

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION EIGHT**

DAVID HERNANDEZ and
TED HAYES,

Appellants,

v.

COUNTY OF LOS ANGELES,
CITY OF LOS ANGELES, LOS
ANGELES CITY COUNCIL, and
DOES 1 through 30, inclusive,

Respondents.

No. B203097

Los Angeles County No. BS106456
(Hon. David P. Yaffe)

APPELLANTS' REPLY BRIEF

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INTRODUCTION

Appellants David Hernandez and Ted Hayes filed their opening brief (“Opening Br.”), and Respondents City of Los Angeles and Los Angeles City Council filed their brief in response (“City Br.”). Appellants respectfully file this reply brief.

ARGUMENT

As in their opening brief, Appellants address the applicability of the single-subject rule to Measure R, the measure’s violation of that rule, and the proper remedy for that violation. Finally, Appellants address two new issues raised in the City’s brief.

I. Applicability of the Single-Subject Rule

The primary question presented by this appeal is whether the single-subject rule applies to Measure R. In arguing about this question, the parties are in agreement as to certain points:

- Measure R was not an initiative or state constitutional amendment, *see* City Br. 12-15;
- no provision of the California Constitution expressly and specifically imposes the single-subject rule on ballot measures sponsored by city councils, *see id.* at 16-21;
- the Los Angeles City Charter imposes no single-subject requirement on local ballot measures, *see id.* at 25-28; and
- there is no separate constitutional claim of “logrolling” apart from applicable single-subject rules, *see id.* at 28-29.

But these points do not resolve the question. As presented in detail in their opening brief (and not repeated here), Appellants' argument is that local legislative bodies like the City Council lack "the unfettered power to present the voters with measures containing potentially deceptive combinations of unrelated provisions" because such power "is fundamentally incompatible with our state constitution's allocation of the people's reserved power to legislate." Opening Br. 9; *see also id.* at 9-18 (developing this argument). As the City Council recognizes, *see* City Br. 22, this is to say that "the single-subject requirement is inherent in the structure of the constitution," not to mention its history. Opening Br. 2.

The City Council largely sidesteps Appellants' structural and historical analysis, instead taking the stance that the single-subject rule is only narrowly and reluctantly applied. As explained below, however, the City's arguments ignore the import of recent appellate rulings and conflict with how California courts interpret the scope and exercise of legislative power.

A. *Pala Band and its Progeny*

In *Pala Band of Mission Indians v. Board of Supervisors of San Diego County*, 54 Cal. App. 4th 565 (1997), the court adjudicated a challenge to a local initiative amending the general plan to designate a particular location for a privately owned solid waste facility. One basis for the challenge was that the measure identified by name the private company that would operate the facility. According to the plaintiffs, this identification ran afoul of Article II,

§ 12 of the Constitution, which provides in part that “no statute proposed to the electors by the Legislature or by initiative, that . . . names or identifies any private corporation to perform any function or to have any power or duty, may be submitted to the electors or have any effect.” Like the City Council here, the board of supervisors argued that the prohibition did not apply to *local* measures because it specifically referred to “the Legislature” and to “statute[s]” but not to local ordinances. *See Pala Band*, 54 Cal. App. 4th at 579.

The court rejected this defense, however. Turning to the history of the constitutional restriction, the court observed that its broad purpose was to prevent voters from conferring special benefits on private entities or individuals. *See id.* at 580. Effectuating this purpose did not depend on whether the measure was a statewide measure as opposed to a local one: “We have examined the legislative history materials and have found nothing in those materials indicating that the voters believed these same problems would not exist with local initiatives or that the voters intended to exclude local initiatives from the reach of the restrictions.” *Id.* at 581.

Responding to the argument that the Article II, § 12 should not apply because it is silent on *local* initiative measures—essentially the argument that the City Council makes here—the court noted that the language of the constitutional provision was broad enough to encompass both state and local measures. *See* 54 Cal. App. 4th at 581. More importantly, the court observed that the board of supervisors has “failed to articulate, and we have been unable to

identify, any policy basis for the voters to have intended a distinction between state and local initiatives with respect to the rule that initiatives may not identify individuals or entities.” *Id.*

Subsequent to *Pala Band*, the Court of Appeal has ruled that the same logic applies to the single subject-rule contained in Article II, § 8(d). In *Shea Homes Limited Partnership v. County of Alameda*, 110 Cal. App. 4th 1246, 1255 (2003), the court concluded that the single-subject rule “applies to local as well as statewide initiatives.” Again, the policy behind this restriction on lawmaking power is the same whether the ballot measure is statewide or local. *See also San Mateo County Coastal Landowners’ Association v. County of San Mateo*, 38 Cal. App. 4th 523, 553 (1995) (assuming that the single-subject rule applied to the local initiative measure under review).

The city attempts to sweep away these decisions with a curious reading of the decision in *Citizens for Responsible Government v. City of Albany*, 56 Cal. App. 4th 1199 (1997) (“*Citizens*”). In that decision, the court considered a challenge to a local ballot measure seeking voter approval of a development agreement. Pursuant to an earlier citizen initiative, the city was required to submit any development agreement involving the city’s waterfront area to the voters for approval. *See id.* at 1205. Because such submission was neither an initiative nor an ordinance, but rather a citizen-mandated step in the approval of a development agreement, the court ruled that Article II, § 12 did not apply to the challenged measure. *See* 56 Cal. App. 4th at 1229-30.

According to the City Council, *Citizens* “expressly held that the application and reasoning of *Pala [Band]* are limited to initiatives and do not apply to city council sponsored ballot measures.” City Br. 21. But no such holding, express or otherwise, can be discerned from the opinion. The deciding factor in *Citizens* was not whether the measure was formulated by a city council or by initiative proponents. Instead, the relevant distinction in *Citizens* (and between *Citizens* and *Pala Band*) is to be found in the substance of the measures under consideration. The measure challenged in *Citizens* “was not the type of ballot proposition that is covered by” Article II, § 12 because “it would be difficult, if not impossible, to draft a meaningful ballot measure involving a development agreement without some reference to the parties to that agreement.” 56 Cal. App. 4th at 1230. The measure challenged in *Pala Band*, by contrast, was covered by the constitutional restriction because the measure was a form of law-making and thus directly related to the policies underlying that restriction. See 54 Cal. App. 4th at 580-81.

Reading *Pala Band*, *Shea Homes*, and *Citizens* in context reveals that the courts in all of those cases were concerned with the structure and history of the California Constitution and the policies behind the constitutional provisions at issue. Applying that same approach to the present case compels the conclusion that the single-subject rule applies to Measure R.

B. *Ex parte Haskell and Wright v. Jordan*

The City Council relies heavily on the supreme court’s statement in *Ex parte Haskell*, 112 Cal. 412, 421 (1897), that the single-subject rule governing state *statutes* (now codified at Article IV, § 9) “is not made applicable in terms to municipal ordinances, and was evidently not intended so to apply.” If we view this statement narrowly as a binding rule to be applied in relevant future cases, it is apparent that the rule has no application here: the present case concerns not an ordinance but a ballot measure.

But the City would view the quoted statement more broadly, finding in it the overarching principle that “the single subject rule should not be applied absent an express constitutional authorization.” City Br. 23. This interpretation imbues the statement with more significance than it can reasonably bear. A three-sentence analysis in an 1897 opinion can hardly be thought the final word in constitutional interpretation. More importantly, *Pala Band* expressly rejected the local legislative body’s argument that *Haskell* cast doubt on the principle that “the single subject rule applicable to statewide initiatives applies equally to county initiatives.” 54 Cal. App. 4th at 582 & n.18.

The City likewise reads too much into *Wright v. Jordan*, 192 Cal. 704 (1923), and the like. See City Br. 14-15. *Wright* held that, notwithstanding the “separate vote” rule (codified at Article XVIII, § 1) applicable to constitutional amendments proposed by *the Legislature*, “no such limitation upon the method of exercising the power of amending the constitution by *initiative*

measures has been embodied in the provisions of [Article IV, § 1] adopted in 1911.” 192 Cal. at 711 (emphasis added). But as the City Council concedes, this aspect of *Wright* was rejected by the electorate when it added Article IV, § 1c (now Article II, § 8(d)) to the Constitution in 1948. *See* City Br. 19 n.5. This rejection only highlights Appellants’ point that “but for a brief exception that has long since been overturned, the people have never delegated any legislative authority that includes the power to propose ballot measures embracing more than one subject.” Opening Br. 6; *see also Perry v. Jordan*, 34 Cal. 87, 92 (1949) (recognizing that although the 1948 constitutional change “extend[ed] the [single-subject] requirement to initiative constitutional amendments,” the requirement “is not new in this state”).

C. Policy Basis

In *Pala Band*, the Court of Appeal was “unable to identify, any policy basis for the voters to have intended a distinction between state and local initiatives with respect to the rule that initiatives may not identify individuals or entities.” 54 Cal. App. 4th at 581. In the present context, there is no policy basis for the voters—from whom all legislative power derives—to have intended a distinction between the Legislature, the statewide electorate, and the local electorate (on the one hand) and the City Council and other local bodies (on the other hand). The City has no good answer to the point “it would be fundamentally anomalous to conclude that in delegating legislative power to local bodies like the Los Angeles City Council, the people have conferred on

such bodies—*and such bodies only*—the power to submit manipulative ballot measures to the voters.” Opening Br. 13. As explained previously—and not sufficiently refuted by the City—the multiple rationales of the single-subject rule apply with equal force to ballot measures that are proposed by local legislative bodies, because the evils intended to be precluded by the rule have no connection to the *source* of the ballot measure. *See id.* at 17-18.

For these reasons and for the reasons set forth in the opening brief, the California Constitution should not be construed to give the Los Angeles City Council a power broader than that of the Legislature and broader than that of the state or local electorate, namely, the power to submit manipulative ballot measures to the voters. Rather, the Court should rule, consistent with constitutional history and structure, that the single-subject rule applies to Measure R and like ballot measures.

II. Violation of the Single-Subject Rule

The superior court observed that the City Council “contends that all of [Measure R’s] subjects do not violate the single subject rule because they are all ‘reasonably germane to the common goal of reducing the influence of lobbyists and special interests in city government.’” 2 Joint Appendix (“J.A.”) 556. The superior court ruled that this “contention has no merit,” because by drafting and submitting Measure R as it did, the City Council “manipulat[ed] the initiative process by bundling together measures to force voters to accept all or none of them, when, if they were submitted to the voters separately, the

voters would likely accept some and reject others.” *Id.* Notwithstanding the City Council’s arguments to the contrary, the superior court was undoubtedly correct in this regard.¹

The parties discuss largely the same cases and predictably emphasize different aspects of them. *E.g., compare* Opening Br. 19 (citing *Brosnahan v. Brown*, 32 Cal. 3d 236 (1982), for the point that the single-subject rule is not a “blank check” for joining unduly diverse provisions), *with* City Br. 31 (citing the same case for the point that the rule should be “construed liberally”). Appellants will not rehash those arguments here.

Appellants will, however, confront the City Council’s contention that “[t]here was no ‘logrolling’ at work here.” *Id.* at 35. This contention strains credulity. The superior court found it “likely that many voters would vote one way on the anti-lobbying and ethics provisions of Measure R, and the opposite

¹ In this context, the City Council accuses Appellants of “mischaracteriz[ing] the City Attorney’s report to the City Council.” City Br. 35 n.12 (citing Opening Br. 21-22). In the cited passage, Appellants stated:

[I]n his report to the City Council, the City Attorney acknowledged that “the municipal ordinance that [the] Council seeks to place before the voters *is not directly related* to the Charter Amendment to lengthen term limits.” 1 J.A. 33 (emphasis added). He further acknowledged that the “proposed ballot measure consists of Charter amendments on *four* subject-areas,” plus an ordinance that would address no fewer than six additional subjects. 1 J.A. 34 (emphasis added).

The City Council does not bother to explain how these indisputably accurate quotations constitute “mischaracteriz[at]ions” of the City Attorney’s report.

way on the term limits provisions, if they were given an opportunity to do.” 2 J.A. 556. That finding accords with common sense and with the experience of any competent observer of California political history since the imposition of term limits in 1990. Indeed, in the February 5, 2008 primary election, the statewide electorate once again rejected a measure that would have weakened legislative term limits.² Of course, the difference between that measure and Measure R is that—consistent with the single-subject rule—statewide voters were indeed given an opportunity to vote separately on the term limits issue.

In short, the term limits provisions of Measure R are not “reasonably germane” to the measure’s anti-lobbying and ethics provisions. The bare fact that the City Council can “easily articulate” an assertedly common theme for all of these provisions—and can even find “academic studies” in accord with that theme—does not make it so. City Br. 37. The superior court found that the actual purpose and effect of “bundling” these various provisions was the “manipulation” of the electoral process by the City Council. 2 J.A. 556.

For these reasons and for the reasons set forth in the opening brief, this Court should affirm the superior court’s determination that Measure R violates the single-subject rule.

² See Official Voter Information Guide 18-21, 29-30 (Feb. 5, 2008) (describing Proposition 93, the so-called “Term Limits and Legislative Reform Act”), available at <http://primary2008.sos.ca.gov/voterguide/lang/eng.pdf>; Votes For and Against February 5, 2008, Statewide Ballot Measures (officially certifying that Proposition 93 failed by a margin of 46.4% to 53.6%), available at http://www.sos.ca.gov/elections/sov/2008_primary/13_votes_for_against.pdf.

III. Proper Remedy for that Violation

Appellants have already explained that “after a thorough review of the issue, the California Supreme Court recently concluded that severance (or its twin, bifurcation) was *not* an appropriate remedy for violation of the single-subject rule” in the case of a legislatively sponsored ballot measure. “Rather, the only appropriate remedy is invalidation.” Opening Br. 25-26 (citing *Californians for an Open Primary v. McPherson*, 38 Cal. 4th 735, 781-82 (2006) (“*Open Primary*”). The City Council essentially ignores *Open Primary* and instead urges this Court to “exercise its discretion to refrain from invalidating the Measure.” City Br. 40.

In essence, the City Council is urging this Court to deny Appellants all remedies even if the Court finds a constitutional violation in the enactment of Measure R. We doubt that any court has that kind of untethered “discretion.” In any event, the City Council has proffered no “unusual and unique circumstances” of the kind that might conceivably justify a decision not to invalidate Measure R if it is found unconstitutional. *Open Primary*, 38 Cal. 4th at 782 (quoting *Assembly v. Deukmejian*, 30 Cal. 3d 638, 652 (1982)).

Certainly, the Court should reject the City Council’s notion that it deserves a free pass “because the Court would be applying a *new implied rule* of which local governments had *no prior notice*.” City Br. 40. As a matter of fact, the novelty of the rule is imaginary. *See, e.g., Jeffrey v. Superior Court*, 102 Cal. App. 4th 1, 9 (2002) (noting with respect to a local ballot measure,

that “the city council has already argued to the trial court that it violates the single-subject rule”); *Citizens for Jobs and the Economy v. County of Orange*, 94 Cal. App. 4th 1311, 1336 (2002) (opining that local ballot measure “arguably fails to satisfy the ‘reasonably germane’ test of the single-subject rule”). As a matter of law, even an “unprecedented” ruling typically is applied to the case at hand. In *Pala Band*, for example, the court considered (apparently for the first time) the application of Article II, § 12 of the California Constitution to local initiatives. *See* 54 Cal. App. 4th at 579-80. Ruling that the constitutional provision applied and that a portion of the challenged initiative violated it, the court ruled that the offending portion of the initiative was “invalid.” *Id.* at 585. The court gave no consideration to permitting the offending portion to go into effect and having its ruling apply only in future cases.

In any event, Appellants fail to see why invalidation is such a “drastic remedy” after all. City Br. 41. As for the term limits provision, no incumbent Councilmember will even conceivably have been elected to the disputed third term before next March at the earliest. *See id.* at 45 n.15. As for the remaining provisions of Measure R, the City Attorney has already “determined that only the lengthening of term limits need[ed] a Charter amendment and, thus, a vote of the people”; however, the “Council itself can adopt and implement the ethics, lobbying and campaign finance reforms” by ordinance and, thus, without such a vote. 1 J.A. 33.

For these reasons and for the reasons set forth in the opening brief, invalidation of Measure R is the proper remedy if it is determined to violate the single-subject rule.

IV. Other Issues

The City Council has advanced two other defenses of Measure R not already addressed above. As discussed below, neither defense has merit.

A. “Presumption of Validity”

The City Council first asserts that “Measure R deserves a presumption of validity for two reasons.” City Br. 11. We address these in turn.

The first proffered reason is that “this Court already has ruled in favor of Measure R” both in a published opinion in *Martinez v. Superior Court*, 142 Cal. App. 4th 1245 (2006), and in an unpublished “emergency stay” order in *Donner v. McCormack*, No. B193531. City Br. 11.³ This reason is frivolous. The published opinion addressed “whether the ballot title adopted by the Los Angeles City Council for Measure R . . . complies with election law,” *Martinez*, 142 Cal. App. 4th at 1246-47, and in particular whether such title was “false, misleading, or partial to one side,” *id.* at 1248 (citing Cal. Elec. Code § 9295; L.A. Elec. Code § 96). Obviously, these issues have nothing to do with the instant challenge to Measure R, which is based wholly on the single-

³ In referring to this Court’s stay order in “*Donner v. McCormack*,” the City presumably means to cite the “Order to Show Cause, Temporary Stay Order and Order” in *Martinez v. Superior Court*, No. B193151 (filed Sept. 8, 2006), reproduced at 2 J.A. 377-78.

subject rule. As for the unpublished stay order, it has no precedential or other binding effect, both because it is unpublished, *see* Rule of Court 8.1115(a), and because it was in any event vacated by this Court to allow the underlying writ petition to be voluntarily dismissed in the lower court, *see* 2 J.A. 383-84.

The City Council's second proffered reason for an asserted "presumption of validity" is that "the voters overwhelmingly approved Measure R at the November 7, 2006 election." City Br. 11. This reason, too, is frivolous. Approval by itself is meaningless: *every* ballot measure challenged (as here) after the election will, by definition, have been "approved" by the voters. As for "overwhelming[]" approval, that has never been a valid consideration in judicial review. *Compare id.* (noting that "[m]ore than 630,000 voters voted on Measure R and it was ratified with nearly 60% of the vote"), *with, e.g., In re Marriage Cases*, No. S147999 (Cal. S. Ct. May 15, 2008) (striking down initiative statute adopted by more than 61% of the 7.5 million voters voting).

Measure R deserves no "presumption of validity."

B. Quo Warranto

The City Council last argues that "Appellants improperly brought this case as a mandamus action under Code of Civil Procedure Section 1085 but it was required to be brought as a quo warranto action under Code of Civil Procedure Section 803." City Br. 42 (citation omitted). According to the City Council, quo warranto is the exclusive means to challenge Measure R for two independent reasons: (1) "Measure R contains ratified and perfected amend-

ments to the Los Angeles City Charter”; and (2) “Measure R affects the title of City Councilmembers to elected office.” *Id.* We address these in turn.

With respect to ratified charter amendments, the City Council relies on a line of cases holding that “a challenge based on purported irregularities in the legislative process of a charter amendment which has taken effect, must be accomplished through the command of section 803.” *Pulskamp v. Martinez*, 2 Cal. App. 4th 854, 859 (1991), *quoted in* City Br. 42. This line of cases is inapplicable for two reasons. First of all, “purported irregularities in the legislative process” concern how a proposed charter amendment made it onto the ballot.⁴ Appellant’s present challenge, by contrast, concerns the substantive validity of Measure R: Appellants argue that as a ballot measure embracing more than one subject, Measure R simply can have no effect—regardless of how it was enacted.

In addition, the City Council’s line of cases concerning charter amendments is inapplicable because “when an action in quo warranto is not avail-

⁴ *See, e.g., Pulskamp*, 2 Cal. App. 4th at 862 (alleging that charter amendment ought to have been excluded from the ballot because “the mayor mistakenly signed ordinance No. 166733, [election-authorizing] legislation he obviously intended to veto”); *International Association of Fire Fighters v. City of Oakland*, 174 Cal. App. 3d 687, 690 (1985) (alleging that “the resolution placing Proposition R on the ballot was invalid on the ground that prior to its adoption the city had not met and conferred with the designated employee representatives as required by [state law]”); *Oakland Municipal Improvement League v. City of Oakland*, 23 Cal. App. 3d 165, 167 (1972) (“alleg[ing] defects in the enactment of the charter,” including failure to publish entire proposed charter in official newspaper and failure to timely mail copies of charter to voters).

able, a private citizen may proceed to seek relief by other means,” namely, a mandamus action. *Pulskamp*, 2 Cal. App. 4th at 859; *see also id.* at 860 n.2 (“where the remedy of quo warranto has not matured a party may seek a writ of mandate”). As in *Pulskamp*, “when petitioners in the case at bar instituted their lawsuit, a quo warranto action by the Attorney General would not have been proper. The city’s right to amend its charter had yet to be perfected, for a charter amendment of a city does not take force until filed with the Secretary of State.” *Id.* at 860. The City Council’s own evidence showed that the various amendments to the Los Angeles City Charter effected by Measure R were not filed with the Secretary of State until December 13, 2006. *See* 2 J.A. 392, 453. This was two full days *after* Appellants filed their verified petition for writ of mandate, on December 11, 2006. *See* 1 J.A. 1. Therefore, again as in *Pulskamp*, Appellants’ “sole remedy was a petition for mandamus at the trial court level.” 2 Cal. App. 4th at 860. Moreover, “for purposes of this appeal, petitioners’ right to relief was fixed by the facts existing at the time they commenced their action.” *Id.*⁵

⁵ The City Council ignores *Pulskamp* in favor of the analysis set forth in *International Association of Fire Fighters v. City of Oakland*, 174 Cal. App. 3d 687, 690-91 (1985). *See* City Br. 43. But *Pulskamp*, a decision of the Second Appellate District, expressly declined to follow *International Association* in this respect. *See* 2 Cal. App. 4th at 860 n.2. Furthermore, the City insinuates that *Pulskamp* has been repudiated by subsequent cases. *See* City Br. 43 n.14. But the City’s authority for that insinuation, *Nicolopulos v. City of Lawndale*, 91 Cal. App. 4th 1221, 1226-27 (2001), does not cast doubt on anything in the text. Indeed, *Nicolopulos* recognized that in *Pulskamp*, this District “declined
(continued...) ”

The City’s second asserted reason why Appellants should have challenged Measure R by means of quo warranto is that the measure “affects the title of City Councilmembers to elected office.” City Br. 42; *cf.* CCP § 803 (“An action may be brought by the attorney-general, in the name of the people of this state, upon his own information, or upon a complaint of a private party, against any person who usurps, intrudes into, or unlawfully holds or exercises any public office, civil or military . . .”).

Appellants do not doubt the rule that “title to an elective office cannot be litigated by any other means than in quo warranto by the state.” *Visnich v. Sacramento County Board of Education*, 37 Cal. App. 3d 684, 689 (1974), *quoted in* City Br. 44. But it should be obvious that Appellants’ challenge to Measure R does not implicate anyone’s “title” to office. As the City Council recognizes, this “challenge to Measure R is a challenge to the right of incumbent City Councilmembers to run for and hold a third elected term”—*in the future*. *Id.*; *see also id.* at 45 n.15 (describing incumbents’ preparations for elections to be held in 2009). Moreover, to speak of “an elected official’s *title* to a potential third term in office,” *id.* at 44 (emphasis added), is to speak nonsense: no one has *title* to an office to which he only might be—but in fact has

⁵ (...continued)

to hold the [mandamus action] mooted by the voters’ adoption of the [charter] amendment, because the court considered the voters’ action a nullity, holding that the voters could not legally ratify a defective ballot measure.” That is precisely the holding Appellants seek here.

not been—elected. In any event, the California Supreme Court resolved the rights of incumbent state legislators to run for and hold future elected terms in a mandamus proceeding rather than a quo warranto action. *See Legislature v. Eu*, 54 Cal. 3d 492 (1991) (denying mandamus challenge to initiative that imposed term limits on state elective offices).

Appellants properly challenged Measure R by petition for writ of mandate; they were not required to challenge it in quo warranto.

CONCLUSION

The judgment of the superior court must be reversed, and the case remanded to that court with instructions to grant appellants' petition for writ of mandate to invalidate Measure R.

Dated: May 19, 2008.

Respectfully submitted,

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By _____
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CERTIFICATE OF LENGTH

I, Eric Grant, certify that the foregoing brief contains 4,412 words, as calculated pursuant to Rules of Court 8.204(c).

Eric Grant

CERTIFICATE OF SERVICE

I, Eric Grant, hereby certify as follows:

I am an active member of the State Bar of California, and I am not a party to this case. My business address is Eric Grant, Attorney at Law, 8001 Folsom Boulevard, Suite 100, Sacramento, California 95826.

On May 19, 2008, I served the foregoing document, namely:

APPELLANTS' REPLY BRIEF

by sending a true electronic copy thereof to the California Supreme Court at its electronic notification address pursuant to Rule of Court 8.212(c)(2)(A); and depositing true copies thereof in the U.S. Mail in Sacramento, California, enclosed in sealed envelopes with postage prepaid and addressed as follows:

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