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S.Ct. Case No. _____
2d Crim. No. B297659
S.Ct.No. BA424006
(Los Angeles County)
[CAPITAL CASE]

IN THE SUPREME COURT OF CALIFORNIA

CLEAMON DEMONE JOHNSON,

Petitioner
v.

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES,

Respondent;

PEOPLE OF THE STATE OF CALIFORNIA,

Real Party in Interest.

PETITION FOR REVIEW

On Petition for Writ of Mandate From Order Denying Motion to Strike the Death Penalty Based on Executive Action That Impermissibly Shifts Responsibility for Death Decision from Jury Issued by Superior Court of Los Angeles County, Hon. Curtis Rappe Presiding

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TO THE HONORABLE CHIEF JUSTICE OF THE STATE OF CALIFORNIA, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT:

Petitioner Cleamon Johnson, through his attorneys, Robert M. Sanger and Sanger Swysen & Dunkle, and pursuant to Rule 8.500(a)(1), petitions for review of the Court of Appeal's summary denial of his Petition for Writ of Mandate. (Exhibit A, order attached.) Petitioner seeks review for the purpose of settling an important question of law (Rule 8.500(b)(1)) or for the purpose of transferring the matter to the Court of Appeal for such proceedings as the Court may order. (Rule 8.500(b)(4).)

ISSUES PRESENTED FOR REVIEW

This case presents the following issue for review:

1. **Whether Executive Order N–09-19 (issued by Governor Gavin Newsom on March 13, 2019, establishing a moratorium on the death penalty, repealing the execution protocol and closing the Death Chamber) impermissibly shifts responsibility for the death decision from the jury such that it is impossible to empanel a jury to make a fair and**

reasoned penalty phase determination under the United States and California Constitutions?

INTRODUCTION

Petitioner, Cleamon Johnson, is facing five capital counts. On March 13, 2019, Governor Gavin Newsom issued Executive Order N-09-19 publicly granting a reprieve to the then 737 people on California's death row, publicly repealing the lethal injection protocol and publicly dismantling the Death Chamber at San Quentin. Governor Newsom's Executive Order marks a paradigm shift in the reality of California's death penalty.

In light of this paradigm shift, a California jury in a capital case cannot be expected to provide a fair and reasoned penalty-phase determination free from speculation. This paradigm shift requires a counterfactual assumption on the part of the jury. The shift exacerbates to the point of impossibility the risks recognized by the United States and California Supreme Courts that jurors will delegate responsibility for their decision to post-conviction procedures, be unable to assume a death sentence will result in an execution and be unable to comprehend fully the gravity of their decision. (See, e.g., *Caldwell v. Mississippi* (1985) 472 U.S.

320, 329 (*Caldwell*); *People v. Ramos* (1984) 37 Cal.3d 136, 153 (*Ramos*); *People v. Ledesma* (2006) 39 Cal.4th 641, 737 (*Ledesma*).)

Thus, under the reasoning applied to the counterfactual jury instructions in *Richardson v. Marsh* and *Bruton v. United States*, the risk that a jury will be unable to follow such counterfactual instructions is great and the consequences of this inability - a potential death sentence - is so vital to Petitioner, that continuing with a capital trial is unconstitutional. (*Richardson v. Marsh* (1987) 481 U.S. 200, 207 (*Richardson*); *Bruton v. U.S.* (1968) 391 U.S. 123, 135-136 (*Bruton*).)

Relief is required before jury selection since the trial court has currently scheduled 500 jurors to come in to court on January 7, 2020 for the purpose of death qualification and selection. If Petitioner is correct, then the process of death qualifying a jury is an unnecessary undertaking. Moreover, a death-qualified jury is more likely to convict and more likely to believe law enforcement which provides the prosecution with an unjustified advantage when there is no functioning death penalty.

Therefore, this Honorable Court should grant review to

settle an important question of law or, in the alternative, to transfer the matter to the Court of Appeal for such proceedings as this Court may order.

STATEMENT OF FACTS

Petitioner Cleamon Demone Johnson is charged with five capital counts and one count of attempted murder carrying a potential life sentence. (Writ Pet. Exhibit A.)

On March 13, 2019, Governor Gavin Newsom issued Executive Order N-09-19 in which he publicly ordered an executive moratorium, the repeal of California's lethal injection protocol and the closure of the Death Chamber at San Quentin. His Order resulted in a reprieve for all 737 people then on Death Row in California and the public dismantling of the Death Chamber. In his Order, Governor Newsom recognized that no one has been executed in California since 2006.

The Executive Order was a major step towards abolishing the death penalty in California as a matter of law and was tantamount to a *de facto* abandonment of capital punishment for all practical purposes. After issuing the Order and speaking out strongly against the death penalty, it was reported that Governor

Newsom is considering a plan to prohibit death sentences in criminal cases pending in the trial courts.

In addition, the Legislative and Judicial branches of the California government added to the public perception that there will be no death penalty carried out in California. On the same day Governor Newsom issued his Executive Order, Assembly Member Marc Levine introduced a Constitutional Amendment to the California Legislature to abolish the death penalty. Then, two weeks later, on March 28, 2019, in *People v. Potts*, Justice Liu stated:

> "And yet, as the Executive Order underscores, our decision affirming the judgment does not alter a fundamental reality: A death sentence in California has only a remote possibility of ever being carried out. As leaders of the judiciary have long observed, the death penalty presents serious challenges for the fair and efficient administration of justice. For decades, those challenges have not been meaningfully addressed. As a result, California's death penalty is an expensive and dysfunctional system that does not deliver justice or closure in a timely manner, if at all."

(*People v. Potts* (2019) 6 Cal.5th 1012, 1062-1063 (conc. opn. Liu, J.) (*Potts*).)

Due to the paradigm shift in the reality of California's death penalty marked by Governor Newsom's Executive Order, on April 12, 2019, Petitioner filed his Motion to Strike the Death

Penalty Based on Executive Action That Impermissibly Shifts Responsibility for Death Decision from Jury. (Writ Pet. Exhibit B.) In this motion, Petitioner moved for an order striking the death penalty or for such other and further relief as the Court may deem just and proper. (Writ Pet. Exhibit B.) On April 26, 2019, the District Attorney filed an opposition to Petitioner's motion. (Writ Pet. Exhibit C.) On May 1, 2019, Petitioner filed his reply to the District Attorney's opposition. (Writ Pet. Exhibit D.)

A hearing on Petitioner's motion was held in the Los Angeles County Superior Court before the Honorable Curtis Rappe. (Writ Pet. Exhibit E.) Defense counsel argued that the chances of someone in California being executed are slim, making the process of death qualifying a jury an unnecessary undertaking. Moreover, counsel argued that studies show a death-qualified jury is "more likely to convict and more likely to believe law enforcement." This provides the prosecution with an unjustified advantage when there is no functioning death penalty. (Writ Pet. Exhibit E.)

Counsel argued that given Governor Newsom's Executive

Order, the legislatures actions and Justice Liu's statements, jurors are going to be told something counterfactual. Counsel argued that jurors do not always follow the rules as there are many juror misconduct cases. However, Judge Rappe refused to accept the extent to which jurors could make mistakes in carrying out their duties:

> "I mean, as a judge, if I were doing this as a court trial, I don't find it hard to assume it's going to be carried out, because I know the winds of politics can change in a moment and the facts can change. These cases don't even get to the Supreme Court for ten or 15 years.
>
> "So I just don't accept the proposition that a juror can't get to that frame of mind where they assume for the sake of their actions that the death penalty will be carried out if they voted as opposed to knowing that realistically it may not."

(Writ Pet. Exhibit E.)

Counsel then argued that the *Richardson*/*Bruton* line of cases shows that the Courts have accepted that there are some counterfactual jury instructions that jurors simply cannot be expected to follow. Judge Rappe further dismissed the risk of mistake recognized and established in United States Supreme Court cases, stating that the Supreme Court is comprised of:

> " . . . people making that pronouncement without any trial experience . . . I have sat here 32 years watching

> these cases, and tried a lot of these death cases, and I speak from experience. They are speaking from I don't know what."

(Writ Pet. Exhibit E.)

Defense counsel responded by arguing that the Supreme Court acknowledged in the *Richardson*/*Bruton* line of cases that "you can only push [jurors] so far with counter factual instructions . . . you can only tell the jury to ignore reality up to a point." Counsel argued that in California, in light of Governor Newsom's Executive Order and the fact that there has not been an execution since 2006, this is the point at which we cannot expect a juror to sit there and make the counterfactual assumption and accept the "fiction" that a death sentence will result in an execution. (Writ Pet. Exhibit E.)

Judge Rappe then denied Petitioner's motion. (Writ Pet. Exhibit E.) A Petition for Writ of Mandate/Prohibition was filed with the Court of Appeal, Second Appellate District, on May 17, 2019. The Court of Appeal summarily denied the Petition on June 20, 2019. (Exhibit A, order attached hereto.)

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REASONS FOR GRANTING REVIEW

I.

A CAPITAL DEFENDANT HAS A RIGHT TO A FUNDAMENTALLY FAIR TRIAL WHICH REQUIRES A JURY THAT WILL NOT DELEGATE RESPONSIBILITY FOR ITS DETERMINATION AND WILL ASSUME A DEATH SENTENCE WILL RESULT IN AN EXECUTION BASED ON ITS DECISION

Courts have repeatedly recognized the importance of a jury that can make a fair and reasoned decision in a capital trial. A capital defendant is entitled to "an individualized determination on the basis of the character of the individual and circumstances of the crime." (*Zant v. Stephens* (1983) 462 U.S. 862, 879 (*Zant*), emphasis omitted.) This determination is subject to a heightened standard of reliability because of the finality of the punishment. (*Id*. at pp. 884-885; see also *Woodson v. North Carolina* (1976) 428 U.S. 280, 305 (*Woodson*).)

Under the California Constitution, the due process clauses in Article I, sections 7 and 15 guarantee "a fundamentally fair decision-making process." (*Ramos*, *supra*, 37 Cal.3d at p. 153.) This fundamental fairness requires that a penalty-phase jury not be "influenced by speculative and improper considerations." (*Id*.) Under the United States Constitution, limits have been placed on

the imposition of the death penalty because of "a concern that the sentencing process should facilitate the responsible and reliable exercise of sentencing discretion." (*Caldwell*, *supra*, 472 U.S. at p. 329.)

In *Caldwell*, the United States Supreme Court held that "it is constitutionally impermissible to rest a death sentence on a determination made by a sentencer who has been led to believe that the responsibility for determining the appropriateness of the defendant's death rests elsewhere." (*Caldwell*, *supra*, 472 U.S. at pp. 328-329.) The Court cited concerns about the jury delegating responsibility of the death decision to post-conviction processes and using death as a way to "send a message" even when unconvinced it is appropriate. (*Id*. at pp. 331-332.) The Court's overarching fear was of the "substantial unreliability as well as bias in favor of death sentences" in cases in which the jury considers post-conviction processes in determining whether to choose death. (*Id*. at p. 330.)

This Honorable Court has also considered such difficulties. For example, in *Ramos*, the Court held that an instruction during the penalty phase of a capital trial referencing the California

Governor's power to commute a sentence of life without possibility of parole or sentence to death is unconstitutional. (*Ramos*, *supra*, 37 Cal.3d at p. 155.) The Court emphasized the "speculative nature of the inquiry that instruction invites." (*Id*. at p. 156.) Ultimately, the Court found that consideration of the governor's commutation power "may tend to diminish the jury's sense of responsibility for its action." (*Id*. at p. 157.)

In *Ledesma*, this Court held that it was proper to instruct a jury during the penalty phase:

> "'Whether or not there are circumstances that might preclude either the death penalty or life without possibility of parole from being carried out, you are to assume it would be carried out for purposes of determining the appropriate sentence for this defendant. You are to assume that if you sentence [defendant] to life imprisonment without the possibility of parole he will spend the rest of his life in state prison, and you are to assume that if you sentence [defendant] to death he will be execute din the gas chamber.'"

(*Ledesma*, *supra*, 39 Cal.4th at p. 737.)

The current jury instructions that cover this issue are CALCRIM 776 and 767 which state in relevant part:

> CALCRIM 766: "[In making your decision about penalty, you must assume that the penalty you impose, death or life without the possibility of parole, will be carried out.]"
>
> CALCRIM 767 ("[I]n response to a jury question about

> commutation of sentence"): It is your responsibility to decide which penalty is appropriate for the defendant in this case. Base your decision only on the evidence you have heard in court and on the instructions that I have given you. Do not speculate or consider anything other than the evidence and my instructions.

These instructions arguably do not adequately confront the issue as it existed before the Governor's Order but certainly do not after.

Ultimately, jurors must be able to fully and meaningfully appreciate the gravity of their decision. They must be able to make their decision free from speculation and meaningfully assume that someone will be executed if sentenced to death. They cannot be led to view their decision merely as a way to "send a message." (*Caldwell*, *supra*, 472 U.S. at pp. 331-332.) Even with counterfactual instructions from the judge, it is impossible for a capital jury to accord a defendant the fundamentally fair penalty phase and heightened reliability required by the United States and California Constitutions.

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II.

THE UNITED STATES SUPREME COURT HAS RECOGNIZED THAT UNDER CERTAIN CIRCUMSTANCES IT IS UNCONSTITUTIONAL TO REQUIRE JURORS TO FOLLOW COUNTERFACTUAL INSTRUCTIONS WHEN THE RISK OF FAILURE IS GREAT AND THE CONSEQUENCES OF THE FAILURE ARE VITAL TO THE DEFENDANT

Courts have also recognized that jurors cannot always be expected to follow counterfactual jury instructions. For example, in *Richardson*, the United States Supreme Court affirmed the rule established in *Bruton*. (*Richardson, supra*, 481 U.S. at p. 207; *Bruton, supra*, 391 U.S. at pp. 135-136.) The *Richardson* Court summarized its holding in *Bruton*, stating that the introduction of a codefendant's "facially incriminating confession" against a non-testifying codefendant at a joint trial violates the Sixth Amendment "even if the jury is instructed to consider the confession only against the codefendant." (*Richardson*, *supra*, 481 U.S. at p. 207.) The Court found that the *Bruton* rule is based on the "overwhelming probability" that the jury will be unable to obey their instructions. (*Richardson*, *supra*, 481 U.S. at p. 208.)

The *Richardson* Court quotes *Bruton*'s analysis for

determining whether counterfactual jury instructions must be prohibited:

> "'[T]here are some contexts in which the risk that the jury will not, or cannot, follow these instructions is so great, and the consequences of failure so vital to the defendant, that the practical and human limitations of the jury system cannot be ignored.'"

(*Richardson*, *supra*, 481 U.S. at p. 207, quoting *Bruton*, *supra*, 391 U.S. at pp. 135-136.)

Thus, when the risk is so great that the jury cannot follow the counterfactual instructions and the consequences of failure is so vital to the defendant, courts cannot expect the counterfactual instructions to be sufficient.

III.

THE TRIAL COURT SHOULD HAVE GRANTED PETITIONER'S MOTION TO STRIKE THE DEATH PENALTY BASED ON EXECUTIVE ACTION THAT IMPERMISSIBLY SHIFTS RESPONSIBILITY FOR DEATH DECISION FROM JURY

Governor Newsom's Executive Order has marked a paradigm shift in the reality of California's death penalty. Governor Newsom publicly issued reprieves to the then 737 people on Death Row in California, publicly repealed the lethal injection protocol and publicly dismantled the Death Chamber at San Quentin. As a result of this paradigm shift, there is an

impermissible risk that a capital jury in California will not be able to follow the counterfactual jury instructions it will be given and the consequence of this failure is so vital to the defendant as to make allowing the death penalty as a potential punishment unconstitutional.

Governor Newsom's Executive Order has exacerbated the risk that jurors will not be able to follow the counterfactual instructions to assume a death sentence will be carried out and not to consider post-conviction procedures when making its decision. The United States Supreme Court and this Honorable Court have repeatedly acknowledged and attempted to guard against these risks. (See, e.g., *Caldwell*, *supra*, 427 U.S. at p. 329; *Ramos*, *supra*, 37 Cal.3d at pp. 153-157; *Ledesma*, *supra*, 39 Cal.4th at p. 737.) Thus, this risk has already been acknowledged and accepted by the Courts.

Now, however, jurors are faced with a death penalty system in which no one is eligible for execution, there is no execution protocol and there is no execution chamber. Jurors are faced with the Governor's public reprieve of all 737 people on Death Row in California, his public repeal of the lethal injection protocol and

his public dismantling of the Death Chamber at San Quentin which has not seen an execution since 2006. Governor Newsom has made it clear that he will do whatever he can to end the death penalty in California. Jurors know what Justice Liu acknowledged in *Potts*, "[a] death sentence in California has only a remote possibility of ever being carried out." (*Potts*, *supra*, 6 Cal.5th at pp. 1062-1063 [245 Cal.Rptr.3d 2, 48] (conc. opn. Liu, J.).)

Given the paradigm shift in the reality of California's death penalty marked by Governor Newsom's Executive Order, it is unreasonable to expect a jury to make the counterfactual assumption that a death sentence will be carried out and take on the counterfactual task of coming to a penalty-phase decision without considering post-conviction processes like the Governor's Executive Order. Without the ability to safeguard the right to a jury that is able to actually believe that any death verdict means death will be carried out violates *Caldwell*, *Ramos* and *Ledesma*. Neither Petitioner nor anyone else facing a jury that is to vote at the penalty phase can receive a fair and reasoned penalty-phase determination free from speculation as to whether death will

occur or whether some other actor in the system will make that determination.

Moreover, the consequence of the inability of a California jury to follow penalty-phase instructions is "'vital'" to Petitioner. (*Richardson*, *supra*, 482 U.S. at p. 207, quoting *Bruton*, *supra*, 391 U.S. at pp. 135-136.) The jury in a penalty phase would have to decide whether to kill Petitioner. Courts have repeatedly recognized that the finality of death makes it different from other punishments, requiring capital proceedings to be subject to the heightened standard of reliability. (See, e.g., *Zant*, *supra*, 462 U.S. at p. 879; *Woodson*, *supra*, 428 U.S. at p. 305.) Nothing is more vital to Petitioner than his life.

Here, "'the practical and human limitations of the jury system cannot be ignored.'" (*Richardson*, *supra*, 482 U.S. at p. 207, quoting *Bruton*, *supra*, 391 U.S. at pp. 135-136.) The risk of a capital jury in California being unable to follow the counterfactual instructions to assume a death sentence will be imposed and to come to a determination without considering post-conviction procedures is too great. The consequences of the jury's inability to follow this instruction is too vital to Petitioner. The

death penalty is a relic of the past and jurors know this. Therefore, in light of the paradigm shift in the reality of California's death penalty marked by Governor Newsom's Executive Order, California jurors cannot be put in a position where they can reasonably be expected to provide a fair and reasoned penalty-phase determination free from speculation.

IV.

THIS ISSUE NEEDS TO BE DECIDED NOW, BEFORE THE TRIAL COURT BELOW SPENDS TIME AND MONEY DEATH QUALIFYING JURORS FOR A TASK THEY CANNOT DO AND THEREBY ALSO IMPAIRS EQUAL PROTECTION AND DUE PROCESS IN THE CAPITAL CASE TRIAL.

This important issue of law should be decided now. Otherwise, this case will proceed to trial with the time-consuming and expensive task of death qualifying the jury. This not only wastes government resources and those of all of the participants, but it consumes a tremendous amount of time for prospective jurors. Death-qualification has the documented effect of limiting the jury pool to a group that is disproportionately composed of white males and excluding women and African Americans. Death-qualification also has the documented effect of limiting the

jury pool to a group that is more likely to convict and more likely to be prejudiced against other groups. Since death-qualification is no longer necessary, it results in a denial of equal protection and due process under the Fifth, Eighth and Fourteenth amendments to the United States Constitution and Article 1, sections 3, 7 and 15 of the California Constitutions.

First, in this case, the trial judge has ordered 500 jurors to be summoned on January 7, 2020. These jurors will have been pre-qualified for hardship for an admittedly long trial. However, the large number of hardship pre-qualified jurors is required due to further death-qualification pursuant to *Morgan v. Illinois* (1992) 504 U.S. 719, *Wainwright v. Witt* (1985) 469 U.S. 412 (*Witt*) and *Witherspoon v. Illinois* (1968) 391 U.S. 510. The jurors will be questioned to determine their attitudes toward the death penalty to, in turn, determine if those attitudes "would prevent or substantially impair them from following the law." (*Witt*, *supra*, 469 U.S. at p. 443.) This questioning substantially expands the time it takes to select a jury, the number of jurors required to go through the process, the expense and time of court administration

and the expense of the judge, staff, lawyers and others involved in the process.

Second, death-qualification has been tolerated even though it might have an effect on the cross-section of the jury or its objectivity in making decisions regarding guilt or innocence – that is, if it is necessary to have a jury capable of voting for death, it may be necessary to sacrifice a little equal protection and due process. Justice Rehnquist, in *Lockhart v. McCree* (1986) 476 U.S. 162, 173, wrote for the majority in saying:

> "Having identified some of the more serious problems with McCree's studies, however, we will assume for purposes of this opinion that the studies are both methodologically valid and adequate to establish that 'death qualification' in fact produces juries somewhat more 'conviction-prone' than 'non-death-qualified' juries. We hold, nonetheless, that the Constitution does not prohibit the States from 'death qualifying' juries in capital cases."

However, it is a maxim of jurisprudence that: "When the reason of a rule ceases, so should the rule itself." (Cal. Civ. Code, § 3510.) If there can be no death verdict based on the current status of the death penalty in California, then death qualifying the jury should cease.

More importantly, the most recent research, meticulously conducted with jury-eligible adults in California, confirms long-standing studies that show death qualified juries are more likely to be populated by white men due to the disproportionate exclusion of women and African Americans. (Mona Lynch, Craig Haney, *Death qualification in Black and White: Radicalized Decision Making and Death-Qualified Juries*, 40 Law & Policy 148-171 (April 2018) (*Lynch*).) The literature leading to this latest study was summarized: " . . . a robust body of research has found that death-qualified jurors, as a group, tend to be more conviction prone [citations omitted] . . . compared to jury-eligible citizens in general." Such jurors also, "hold attitudes that are less supportive of due process ideals [citations omitted] and to hold more 'out group' biases, including having negative attitudes toward women, racial minorities, gays, the elderly, and the physically disabled [citations omitted]." (*Lynch*, *supra*, 40 Law and Policy at p. 149; and see the studies cited therein.)

In other words, death-qualification, if it is not necessary, violates equal protection in that it eliminates a disproportionate

number of women and African Americans. It also violates due process in that it skews a jury in the guilt and innocence phase in favor of conviction, and against due process itself, as well as women, racial minorities, gays, the elderly, and the physically disabled. The only reason for a rule allowing death-qualification ceases to exist when death is not systemically possible – so the rule itself not only should, but must, cease. In addition, the exorbitant cost to the courts, lawyers, staff and potential jurors of carrying out the meaningless ritual of death-qualification is an unnecessary burden that can and should be avoided in this case and all others pending trial under the current state of affairs in California.

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CONCLUSION

For the reasons stated above, Petitioner respectfully requests that this Court grant review for the purpose of settling this important question of law or, in the alternative, transferring the matter to the Court of Appeal for such proceedings as this Court may order and for such other and further relief as this Court may deem just and proper.

DATED: July 1, 2019

Respectfully submitted,

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By: /s/ Robert M. Sanger
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CERTIFICATE OF WORD COUNT

California Rules of Court, Rule 14 (c)(1)

I have run the "word count" function in WordPerfect Office X6 and hereby certify that this brief contains 4153 words, including footnotes.

Dated: July 1, 2019

/s/ Robert M. Sanger
Robert M. Sanger

EXHIBIT A

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

CLEAMON DEMONE JOHNSON,

Petitioner, v.

THE SUPERIOR COURT OF LOS ANGELES COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

B297659

(Super. Ct. No. BA424006)

(Curtis B. Rappe, Judge)

ORDER

THE COURT:

We have read and considered the petition for writ of mandate filed on May 17, 2019. The petition for writ of mandate is denied for failure to demonstrate entitlement to extraordinary relief.

EDMON, P. J. EGERTON, J. DHANIDINA, J.

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 125 E. De La Guerra Street, Suite 102, Santa Barbara, California, 93101.

On July 1, 2019 I served the foregoing document entitled: **PETITION FOR REVIEW** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

_X_ **BY U.S. MAIL -** I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit

__X__ **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

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

____ **FEDERAL -** I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed July 1, 2019 at Santa Barbara, California.

/s/ Jake Swanson
Jake Swanson

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