E055176

COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT, DIVISION TWO

MISSION SPRINGS WATER DISTRICT,

Plaintiff and Respondent,

v.

KARI VERJIL, AS RIVERSIDE COUNTY REGISTRAR OF VOTERS,

Defendant,

v.

TIM RADIGAN BROPHY, *ET AL.*,

Real Parties in Interest, Appellants.

Appeal from an Order Denying a Special Motion to Strike
By the Superior Court, Riverside County
Case No. INC 1105569, Hon. Harold Hopp

APPLICATION TO FILE AMICUS CURIAE BRIEF AND AMICUS CURIAE BRIEF OF CITIZENS IN CHARGE ON BEHALF OF REAL PARTIES IN INTEREST

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TO THE HONORABLE PRESIDING JUSTICE:

Pursuant to Rule 8.200(c) of the California Rules of Court, Citizens in Charge, a 501(c)(4) advocacy group ("CIC"), respectfully requests permission to file the amicus brief attached to this application. CIC advocates in multiple forums – in legislatures, courts, and the media – to protect and expand citizens' initiative and referendum rights in California and across the country.

CIC did not become aware of this case until June 11, 2012, at which time it immediately determined that it should seek permission to participate as an amicus in this proceeding.

The applicant's attorney has examined the briefs on file in this case and is familiar with the issues involved and the scope of the briefing. CIC respectfully submits that a need exists for additional briefing regarding the negative impact that an affirmance would have on the exercise of the initiative power in California, and to argue against the requests of the Mission Springs Water District (the "District") and its amici for a blanket ruling that the anti-SLAPP statute does not apply in in pre-election challenges to initiatives. In addition, CIC believes that the District's litigation strategy falls so far outside the accepted regime in which courts, including the court in *City of Riverside v. Stansbury*, 155 Cal. App. 4th 1582 (2007), review pre-election challenges to the validity of proposed initiatives that further analysis of *Stansbury* and the relevant authorities is urgently needed.

For the reasons stated in this application and further noted in the Interest of Amicus section of the proposed brief, CIC respectfully requests

leave to file the amicus curiae brief combined with this application.

Amicus notes that the Appellants were permitted, over the District's objection, to file a late reply brief. If Amicus needs to show good cause for filing its brief at this time, Amicus respectfully requests that the Court make such a finding, particularly in light of its allowance for the filing of Appellants' reply brief. As noted above, CIC did not become aware of this case until June 11, 2012, at which time it took immediate steps to engage counsel. No party will be prejudiced by CIC's participation as amicus. Unfortunately, since the proponents of the initiative at issue here have already been denied the opportunity to have their initiative appear on the November 2011 ballot, any additional, modest amount of time to respond to this brief would not cause undue delay. *See* Cal. R. Ct. 8.63(b).

The Amicus Curiae brief was authored by the undersigned. No other party, person, or entity other than proposed Amicus made a monetary contribution to fund its preparation or submission.

Dated: June 26, 2012

Respectfully submitted,

BENBROOK LAW GROUP, P.C.

By: _____

Bradley A. Benbrook
Attorney for Applicant

AMICUS CURIAE BRIEF

I.

INTEREST OF AMICUS

Citizens in Charge ("CIC") is a 501(c) (4) advocacy group that was formed in 2001. CIC seeks to protect and expand citizens' initiative and referendum rights, both in California and across the country. CIC's website is located at http://www.citizensincharge.org/. CIC believes in maintaining citizen control of government. Thus, while CIC never takes stands on specific ballot issues (unless those issues relate to the initiative and referendum process), it commonly assists local organizations and individuals who face obstacles to their petition rights from state and local governments and agencies.

Given the extent to which powerful, entrenched interests dominate policy at all levels of state and local government, direct democracy is often the only viable avenue of political activity for concerned citizens to enact laws reforming government. CIC has a strong interest in ensuring that citizens continue to have access to their initiative and referendum rights.

As citizens have sought to enact reforms through initiatives and referenda that have decreased the disproportionate power held by government officials, business, and labor groups, the initiative and referendum process has come under increasing attack. In particular, business, labor, and government officials themselves increasingly resort to the courts to frustrate the citizens' initiative right. CIC thus regularly appears as an amicus in state and federal courts to emphasize the importance of preserving the right of initiative and to aid citizens in resisting improper efforts to interfere with such right.

II.

ARGUMENT

A. THE DISTRICT'S UNPRECEDENTED GO-SLOW LITIGATION HAS ALREADY INTERFERED WITH PROPONENTS' SPEECH AND PETITION RIGHTS THROUGH DELAY ALONE.

The California Supreme Court has consistently recognized that "a basic precept of our governmental system" is "that the people have the constitutional right to alter or reform their government." *Perry v. Brown*, 52 Cal. 4th 1116, 1140 (2011) (citing *Strauss v. Horton*, 46 Cal. 4th 364, 412-13 (2009)). In *Perry*, the California Supreme Court recently reiterated the "consistent judicial interpretation of the constitutionally based initiative power in California":

> The amendment of the California Constitution in 1911 to provide for the initiative and referendum signifies one of the outstanding achievements of the progressive movement of the early 1900's. Drafted in light of the theory that all power of government ultimately resides in the people, the amendment speaks of the initiative and referendum, not as a right granted the people, but as a power reserved by them. Declaring it 'the duty of the courts to jealously guard this right of the people' ..., the courts have described the initiative and referendum as articulating 'one of the most precious rights of our democratic process....' '[*I*]*t has long been our judicial policy to apply a liberal construction to this power wherever it is challenged in order that the right be not improperly annulled. If doubts can reasonably be resolved in favor of the use of this reserve power, courts will preserve it.*'

Perry, 52 Cal. 4th at 1140 (quoting *Associated Homebuilders etc., Inc. v. City of Livermore*, 18 Cal. 3d 582, 591 (1976)) (italics in *Perry*).

There can be no dispute that the District's gambit in this case has interfered with the rights of the proponents to "alter or reform" the District by rolling back the aggressive rate hikes. By waiting to sue and then

delaying service of the lawsuit until after the deadline had passed to submit the initiative for inclusion on the ballot, the District got the result it wanted most – delaying the election.

This kind of strategic litigation is exactly what the anti-SLAPP statute was designed to prevent. A SLAPP suit is a "*strategic* lawsuit against public participation." The District's gambit here reeks of strategy. It flouted its duties under the Election Code § 9311 – and makes no defense of that flouting in the briefing to this Court – in order to advance its strategy of pushing the initiative down the road for another two years. At that time, the strategy goes, the voters may be used to paying the higher rates, or perhaps the voters will have moved on to a new and different outrage.

The District's gambit is doubtless based also on the knowledge that, once the election is no longer imminent, initiative proponents face a far greater challenge in raising money to fund litigation. Indeed, CIC has observed initiatives across the country that simply get snuffed out entirely once litigation commences, as the proponents are unable to find the resources to counter the government's litigation budget.

The cynical slow-roll here contrasts sharply with traditional pre-election litigation over the validity of proposed initiatives, where it is universally accepted that, if the litigation will proceed at all, it must be completed before the election. Indeed, the courts consistently assume that "pre-election litigation" means litigation that will be *resolved* before the next scheduled election, and they routinely require that challengers make a heightened showing in support of their claims of invalidity in order to gain pre-election review *at all*. *See, e.g., Independent Energy Producers Ass'n v. McPherson*, 38 Cal. 4th 1020, 1025 (2006) ("a court should take into consideration the availability of postelection relief in deciding whether it is

preferable to resolve the issue in the often charged and rushed atmosphere of an expedited preelection review, or instead to leave the challenge for resolution with the benefit of the full, unhurried briefing, oral argument, and deliberation that generally will be available after the election"); *Brosnahan v. Eu*, 31 Cal. 3d 1, 4 (1982) ("As we have frequently observed, it is usually more appropriate to review constitutional and other challenges to ballot propositions or initiative measures after an election rather than to disrupt the electoral process by preventing the exercise of the people's franchise, in the absence of some *clear showing* of invalidity.") (emphasis added); *Senate v. Jones*, 21 Cal. 4th 1142, 1154 (1999) ("when a court determines that the challengers to an initiative measure have demonstrated that there is a *strong likelihood* that the initiative violates the single subject rule, it is appropriate to *resolve* the single-subject challenge prior to the election") (emphasis added).

Indeed, delaying the voting on an initiative that has qualified for the ballot through litigation should be tolerated no more than litigation aimed at prior restraint of other forms of speech. The United States Supreme Court has cautioned that "[f]or many years it has been clearly established that 'any prior restraint on expression comes to this Court with a "heavy presumption" against its constitutional validity.'" *CBS, Inc. v. Davis*, 510 U.S. 1315, 1317 (1994) (staying injunction prohibiting airing of broadcast pending resolution of litigation) (Blackmun, J., Circuit Justice) (citations omitted); *id.* at 1318 ("indefinite delay of the broadcast will cause irreparable harm to the news media that is intolerable under the First Amendment"); *cf. Zwickler v. Koota*, 389 U.S. 241, 252 (1967) (refusing to order abstention in case brought to challenge constitutionality of state statute restricting speech; "to force the plaintiff who has commenced a

federal action to suffer the delay of state court proceedings might itself effect the impermissible chilling of the very constitutional right he seeks to protect").

In short, strategic use of the court system to "disrupt the electoral process" is a potent and dangerous tool that local government officers can use to counter initiatives aimed at curbing their power. The District's tampering with the election must not be rewarded with an affirmance, else it will be replicated by other local governments and agencies. A categorical ruling like the District proposes – that the anti-SLAPP statute does not apply to pre-election challenges – cannot be justified under the cases. Moreover, any such ruling would run roughshod over the citizens' initiative power by encouraging local jurisdictions to adopt the very same delaying tactic the District used here.

The decision here does not require the adoption of a categorical rule as to whether the anti-SLAPP statute does or does not apply in the context of pre-election challenges by the government to proposed initiatives. Rather, the traditional two-step anti-SLAPP analysis must be undertaken on a case-by-case basis. And, as shown below, that analysis can turn on whether the government's various actions in and around the lawsuit actually interfere with the processing of an initiative toward the ballot while the litigation is pending.

In particular, when the government works within the structure of the Election Code, seeks prompt judicial relief for its claims that an initiative is unconstitutional, and in the meantime allows the initiative to work its way through the system in accordance with the Elections Code, the action is less likely to implicate the anti-SLAPP statute. Where, as here, the local government body ignores its duties under the Election Code to place a

qualified initiative before the voters and chooses a litigation strategy aimed at delaying any such vote, the circumstances show that the lawsuit did arise from the proponents' speech activities, and the anti-SLAPP statute is implicated.[1]

B. *STANSBURY* AROSE IN A CONTEXT WHERE THE GOVERNMENT OFFICIALS DID NOT EVADE THEIR MINISTERIAL OBLIGATIONS OR DELAY VOTING ON AN INITIATIVE THROUGH LITIGATION STRATEGY.

Stansbury does not stand in the way of a reversal of the Superior Court's decision, as it arose under very different circumstances and is therefore distinguishable here. Indeed, by comparison, the government's prompt challenge in *Stansbury* reveals that the strategic litigation in this case did, in fact, arise from the proponents' acts in furtherance of their speech activities.

Quite unlike here, in *Stansbury*, the city of Riverside sued for declaratory relief immediately after the proponents submitted the text of a proposed eminent domain reform initiative for a ballot title and summary. The proponents submitted the proposed text in October 2005, and Riverside sued in November 2005. The proponents had not even begun to gather the necessary signatures to qualify the initiative. Here, by contrast, the District waited to sue two months ***after*** the registrar certified in May 2011 that the proponents had collected enough signatures to qualify for the November 2011 ballot. Of course, the District knew far earlier than May 2011 that the initiative was in the works, as it admits in the Complaint that "the Proponents caused to be published, Notice of Intent to Circulate Initiative

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[1] In any event, as shown in Section D below, the District's own allegations show that its lawsuit arose from proponents' speech activities, and was not limited simply to an academic request for "guidance" as to the validity of the initiative.

Petitions" on or about January 27, 2011. Appendix, Vol. I, p.9 (Compl., ¶ 32). Thus, the District waited nearly ***six months*** after learning about the initiative to file the litigation. Moreover, it waited to serve the lawsuit until after the deadline for the District to submit the initiative to the Registrar for inclusion on the November 2011 ballot. The District is thus far off base in asserting that in *Stansbury* "the City of Riverside did precisely what MSWD did in this case." Resp. Brief, 11 (emphasis omitted).

In *Stansbury*, moreover, the court stressed that the City of Riverside's declaratory relief action did not arise from the proponents' speech activities because "the City did nothing to limit respondents' activities in connection with the initiative, nor did the City, by its action, otherwise impact respondents' First Amendment rights." *Id.* at 1591. The court thus accepted Riverside's argument that it "did nothing to discourage or punish collecting signatures in support of the Proposed Initiative, seeking public support for the Proposed Initiative, engaging in the verification process for the petition signatures that [the proponents] collected, or taking any of the further steps necessary to ensure that the Proposed Initiative would be placed on a ballot and presented to the electorate." *Id.* at 1590. Here, all of those steps had been completed, and the District "otherwise impacted" proponents' speech rights by ensuring that the litigation would delay the election.

Further, in *Stansbury* the proponents prevailed in the Superior Court in March 2006, long before the process of qualifying the initiative for the ballot had run its course. *Id.* at 1587. Thus, in fact, the proponents were able to continue their effort to qualify the initiative for the next election. They had their chance. They did not get the initiative across the finish line because they failed to get it qualified for the ballot, not because the City

prevented the election.[2] *Id.* The *Stansbury* court's statements about the lack of interference with the proponents' First Amendment rights were not mere conjecture.

Here, it is not disputed that the proponents did everything they needed to do to get the initiative on the November 2011 ballot, and the only thing that prevented it from being voted on was the strategy employed by the District's managers – the very people whose salary is paid by the rates at issue in the initiative – to stall, refuse to send the initiative to the registrar, and then sue after it was too late to get the initiative printed on the ballots. From the perspective of an organization focused on promoting citizen access to the ballot, the differences between the facts in *Stansbury* and the facts here are stark.

To be clear, however, *Stansbury* is an outlier and should be revisited for the reasons ably indicated by appellants. The District boldly (and wrongly) claims that "*Stansbury*, *Cotati*, and other well established authority hold that the anti-SLAPP statute is not applicable to actions . . . that . . . merely seek guidance as to the validity of the proposed initiatives." Resp. Brief, 12.[3] Yet the District and their amici cite no other case where a court ruled that the anti-SLAPP statute did not apply to a government challenge to

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[2] Indeed, on appeal, the threshold issue was whether the proponents' failure to qualify the initiative rendered the appeal moot. *Id.* at 1587-88. And, as appellant rightly notes, the litigation in the court of appeals was not a fair fight: The proponent organization (Riversiders for Property Rights), long out of the running for the initative, did not even make an appearance. *Id.* at 1584. Mr. Stansbury, a representative of the organization, litigated the appeal as an individual and made such extreme arguments that the Court doubtless found it difficult to affirm. *See id.* at 1591-92 (outlining Mr. Stansbury's positions, including claim that "[t]he only time that an initiative can be challenged without interfering with the right of petition is after the initiative is passed").

[3] As discussed in Appellants' brief, *City of Cotati v. Cashman,* 29 Cal.4th 69 (2002) itself did not deal with a "proposed initiative," but rather an existing ordinance.

the validity of a proposed initiative, let alone endorsed the blanket rule, for which the District aggressively advocates, that the anti-SLAPP statute can *never* apply in such circumstances. To the contrary, the District's own cases show that courts acknowledge that the anti-SLAPP statute can apply in contexts where initiatives are challenged. *See, e.g., City of Santa Monica v. Stewart*, 126 Cal. App. 4th 43 (2005) (reversing denial of anti-SLAPP motion where validity of initiative challenged after election); *City of San Diego v. Dunkl*, 86 Cal. App. 4th 384 (2001) (affirming denial of anti-SLAPP motion as moot when simultaneous summary judgment motion affirmed legitimacy of challenge to initiative).

Nevertheless, *Stansbury* can be readily distinguished on the grounds that, unlike here, the local government's challenge to the proposed initiative did not improperly delay the election or "otherwise impact" proponents' speech rights. No case cited by the Superior Court or the District involves or contemplates the kind of delay built into the system by District here. To the contrary, *Stansbury* and the District's other cases recognize the all-important need, if a pre-election challenge is even permitted, to resolve the pre-election challenge promptly, before the election. *See, e.g., Dunkl*, 86 Cal. App. 4th at 391-92 (City filed suit six weeks after signature gathering commenced and "promptly sought an order shorting time to place their summary judgment motions on calendar" a few weeks later); *Stansbury*, 155 Cal. App. 4th at 1585-87 (after filing suit within a month after learning about initiative, City filed summary judgment motion following month).

Moreover, as shown below, the Complaint here did not "merely seek guidance as to the validity of the proposed initiative" as the District claims, which provides another strong basis for distinguishing *Stansbury* and finding that the anti-SLAPP statute applies.

C. *STANSBURY* WAS NOT PREMISED ON A PURPORTED DISTINCTION BETWEEN THE "TEXT" OF THE INITIATIVE AND THE PROTECTED ACTIVITY TO GET THE INITIATIVE PASSED, NOR DOES ANY SUCH DISTINCTION MAKE SENSE.

The District mistakenly claims that, "[i]n *Stansbury*, this Court held that a public agency's pre-election declaratory relief action seeking judicial guidance as to the constitutionality of a proposed initative arises out of the 'text' of the initiative and not the initiative proponent's protected activity." Resp. Brief, 3. The District cannot rely on *Stansbury* to cloak with legitimacy the alleged distinction between the text of an initiative and the proponents' protected activity in attempting to get the initiative enacted, as the court in *Stansbury* most certainly did not base its decision on such sophistry.

In *Stansbury*, the City of Riverside *attempted* to make this distinction, in tandem with a separate argument: "[T]he City argues its lawsuit arose not from respondents' 'protected activities,' but rather, from the text of the facially invalid initiative proposed by respondents, for which it sought a judicial declaration as to its validity. Moreover, it maintains it 'did nothing'" to interfere with the proponents' efforts to qualify the initiative outside the litigation. *Stansbury*, 155 Cal. App. 4th at 1590.

Contrary to the District's claim, however, the Court did not accept the supposed distinction between the "text" of the initiative and the proponents' speech activities associated with getting the initiative qualified and passed. Rather, the *Stansbury* court cited the rationale in *Cotati* that "simply asking for guidance as to the constitutionality of the proposed initiative" did not implicate the anti-SLAPP statute. *Id*, 1590-91. The use of the word "simply" shows, however, that the *Stansbury* court saw the

crucial difference between a challenge that does not interfere with the progress of an initiative toward election and a challenge that does, and it emphasized the point in the very next sentence: "Indeed, the City did nothing to limit respondents' activities in connection with the initiative, nor did the City, by its action, *otherwise* impact respondents' First Amendment rights." *Id.* (emphasis added). Here, of course, the District did "otherwise impact [the proponents'] First Amendment rights" by unilaterally delaying the election through this litigation. *Cf. Stewart*, 126 Cal. App. 4th at 74 ("the constitutionality of the Initiative was irrelevant to the Pasadena officials' duty to perform certain ministerial duties under [Government Code] section 34460").

In any event, the distinction the District attempts to make is completely unworkable, particularly in a context where the Legislature has expressly "declare[d] that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process. To this end, [the anti-SLAPP statute] shall be construed broadly." C.C.P. § 425.16(a). Indeed, if it were applied to except challenges to initiatives from the anti-SLAPP statute, why would it not be used to take slander actions outside the anti-SLAPP statute? The plaintiff can say it is not basing its action on the defendant's speech, it is merely "seeking judicial guidance" as to whether "the text" of the slander is actionable or not. The exception would swallow the rule. It did not work for the City in *Stansbury*, and it should not work here.

D. THE ACTUAL ALLEGATIONS OF THE COMPLAINT HAVE RECEIVED LITTLE ATTENTION, YET THEY SHOW THAT THE DISTRICT'S ACTION IS, IN FACT, BASED UPON THE PROPONENTS' SPEECH AND PETITION ACTIVITIES.

Finally, and crucially for purposes of determining whether the District's lawsuit arose from protected activities by the proponents such that the anti-SLAPP statute applies, the allegations of the Complaint themselves belie the District's assertions on appeal that its lawsuit was limited to a surgical strike at determining the constitutionality of the text of the proposed initiative. Indeed, the briefs of the District and their amici conspicuously avoid much discussion about the actual content of the Complaint.

In fact, the Complaint reveals that the lawsuit was *not* limited to merely "seeking judicial guidance as to the constitutionality of a proposed initiative." Resp. Brief, 3. Far from it. The Complaint directly targets the proponents' speech activities in and around the initiative campaign:

- "Plaintiff is informed **that Proponents have openly admitted, in local newspapers and otherwise, that their intent in circulating the petitions and pursuing the 2011 Initiatives** is to disband the Mission Springs Water District. Plaintiff is informed that **Proponents have openly and publicly advocated that MSWD merge with a larger water district**, even though there is no evidence that a suggestion is desired by the community or even feasible." App., Vol. I, p.9 (Compl., ¶ 33) (emphasis added).
- "Plaintiff is informed and believes that the 2011 Initiatives are being brought, in part, for the **admitted and stated motive** of severely disabling or ultimately disbanding MSWD which will inevitably occur if the 2011 Initiatives are passed." App., Vol. I, p.2 (Compl., ¶

4) (emphasis added).

- "If successful with the 2011 Initiatives, the Proponents will achieve their objectives as MSWD cannot continue to service" its district. App., Vol. I, p.10 (Compl., ¶ 34).

These allegations demonstrate that the District's actions are not simply limited to the clinical legal inquiry into the constitutionality of the "text" of the initiative, but rather target the proponents' speech "in local newspapers and otherwise" and their speech in which proponents "openly and publicly advocated that [the District] merge with a larger water district." As such, the Complaint contains a "cause of action against [the proponents] arising from any act of [the proponents] in furtherance of the [proponents'] right of petition or free speech," and thus the first prong of the anti-SLAPP statute is easily satisfied. C.C.P. § 425.16(b)(1); *see also Stewart*, 126 Cal. App. 4th at 75 ("Pasadena's pleadings make it clear. FTCR was sued because it had the temerity to file a complaint-in-intervention to force Pasadena to put the Initiative into effect, and because it sponsored the Initiative and supported its constitutionality, all of which are clearly protected activities.").[4] Accordingly, the Court should proceed to the

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[4] As for the District's claim that the court in *Santa Clara County Transp. Authority v. Guardino*, 11 Cal. 4th 220, 252 (1995), "acknowledged that an initiative may be invalidated if it threatens the inevitable or wholesale destruction of a public agency and its ability to provide an essential government service," Resp. Brief, 36-37, the District misstates the actual test. The court in *Guardino* cited to *Builders Ass'n of Santa Clara-Santa Cruz Counties v Superior Court*, 13 Cal. 3d 225, 231 n.4 (1974), which contains the full description of the test: "The initiative or referendum is not applicable where 'the inevitable effect would be greatly to impair or wholly destroy the efficacy of some *other* governmental power, the practical application of which is essential.'" [*Simpson v. Hite*, 36 Cal.2d, 125, 134 (1950)] (Italics added.) As the italicized word indicates, this principle serves to invalidate an initiative which, in limiting one governmental power, impairs or destroys the ability of government to exercise a different and more essential power. For example, in *Simpson v. Hite* itself, the court struck down an initiative which, by limiting the power of a board of supervisors to select the location of a courthouse, threatened to

second step, where, as shown by appellants, the District cannot show a probability of success on the merits.

III.

CONCLUSION

As shown above, this appeal poses the potential for grave risks to the vitality of the initiative process in California. Those risks can be avoided by a decision that recognizes the many differences between this case and *Stansbury*. The Superior Court's ruling should be reversed.

Dated: June 26, 2012

Respectfully submitted,

BENBROOK LAW GROUP, P.C.

By: _____

Bradley A. Benbrook
Attorney for Applicant

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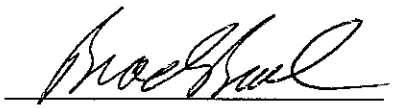
impair the county's power to maintain its courts." Under the District's own allegations in the Complaint, the passage of the initiative would not lead to the inevitable loss of some other service, nor would the supposed demise of the District even result in the loss of water service, as the District claims the proponents' goal is to get service from another provider.

WORD COUNT CERTIFICATION

I certify, pursuant to Rule 8.204(c) of the California Rules of Court, that the attached brief, including footnotes, but excluding the caption page, tables, and this certification, as measured by the word count of the computer program used to prepare the brief, contains 4,500 words.

DATED: June 26, 2012



Bradley A. Benbrook

PROOF OF SERVICE

Court of Appeal, Fourth Appellate District, Division Two
Mission Springs Water District v. Kari Verjil, Tim Brophy, et al.
Case No. E055176
Trial Court Case No. 1105569

I, Danielle C. Williams, declare:

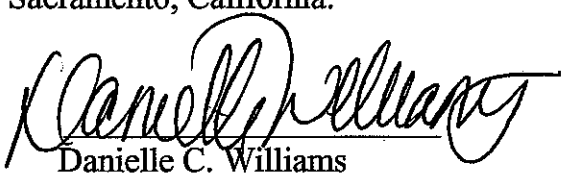
I am employed in the County of Sacramento, State of California. I am over the age of 18 and not a party to the within action. My business address is 400 Capitol Mall, Suite 1610, Sacramento, CA 95814. On June 26, 2012, I served the document(s) described as **APPLICATION TO FILE AMICUS CURIAE BRIEF AND AMICUS CURIAE BRIEF OF CITIZENS IN CHARGE ON BEHALF OF REAL PARTIES IN INTEREST** on the interested parties in this action a by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

__X__ **BY MAIL:** The envelope was mailed with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Sacramento, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after service of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on June 26, 2012, at Sacramento, California.



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