IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA
Ex rel. David C. Henderson as the District Attorney for the County of Yolo

Plaintiff-Respondent

v.

BRODERICK BOYS

Defendant

C051707

KEITH EDWARDS et al.,

Movants-Appellants

Yolo County Superior Court No. CV04-2085
The Honorable Thomas E. Warriner, Judge

RESPONDENT'S BRIEF

David C. Henderson (Bar No. 68181)
Yolo County District Attorney
301 Second Street
Woodland, CA 95695
(530)666-8180

Attorney for Respondents

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THIRD APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA Ex rel. David C. Henderson as the District Attorney for the County of Yolo Plaintiff-Respondent v. **BRODERICK BOYS** aka **BRK** aka **BSK** aka **NORTENO** aka **NORTE** aka **XIV**, an Unincorporated Association, Defendant	C051707

KEITH EDWARDS, BENJAMIN JUAREZ, JASON SWEARINGEN and ANGELO VALAZQUEZ,
Movants-Appellants

STATEMENT OF THE CASE

On December 30, 2004, respondent, the People of the State of California, acting by and through District Attorney David C. Henderson, filed a complaint requesting that the Yolo County Superior Court provide injunctive relief to abate a public nuisance caused by the conduct and activities of the Norteno criminal street gang known as the Broderick Boys. (CT 1-212) On the previous day (December 29, 2004), respondent had notified the defendant of respondent's proposed gang injunction lawsuit and its intent to seek *ex parte* relief, including seeking an order allowing respondent to serve the defendant gang by

serving one or more designated members of the gang. Respondent notified defendant by providing notice to Broderick Boys gang member Wolfington in the parking lot of the West Sacramento Police Station which is located within the Safety Zone. Supplemental Declaration of Detective Villanueva (CT 564-565). Shortly afterwards, Wolfington was observed going to and talking with another Broderick Boys gang member, while a third Broderick Boy gang member was standing nearby. *Id.* The logical assumption, given the well-known power of a gang injunction to drastically curtail gang activity, is that news of a pending gang injunction against the Broderick Boys would be a hot topic of conversation between members of that gang, and that Wolfington would have immediately spread the word to his fellow gang members. Wolfington's actions led respondent to believe that Wolfington, as a member of the defendant gang, provided the defendant with actual notice of the pending gang injunction lawsuit and of respondent's proposed *ex parte* hearing for an order re service on the gang.

On January 3, 2005, at respondent's request, this Court entered an order allowing service on the defendant street gang by service on one or more designated members of that gang. Later that same day, acting in accordance with this Court's order and the Code of Civil Procedure, respondent served the complaint, summons, and other legal documents on the defendant entity by service on one or more designated members of the defendant entity. Respondent chose to serve Wolfington, who was one of the members designated in the Court's Order re Service, and who respondent had observed communicating with the

gang immediately after being provided notice of the gang injunction lawsuit. (CT 218-219)

On February 3, 2005, at respondent's request, this Court entered defendant's default after the time to respond had passed, and then entered judgment by default against the defendant entity. (CT 231-232)

On July 28, 2005, almost six months after judgment was entered on February 3, 2005, four specially-appearing non-party movants filed a motion under *Code of Civil Procedure Section 473(d)* to set aside the default judgment and default entered against the defendant Broderick Boys criminal street gang. (CT 239-260) Not one of the four non-party movants made any claim to have authority to act on the defendant entity's behalf. Significantly, even though this case is against the Broderick Boys gang and its "members," none of the four non-party movants admitted or denied being a Broderick Boys gang member in the papers filed with their motion. *Id.*

On September 26, 2005, the Yolo County Superior Court issued a tentative opinion stating an inclination to deny the motion to set aside the default judgment and default because the "...'movants' are neither parties nor purport to be authorized representative of the sole defendant Broderick Boys ..." (CT 784) However, the judge invited the appellants to provide any justification for the position that they were either members of the defendant association or that they were authorized to represent the defendant association. (CT 785)

In response to the Court's invitation , the appellants reiterated their position that they neither represented the defendant nor were they authorized to act on behalf of the defendant. (CT 798) The appellants expressly refused to follow the court's suggestion that they pursue a ruling that was consistent with their claim, i.e., that the injunction does not apply to them. (CT 803-804)

On November 22, 2005, the Superior Court denied the appellants' motion, finding that they were "...not parties to the action and do not purport to be authorized representatives of the sole defendant Broderick Boys ...". (CT 874) The Court did not expressly rule on the other contentions raised by appellant. On January 11, 2006, appellants filed their notice of appeal.

SUMMARY OF APPELLANTS' CONTENTIONS

Appellants contend that the trial court erred in ruling that they had no standing to raise due process issues on behalf of the Broderick Boys citing *People v. Gonzalez,* (1996) 12 Cal. 4th 804; *In re Berry,* (1968) 68 Cal. 2d 137; *Peralta v. Heights Medical Center* (1988) 485 U.S. 80,87; and *Armstrong v. Manzo*, (1965) 380 U.S. 545. (AOB Page 15)

Appellants also contend that they were denied due process of law because they were denied notice of and an opportunity to contest the pending injunction. (AOB Page 14)

Finally, the appellants argue that respondent is estopped from claiming that they lack standing because respondent served the appellants with the injunction. (AOB Pages

25-26)

ARGUMENT

The Trial Court Correctly Ruled That Appellants Lack Standing

The appellants moved to set aside the default under *Code of Civil Procedure 473(d)*. That section provides that an "injured *party*" (*id.* emphasis added) may make a motion to set aside a default. It does not provide that any *person* may move to set aside a default against a party. Only *parties* have standing, and the appellants are not parties to this action. *See CCP § 308* (defendant or respondent are the parties to an action). In addition, none of the four appellants-movants claims to be a member of or have authority to act on behalf of the defendant entity, the Broderick Boys criminal street gang.

The trial court gave appellants every opportunity to suggest some legal basis for their contention that they had standing. In the "Issues to Be Addressed in Supplemental Briefing" directed to the appellants, the court asked if the movants asserted standing because they were members of the Broderick Boys or were representatives authorized to act on behalf of the Broderick Boys. (CT 785) The appellants denied that their claim of standing was based on such status. (CT 798)

The court also asked why the appellants considered themselves restricted by the injunction when the injunction applied only to members of the defendant Broderick Boys. (CT 786) The appellants responded that were "subject to the injunction" from the date they were served with it and would continue to be so until they could secure a court order that

they were not bound by it. (CT 798) However, the appellants have refused to pursue an order of declaratory relief, i.e., an order that they are not bound by the order.

Appellants have cited a number of cases that they contend support their argument that they have standing. On the contrary, each of the cases cited by appellants have distinctive facts that are not present in this case. These distinctive facts were the bases for finding standing in the cited cases and the absence of similar facts in this case supports the trial court's ruling that appellants lack standing. The distinctions are as follows:

1. At AOB Page 15, appellants argue that *People v. Gonzalez*, (1996) 12 Cal. 4th 804, is authority for their claim that they have standing to challenge the default. To the contrary, in the *Gonzalez* case, the moving party was a named defendant in a criminal case. The defendant in *Gonzalez* had been arrested and charged with a criminal contempt for violating a gang injunction. The issue was whether or not the trial court had jurisdiction to rule on the validity of the injunction in the context of the criminal case pending before it. The *Gonzalez* court ruled that a criminal defendant can challenge the constitutionality of an injunction as a recognized defense in a contempt action. The rationale was since a defendant cannot be held in contempt of a void injunctive order he must be able to challenge the legality of the order in his criminal trial. *Gonzalez, supra*, at 821.

In this case, none of the appellants are criminal defendants who are challenging the validity of the order as legal defenses to a criminal action.

2. Appellants also cite *In re Berry* (1968) 68 Cal. 137 as supporting their

argument that the trial court erred in ruling that they lack standing to attack the default judgment. (AOB 15) *Berry* also involved a criminal defendant who had been arrested and charged with a criminal contempt. In that case, the California Supreme Court court found that the defendant was sufficiently restrained by being subject to bail to allow a collateral attack through habeas corpus on the underlying injunction. *Berry, supra*, at 146. Again, *Berry* involved a criminal defendant who had been arrested but released on bail and articulated the rule that a criminal defendant must be able to challenge the facial validity of a injunction that is the basis for a criminal complaint against him.

3. The appellants also suggest that their position is supported by "constitutional doctrine", citing *Peralta v. Heights Medical Center* (1988) 485 U.S. 80,87 and *Armstrong v. Manzo* (1965) 380 U.S. 545. (AOB 15) These cases not only do not support the appellants' position on standing; they are yet further examples of how the appellants are wrong. In both cases, the Supreme Court found that before a judgment could be entered that impacted a recognizable legal right the holder of that legal right must be notified. (These cases involved a parental interest and a subrogation of a debt, respectively.) In this case, the appellants have insisted that the judgment cannot apply to them yet they insist that they have a right to defend against that judgment.

Throughout the litigation of the motion to set aside the default, the appellants have listed cases in which there is an obvious legal interest at issue as supporting their position that they don't have to have a legal interest in this action to be allowed to dispute it.

Appellants have not provided any authority for their position that a movant with no legal interest in a case may have the judgment set aside.

In the appellants' original notice of motion to set aside the default, (RT 240, lines 4-6), they asserted that their "...motion is made on the grounds that both the default and judgment granting the permanent injunction are void because the Court lacked personal jurisdiction over Movants in that Movants were never provided with notice and an opportunity to be heard." Their motion, brought under *Section 473(d) of the Code of Civil Procedure*, argued that the failure to serve the appellants rendered the permanent gang injunction against the Broderick Boys criminal street gang "void."

The appellants presented a paradox to the trial court when they argued that they are not associated with nor do they represent the defendant association yet no injunction may be issued against the defendant Broderick Boys without notice to the appellants. The trial court was correct when it ruled that such a position is untenable. The appellants may not posit that they have no legal nexus to the Broderick Boys yet they should be allowed to effectively block an otherwise legal order against that gang. Based on the allegations of appellants' motion to set aside the default, the trial court correctly ruled that they have no standing.

The Appellants Have Not Been Denied Due Process of Law

As discussed above, the appellants must have a legally cognizable interest to be entitled to notice and an opportunity to be heard. By disassociating themselves from the

defendant gang, appellants have denied any legal interest in the outcome of the Petition for an Injunction. However, the trial court ruled that appellants had no standing; it did not reach the issue of whether the appellants had been denied due process of law. If this court should rule that appellants have standing, the matter should be remanded to the trial court for ruling on the remaining issues including the alleged denial of due process.

It is proper to name the gang itself as the defendant in a civil gang injunction action. *People ex rel. Gallo v. Acuna* (1997) 14 Cal. 4th 1090, 1124 ("the City *could* have named the gangs themselves as defendants and proceeded against them"; *dicta*; emphasis in original), *cert. denied*, 521 U.S. 1121. California's Supreme Court recognized that the gang itself could have been named as the civil defendant because "it was the gang itself, acting through its membership, that was responsible for creating and maintaining the public nuisance." *Id.*

It is proper, when no other method of service is possible such as service on an officer or general manager or sub service at a physical location, to serve an unincorporated association by serving one or more designated members of the group and then mailing the process to the group. *CCP 416.40(c)*. It is also proper to excuse compliance with an aspect of service when the actions or inactions of the defendant have contributed to respondent's inability to fully comply with service requirements. See *Gibble v. Car-Lene Research, Inc.* (1998) 67 Cal. App. 4th 295, 311 (corporate defendant failed to designate an agent.) In this case, the gang failed to establish a mailing address.

It is proper "to make the injunction run also to classes of persons through whom the enjoined person may act, such as agents, servants, employees, aiders [and] abettors....' (*Berger v. Superior Court* (1917) 175 Cal. 719, 721." *Acuna*, at 1124. In this case, the class is the gang's "members."

It is proper to bind classes of persons through whom the enjoined entity might act, even though they, as individuals, were not named defendants, and "they received no notice and were afforded no opportunity to defend that action." *Ross v. Superior Court* (1977) 19 Cal. 3d 899, 905.

It is proper to enjoin a person who is a member of a street gang, even in the absence of individualized evidence that a particular member committed nuisance or criminal activity where the evidence shows the gang was responsible for the nuisance. *People v. Acuna*, 14 Cal. 4th at 1122-25 (distinguishing between money judgments and injunctive relief), discussed in 6 B.E. Witkin, Cal. Procedure, *Provisional Remedies* § 391, at 62 (4th ed. Supp. 2005).

If the appellants' reasoning in this case were to be adopted, its logical effect would be that no gang member could be subject to an injunction against the gang unless that member was given notice and an opportunity to be heard prior to the issuance of the injunction. That conclusion would be contrary to the case law which is discussed above.

The appellants have made the claim in their declarations and throughout their briefs in support of the motion that if they had known of the pending action, they would have

done something, and the results in this action would have been different. (*E.g.*, RT 247 lines 12-13: "Had Movants had notice of these proceedings, there could have been an adversarial hearing, and the outcome would likely have been much different"). The appellants have never offered any evidence or legal argument to support this claim. Further they basically ignore the controlling law that permits injunctive action against an association without service to all of the members. Each employee of an enjoined corporation, each member of a labor union, or each member of a criminal street gang does not get a second bite of the apple. Judgment was properly entered against the street gang. It, the gang, has not sought to set aside the default judgment and default. The appellants, who have avoided addressing the fundamental question of whether they admit or deny being members of the defendant entity, have failed to identify any standard of due process that would apply to them in this case.

Respondent Is Not Estopped from Arguing that Appellants Have No Legal Standing

Appellants argue that because the respondent caused them to be served with the injunction, respondent is estopped from arguing that appellants have no standing to challenge the injunction.

Appellants cite *Mason v. U.S. Fidelity and Guaranty Co.,* (1943) 60 Cal. App. 2d 137 (*sic)* as controlling. [The correct citation is 60 Cal. App. 2d **587]** *Mason* has no rational bearing on this case. *Mason* ruled that a bonding company that had agreed to pay for damages resulting from a restraining order if it were improperly issued could not

escape liability by claiming that the restraining order was improperly issued and therefore void.

Here, the respondent is contending that the injunction was properly issued. By denying that they are Broderick Boys, however, the appellants have argued that there is no legal or factual basis for the respondent to have served appellants with the injunctive order. To gain the relief that they have requested, the appellants must show that they have legal standing but they insist on alleging facts that will not support legal standing. The respondent has merely argued that, based on the appellants' contentions, there is no legal standing.

As noted in the trial court, it is the respondent's position that each of the appellants is a member of the Broderick Boys. However, the motion to set aside the default must succeed or fail on its own merits. The moving parties asked the trial court to accept as a premise that they have no legal connection with the defendant. With that premise, they cannot prevail in their motion.

In essence, the appellants are arguing that the respondent may not present the legal effect of adopting the factual contentions which are the foundation of the motion to set aside. This argument is without merit.

An Injunction Against An Association Runs Against Its "Nonparty Members"

Our Supreme Court's pronouncement that a street gang as an entity could be sued with the gang injunction binding the members of the gang, is consistent with the general

"black letter" law in California that "nonparties" who are connected with or related to an enjoined entity defendant are also enjoined. *E.g., Ross v. Superior Court* (1977) 19 Cal. 3d 899, 905-906 (non-party agent of enjoined defendant bound by injunction; rejecting due process arguments even though the nonparty was not a civil defendant, was not served in the civil case, had no notice of the civil case, and no opportunity to defend the civil case); *Berger v. Superior Court* (1917) 175 Cal. 719, 721[1]. California injunction practice provides that an injunction against an intangible entity, such as a labor union, protest group, street gang, or any other association or group, properly extends to unnamed non-party "members" of the enjoined entity, as well as certain other classes of unnamed persons, because an enjoined group can act only through its members or through others. In *Acuna*, the California Supreme Court noted that:

> [The liability of gang members] is indistinguishable from time-honored equitable practice applicable to labor unions, abortion protesters or other identifiable groups. Because such groups can act only through the medium of their membership, '... it has been a common practice to make the injunction run also to classes of persons through whom the enjoined person may act, such as agents, servants, employees, aiders [and] abettors....' (*Berger v. Superior Court* (1917) 175 Cal. 719, 721). *Acuna, supra*, 14 Cal. 4th at 1124 (brackets and ellipses in original; additional cites omitted; the gang itself was not named as a defendant in the gang injunction in

Acuna, only individual members).

This "time-honored equitable practice" of enjoining nonparties who are connected with or related to an enjoined entity defendant is "black letter" law in California injunction practice, and its rationale is explained more fully in the oft-cited *Berger* opinion:

> [I]t has been a common practice to make the injunction run also to classes of persons through whom the enjoined party may act, such as agents, servants, employees, aiders, abetters, etc., though not parties to the action, and this practice has always been upheld by the courts, and any of such parties violating its terms with notice thereof are held guilty of contempt for disobedience of the judgment. But the whole effect of this is simply to make the injunction effectual against all through whom the enjoined party may act ....*Berger v. Superior Court* (1917) 175 Cal. 719, 721 (italics deleted; non-party alleged contemners Berger not in contempt because he was determined not to be a member of the enjoined labor union).

California's "time-honored equitable practice" of having an injunction against a named association or group run against unnamed non-party "members" of the enjoined group is especially common, necessary and useful when the injunction runs against less formal groups, or groups where the membership is large and fluid. For example, this practice was used when enjoining a protest group in the "Pro-Choice/Pro-Life" controversy. *People v. Conrad* (1997) 55 Cal. App. 4th 896, 899 (by its explicit terms, the

injunction against a protest group outside an abortion clinic also ran against non-party "members" of that group; non-party alleged contemners Conrad and the other defendants in the contempt action were not in contempt because they were determined not to be "members" of the enjoined entity). As another example, this practice was used when enjoining a criminal street gang in a nuisance abatement action. *People v. Englebrecht* (2001) 88 Cal. App. 4th 1236, 1243 n.2 (by its explicit terms, the permanent gang injunction entered by the trial court after trial of the civil case ran against certain named individual defendants, the named entity defendant "Posole gang" from Oceanside California, and "its members, agents, servants, and employees, and all persons acting under, in concert with, or from [sic] any of them"; emphasis added; nonparty liability not at issue in *Englebrecht* because David Englebrecht was named as an individual defendant in the civil case). As documented in the attached declarations of Anderson, McDougal, Reeves, and Wold, the practice of suing a gang as the only civil defendant is now common practice throughout California.

In an opinion which specifically concerned the liability of non-party members of an enjoined unincorporated association, the appellate court upheld the standard injunction practice that non-party members of an unincorporated association are bound by an injunction against the unincorporated association and its "members." *People v. Saffell* (1946) 74 Cal. App. 2d Supp. 967, 978. In *Saffell*, the defendants were charged with criminal contempt of court, a violation of Penal Code section 166, for violating a civil

injunction order against a union. By its explicit terms, the injunction ran against unnamed non-party "members" of the enjoined union. *Id.*, at 979. The defendants were alleged to be members of the enjoined union, which was an unincorporated association. The defendants were not named in the civil action. The trial court sustained the defendants' demurrer and ruled that only parties to a civil action out of which a court order emanated could be in contempt of that order. *Id.*, at 978. In reversing the trial court's sustaining of the defendants' demurrer, the appellate court held that "[o]ne who is not a party to an action and who has never been formally served with a restraining order made therein may, nevertheless, be guilty of contempt of court in violating such order." *Saffell, supra*, 74 Cal. App. 2d Supp. at 978.

No court has directly addressed the issue of whether non-party members of a criminal street gang can be bound by an injunction issued against the gang and its members. However, court decisions involving gang injunctions and non-party members' liability all support the conclusion that the injunction practice concerning non-party members' liability is as applicable to gang injunctions as it is to any other type of civil injunction. The California Supreme Court in *Acuna* endorsed the "time-honored equitable practice" of making injunctions run against non-party members of the enjoined entity. *Acuna, supra,* at 1124 (quoted more fully above, *supra*, page 11, lines xx-xx).

In *People v. Gonzalez* (1996) 12 Cal. 4th 804, Blythe Street gang member Jessie Gonzalez had been convicted for his violations of a gang injunction obtained by the Los Angeles

City Attorney's Office against the Blythe Street criminal street gang. "Defendant was not a party to this action [referring to the civil action], although, as a member of the gang, he was served with a copy of the injunctive order." *Id.*, at 809. The California Supreme Court remanded the case to the trial court, but the Supreme Court did not address nor find any infirmity with the concept of an "unnamed" or non-party gang member being prosecuted for violating a civil gang injunction. It can be argued that the California Supreme Court in *Gonzalez* implicitly found no error nor constitutional infirmity in the enforcement of a gang injunction against an unnamed member, because such a finding would have mooted the need for a remand.

This "Time Honored Equitable Practice" Does Not Raise Any Due Process Concerns

The practice of making an injunction run against non-party members of an enjoined entity raises no "due process" concerns. *E.g., Ross v. Superior Court* (1977) 19 Cal. 3d 899, 905-906 (non-party agent of enjoined defendant bound by injunction; rejecting due process arguments even though the non-party was not a civil defendant, was not served in the civil case, had no notice of the civil case, and no opportunity to defend the civil case). Similarly, the practice of making an injunction run against persons who are not parties to the civil litigation is not "unconstitutionally overbroad." *Greenly v. Cooper*, (1978) 77 Cal. App. 3d 382, 395. As noted by the California Supreme Court, "this practice has always been upheld by the courts" and "this practice is thoroughly settled and approved by the courts." *Berger, supra,* at 721. As noted, there could be no contempt against

nonparties if an injunction that ran against non-party members or agents of a group were void.

The Practice Is Supported By An Analysis Of Practical Realities And Good Policy

As discussed above, California law upholds the practice of holding unnamed "members" of the named entity defendant liable under an injunction against the entity. In addition to the many legal opinions which support this practice, it is also supported by an analysis of the practical realities of the situation and also as a matter of good policy. A respondent seeking to restrain violence or other wrongful conduct by an unincorporated association or other group should not and is not required to explicitly name each and every possible past, present and future member of that association or group who might violate the injunction. "'Unless this be so [referring to injunction practice], it would be necessary in order effectually to bind a corporation by an injunction, to make every person a party to a suit who could by any possibility be its agent in doing the prohibited act.'" *Morton v. Superior Court* (1884) 65 Cal. 496, 497 (cite omitted). A requirement that only previously named members could be subject to an injunction would make it impracticable or impossible to seek relief against a labor union, a protest group or a criminal street gang.

Courts acknowledge this practical problem when they issue injunctions against non-party "members" of a protest group, *Conrad, supra,* and against non-party "members" of a labor union, *Berger, supra; Saffell, supra.* Those courts do not require the respondent to name each member of the union who might show up on the picket line, or to name each

member of the protest group who might show up outside the abortion clinic. A criminal street gang enjoys none of the First Amendment protections or deference accorded to groups organized to protest or picket, or to conduct other protected activity. *People v. Acuna, supra,* 14 Cal. 4th at 1110-12 (no First Amendment right for gang members to associate together). Therefore, gang members should be treated no differently, and certainly treated no better, in this situation than members of other groups. Unnamed non-party "members" of a street gang are properly included in the terms of an injunction when an injunction is granted against a criminal street gang, and such a judgment is not void for running against them.

The concept that an injunction against a group also runs against its unnamed members is so logical that unnamed members would be enjoined even if the word "member" were not explicitly included in the injunction as a class of defendants. *See, e.g., Katenkamp v. Superior Court* (1940) 16 Cal. 2d 696,700 (non-party individual is bound by an injunction against an entity even when his class or general category is not explicitly named, when he is a person through whom the enjoined entity might act); *Kirby v. San Francisco Savings and Loan Society* (1928) 95 Cal. App. 757,at 760-761 (non-party entity is bound by an injunction against others even when its class or general category is not explicitly named, when it is a non-party through whom the enjoined party might act). In this case, the "implicit" argument need not be considered because "members" of the enjoined gang are explicitly included within this injunction's reach.

CONCLUSION

As a premise to their Motion to Set Aside the Default Judgment, appellants have insisted that they are not a party to the action nor do they represent a party to the action. They have refused the trial court's suggestion that they pursue declaratory relief to establish that the injunctive order does not apply to them. By choosing a contrived process based on an assertion that appears to be untrue, (that they are not Broderick Boys), the appellants gave the trial court no option but to rule that they lack standing to attack the order.

DATED: May 25, 2006

Respectfully Submitted,
DAVID C. HENDERSON,
District Attorney

Original Signed by:

Attorney for Respondent, People of the State of California

CERTIFICATE OF COMPLIANCE

I certify that the attached RESPONDENT'S BRIEF uses a 13 point Times New Roman font and contains 4993 words.

Dated: May 25, 2006

Respectfully submitted,

Original Signed By:

DAVID C. HENDERSON
District Attorney

SUPERIOR COURT NO. C051707

PROOF OF SERVICE

I, VICKI GUERRERO, declare that I am a resident of the County of Yolo; I am over the age of eighteen years and not a party to the within entitled action; my business address is 301 Second Street, Woodland, California 95695.

On May 25, 2006, I served a copy of the attached

RESPONDENT'S BRIEF

on each of the following by placing a true copy thereof enclosed in a sealed envelope and deposited in our mail basket for delivery, addressed as follows:

ALAN L. SCHLOSSER
AMERICAN CIVIL LIBERTIES UNION
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ANN BRICK
39 DRUMM STREET
SAN FRANCISCO, CA 94111

YOLO COUNTY SUPERIOR COURT
725 Court Street
Woodland, CA 95695

SUPREME COURT OF CALIFORNIA
350 McAllister Street
San Francisco, CA 94102-4783
(4 copies)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 25, 2006, at Woodland, California

VICKI GUERRERO