Held That Regulation 18530.9 Is Not Closely Drawn To Preventing Corruption And Circumvention Of Existing Candidate Contribution Limits.

Analyzing the constitutionality of Regulation 18530.9, the Superior Court acknowledged that the proper level of judicial scrutiny is "to assess whether the law is closely drawn to match a sufficiently important governmental purpose." FINAL RULING ON MOTION FOR PRELIMINARY INJUNCTION at 20; RECORD ON APPEAL at 001530. The court began its constitutional scrutiny by correctly noting "that the prevention of candidate corruption, the appearance of corruption, and/or the circumvention of applicable campaign contribution limits are all 'sufficiently important' governmental purposes." *Id.* The court went on to examine whether Regulation 18530.9 is "closely drawn" to match these important governmental purposes—but it erred when it found the regulation to be unconstitutionally overbroad.

The fatal flaw in the Superior Court decision is its misunderstanding and narrow construction of the threat of corruption posed by unlimited political contributions. The court's misunderstanding is evidenced by the court's four examples of contributions that, in the court's view, "have no

appreciable indicia of the evils that the regulation is intended to prevent"—specifically:

> (1) Contributions to a ballot measure committee whose decisions on political issues, but not its expenditures, are "significantly influenced" by a candidate's agent;
> (2) Contributions by people who have never made a contribution to the subject candidate's campaign(s);
> (3) Contributions by people who do not necessarily know the candidate's vicarious relationship to the committee; and
> (4) Contributions which cannot and will not lawfully be used for the controlling candidate's campaign, "election-related activities," the candidate's expenses of holding office, to expressly advocate on behalf of the candidate, or to confer a substantial or direct personal benefit upon the candidate.

FINAL RULING ON MOTION FOR PRELIMINARY INJUNCTION at 20; RECORD ON APPEAL at 001530.

The court below gave no explanation as to why such contributions posed no threat of real or apparent corruption when the recipient committee is controlled by a candidate or officeholder. Instead, the court simply concluded:

> It is difficult to comprehend how such contributions could theoretically foster corruption, the appearance of corruption, or the circumvention of applicable campaign contribution limits. It is likewise difficult to appreciate how limiting such contributions could legitimately advance in any degree the important governmental purpose of preventing those three resilient demons of campaign finance and its regulation.

FINAL RULING ON MOTION FOR PRELIMINARY INJUNCTION at 21; RECORD ON APPEAL at 001531.

Unlike the Superior Court, we have no difficulty comprehending the threat of corruption posed by these hypothetical contributions. Indeed, the hypothetical examples posed by the Superior Court aptly demonstrate how such contributions would encourage or foster evasion of California's candidate contribution limits.

Regarding example one, a candidate or officeholder who expends precious time and energy to exert "significant influence" over the political decisions of a ballot measure committee, whether directly or through an agent, has a personal stake in the outcome of that ballot measure. As such, a candidate undoubtedly appreciates contributions made to their ballot measure committee. It is this candidate appreciation for contributions that poses a threat of real and apparent corruption.

Regarding example two, the fact that a contributor to a candidate controlled ballot measure committee has never before made a contribution to the candidate is wholly irrelevant to the potential for such a contribution to pose the danger of real and apparent corruption. A person's first contribution to a candidate can corrupt as easily as that person's one-hundredth contribution—particularly when the first contribution might be a six- or seven-figure contribution to a candidate controlled ballot measure committee given to curry favor with the candidate or officeholder.

Regarding example three, unlimited contributions by people "who do not necessarily know the candidate's vicarious relationship to the

committee" create just as strong an appearance of corruption as contributions by people who are well aware that a candidate controls a ballot measure committee. As the Supreme Court noted in *Buckley*:

> Of almost equal concern as the danger of actual quid pro quo arrangements is the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions. . . . Congress could legitimately conclude that the avoidance of the appearance of improper influence "is also critical . . . if confidence in the system of representative Government is not to be eroded to a disastrous extent."

Buckley, 424 U.S. at 27 (quoting *CSC v. Letter Carriers*, 413 U.S. at 565 n.29); *see also McConnell*, 540 U.S. at 137 (contribution limits prevent "the eroding of public confidence in the electoral process through the appearance of corruption"). Furthermore, California state law requires that candidate controlled committees report to the state the identity of the controlling candidate in the committee's "statement of organization." *See* Cal. Gov't Code § 84102(e). Candidate control of a ballot measure committee is public knowledge and is typically widely publicized by the candidate and the media.[13] The likelihood of a person making a contribution in excess of existing candidate contribution limits[14] to a candidate controlled ballot measure committee, without knowing that the committee is controlled by a candidate, is slim to none.

---

[13] *See, e.g., supra* notes 7–9 and accompanying text.

[14] Persons making contributions in amounts lower than existing candidate contribution limits would be unaffected by Regulation 18530.9 and, consequently, should not be the subject of the Court's overbreadth analysis.

Example four, which relates to contributions which cannot lawfully be used for the controlling candidate's campaign, misunderstands completely the threat of corruption posed by large contributions to candidates and their controlled committees as explained by the Supreme Court in *Buckley* and its progeny. The threat of corruption posed by large contributions depends not on how a candidate chooses to spend contributions but, rather, on a candidate's receipt of the contributions. As the Supreme Court made clear in *McConnell*:

> Even on the narrowest reading of *Buckley*, a regulation restricting donations to a . . . candidate, regardless of the ends to which those funds are ultimately put, qualifies as a contribution limit subject to less rigorous scrutiny. Such donations have only marginal speech and associational value, but at the same time pose a substantial threat of corruption. By severing the most direct link between the soft-money donor and the . . . candidate, [the federal law] ban on donations of soft money is closely drawn to prevent the corruption or the appearance of corruption of . . . candidates and officeholders.

McConnell, 540 U.S. at 182 (emphasis added). The fact that a contribution will not be used for the controlling candidate's campaign or office holding expenses is irrelevant to the potential of corruption posed by the contribution. The threat of corruption exists any time a candidate receives a large contribution—regardless of how the candidate ultimately spends that contribution. Simply put, the threat of corruption is in the giving and receiving of the contribution, not in how it is spent. Furthermore, as detailed in the Statement of Facts above, candidate campaigns and ballot

measure campaigns are often inextricably linked. For example, two candidates who will compete in the 2006 gubernatorial election, Governor Schwarzenegger and Treasurer Angelides, have raised millions of dollars in unlimited contributions supporting and opposing propositions that appeared on the November 2005 special election ballot—getting a jump start on their 2006 campaigns.[15]

In short, despite statements to the contrary by the Superior Court, it is not difficult to comprehend how the contributions described in the four examples "could foster corruption, the appearance of corruption, or the circumvention of applicable campaign contribution limits." FINAL RULING ON MOTION FOR PRELIMINARY INJUNCTION at 21; RECORD ON APPEAL at 001531. It is likewise not difficult "to appreciate how limiting such contributions could legitimately advance in any degree the important governmental purpose of preventing those three resilient demons of campaign finance and its regulation." *Id.* Regulation 18530.9 is closely drawn to preventing the threat of corruption and circumvention of existing contribution limits posed by the Superior Court's hypothetical examples.

For this reason, the Superior Court erred when it found that Regulation 18530.9 is not closely drawn to match the government purposes

[15] *See supra* notes 6–12 and accompanying text.

of preventing real and apparent corruption and the circumvention of existing candidate contribution limits.

V. Regulation 18530.9 Is Consistent With The Intent, Purposes And Text Of Proposition 34 And The Political Reform Act, And Does Not Exceed The FPPC's Regulatory Authority.

The FPPC is empowered by Cal. Gov't Code § 83112 to adopt rules and regulations "to carry out the purposes" of the Political Reform Act, so long as the regulations are consistent with the Act and other applicable law. The Commission's adoption of Regulation 18530.9, applying the contribution limits enacted by voter-approved Proposition 34 to candidate controlled ballot measure committees, carries out the purposes of Proposition 34's contribution limits and is consistent with the Political Reform Act.

A. California Voters Enacted Proposition 34 For The Purpose Of Limiting All Political Contributions To State Candidates.

California courts have consistently held that, "Absent ambiguity, [a court] presumes that the voters intend the meaning apparent on the face of an initiative measure . . . ." (*Lungren v. Superior Court of the City and County of San Francisco*, 14 Cal. 4th 294, 301 (1996). *See also Lesher Communications, Inc. v. City of Walnut Creek*, 52 Cal. 3d 531, 543 (1990).) Furthermore, "[w]here [a] statute is clear, courts will not 'interpret away clear language in favor of an ambiguity that does not exist.'" *People v.*

Frederick Henry Haykel, 96 Cal. App. 4th 146, 150 (Cal. Ct. App. 2002) (quoting *Lennane v. Franchise Tax Bd.*, 9 Cal. 4th 263, 268 (1994)).

The meaning apparent on the face of Proposition 34 is unambiguous—California voters intended to limit all political contributions to candidates, regardless of how a candidate might choose to spend funds he or she controls. This unambiguous voter intent is evident in Proposition 34's declarations, purposes and in the statutory language creating the limits on contributions to candidates.

Proposition 34 stated as its first declaration that, "Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but large contributions may corrupt or appear to corrupt candidates for elective office." Cal. Proposition 34 § 1(a)(1) (2000) (emphasis added). Proposition 34 went on to state, "The people enact the Campaign Contribution and Voluntary Expenditure Limits . . . to accomplish all of the following purposes: . . . To minimize the potentially corrupting influence and appearance of corruption caused by large contributions by providing reasonable contribution and voluntary expenditure limits." Cal. Proposition 34 § 1(b)(2) (2000).

The operative language of Proposition 34's contribution limits is likewise unambiguous. Proposition 34 rewrote two sections of California's Political Reform Act to provide that a candidate "may not accept" from any person a contribution exceeding specified dollar amounts ranging from

$3,000 to $20,000, depending on the office sought by the candidate and whether the contributor qualifies as a small contributor committee. Cal. Gov. Code §§ 85301 and 85302. The clear and unambiguous language of Proposition 34 limits the receipt by candidates of contributions exceeding certain dollar amounts, and makes no reference whatsoever to the candidate's intended or eventual use of contributions.

Neither the text of Proposition 34, nor any of its accompanying official ballot pamphlet materials distributed by the Secretary of State to voters as part of the November 2000 Voter Information Guide (*e.g.*, the ballot measure summary, the official Title & Summary prepared by the Attorney General, the Analysis of the Legislative Analyst, the arguments for and against Proposition 34 along with respective rebuttals), gave California voters any indication that contributions to candidates would be exempt from Proposition 34's contribution limits if the candidate chose to spend the contributions to support or oppose ballot measures.[16]

In sum, California voters enacted Proposition 34 with the intent of limiting all political contributions to state candidates. The FPPC regulation limiting contributions to candidate controlled ballot measure committees was adopted to carry out this purpose and therefore constitutes a

[16] The official, complete California Voter Information Guide for the November 7, 2000 general election is available on the Secretary of State's website at: http://vote2000.ss.ca.gov/VoterGuide/pdf/ballotpamphlet.pdf.

permissible exercise of the Commission's regulatory authority under Cal. Gov't Code § 83112.

B. Regulation 18530.9 Is Consistent With The Political Reform Act And Other Applicable Law.

As explained in the preceding section, the FPPC regulation limiting contributions to candidate controlled ballot measure committees is entirely consistent with the Political Reform Act's statutory text limiting the size of contributions candidates may accept. Sections 85301 and 85302 of the Political Reform Act include no exceptions for contributions a candidate accepts for eventual expenditures in support of or opposition to ballot measures.

Respondents wrongly argue that "Regulation 18530.9 is void because it is directly contrary to PRA § 85303(c) . . . ." CITIZENS MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION, 5; RECORD ON APPEAL at 000032. Rather, Cal. Gov't Code § 85303(c) states: "Except as provided in Section 85310, nothing in this chapter shall limit a person's contributions to a committee or political party committee <u>provided the contributions are used for purposes other than making contributions to candidates for elective state office</u>." (Emphasis added.) Notwithstanding Respondents' claims to the contrary, contributions to candidate controlled ballot measure committees are not "for purposes <u>other than</u> making

contributions to candidates" but, rather, are contributions precisely for the purpose of contributing directly to candidates. Consequently, contributions to candidate controlled ballot measure committees are not subject to the "nothing in this chapter shall limit" language of § 85303(c).

If this Court were to interpret § 85303(c) consistently with Respondents' approach—to find that direct contributions to a candidate controlled ballot measure committee are not within the scope of § 85303(c)'s "making contributions to candidates" exception—then the logical extension of that argument is that § 85303(c) would prohibit the application of §§ 85301 and 85302 contribution limits to any candidate controlled committee, unless the receiving candidate committee makes contributions to other candidates. That is an absurd result and was clearly not intended by the voters who enacted Cal. Gov't Code §§ 85301, 85302 and 85303 to address the widely recognized problem that "large contributions may corrupt or appear to corrupt candidates for elective office." Cal. Proposition 34 § 1(a)(1) (2000) (emphasis added).

The FPPC regulation clarifying that candidate contribution limits apply to candidate controlled ballot measure committees is entirely consistent with the ordinary meaning of Proposition 34's language. The FPPC regulation constitutes a reasonable and accurate interpretation of Cal. Gov't Code §§ 85301, 85302, and 85303, and effectively advances the stated purposes of Proposition 34 relied upon by California voters who

enacted these contribution limits in 2000. As such, the FPPC's adoption of the regulation is fully within the authority granted to the Commission by Cal. Gov't Code § 83112.

CONCLUSION

For the above reasons, *amicus curiae* respectfully submits that Regulation 18530.9, which limits contributions to candidate controlled ballot measure committees, is constitutional and enforceable. We urge this Court to reverse the Superior Court decision granting a preliminary injunction.

Dated: November 14, 2005

Respectfully submitted,

THE CAMPAIGN LEGAL CENTER

_____

PAUL S. RYAN (CA BAR NO. 218212)
J. GERALD HEBERT
THE CAMPAIGN LEGAL CENTER, INC.
1640 Rhode Island Ave., NW Suite 650
Washington, DC 20036
Tel: (202) 736-2200

Counsel for Amicus Curiae
The Campaign Legal Center

CERTIFICATE OF COMPLIANCE

I hereby certify that the attached *amicus* brief complies with the form, size, and length requirements of Cal. R. App. Pro. 14(b) and (c). The brief was prepared using double-spaced 13–point Times New Roman font and contains 8,029 words, as determined by the "word count" feature of Microsoft Word software.

_____

PAUL S. RYAN (CA BAR NO. 218212)
THE CAMPAIGN LEGAL CENTER, INC.
1640 Rhode Island Ave., NW Suite 650
Washington, DC 20036
Tel: (202) 736-2200

Counsel for Amicus Curiae
The Campaign Legal Center

CERTIFICATE OF FILING AND PROOF OF SERVICE

I, Megan Brimhall, declare as follows:

I am employed with The Campaign Legal Center, whose address is 1640 Rhode Island Avenue, NW, Suite 650, Washington, DC 20036. I am readily familiar with the business practices of this office for collection and processing of correspondence for overnight delivery via express courier. I am over the age of eighteen years, a citizen of the United States and am not a party to this cause of action.

I hereby certify that on November 14th, 2005, I sent for filing the original and four copies of the foregoing brief, the attached application and this proof of service by overnight delivery via a third party commercial carrier to:

Office of the Clerk
California Court of Appeal
Third Appellate District
900 N Street, Room 400
Sacramento, CA 95814
(916) 654–0209

I further certify that on November 14th, 2005, I sent four copies of the foregoing brief, the attached application and this proof of service by overnight delivery via a third party commercial carrier to:

Office of the Clerk
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-4783
Tel: (415) 865-7000

I further certify that on November 14th, 2005, I sent one copy of the foregoing brief, the attached application and this proof of service by overnight delivery via a third party commercial carrier to:

Honorable Shellyanne W.L. Chang
C/O Superior Court Clerk Liz Higginbotham
Dept. 32
Superior Court of California, County of Sacramento
720 9th Street
Sacramento, CA 95814
Tel: (916) 874–5682

I further certify that on November 14th, 2005, I served one copy of the foregoing brief, the attached application and this proof of service by overnight delivery via a third party commercial carrier to:

Attorneys Representing Defendants–Appellants California Fair Political Practices Commission, *et al*.:

Douglas Woods, Esq
Office of Attorney General
1300 "I" Street, Room 1630-23
Sacramento, CA 94244-2550
Tel: (916) 445-9555

Attorneys Representing Plaintiffs–Respondents Citizens To Save California, *et al*.:

James Perrinello, Esq.
John E. Mueller, Esq.
Christopher E. Skinnell, Esq.
Nielson, Merksamer, Perrinello,
Mueller & Naylor, LLP
591 Redwood Hwy. #4000
Mill Valley, CA 94941
Tel: (415) 389-6800
Fax: (415) 388-6874

Attorneys Representing Plaintiffs–Intervenors–Respondents Arnold Schwarzenegger , *et al*.:

Charles H. Bell, Jr., Esq.
Thomas W. Hiltachk, Esq.
Jimmie E. Johnson, Esq.
Bell, McAndrews & Hiltachk, LLP
455 Capitol Mall, Suite 801
Sacramento, California 95814
Tel: (916) 442-7757
Fax: (916) 442-7759

MEGAN BRIMHALL
THE CAMPAIGN LEGAL CENTER, INC.
1640 Rhode Island Avenue, NW
Suite 650
Washington, DC 20036
Tel.: (202) 736-2200
Fax: (202) 736-2222