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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JOHN RANDO and MARIANO A. RODAS, Plaintiffs and Petitioners, **v.** **KAMALA HARRIS, individually and in her official capacity as Attorney General,** Defendant and Respondent.	Case No. BS145904 **RESPONDENT'S OPPOSITION TO PETITION FOR WRIT OF MANDATE AND ORDER TO SHOW CAUSE WHY PEREMPTORY WRIT SHOULD NOT ISSUE** Date: January 7, 2013 Time: 1:30 p.m. Dept: 85 Judge: Hon. James C. Chalfant

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INTRODUCTION

Mandamus may not issue to order the Attorney General to exercise her discretion to file suit in this matter. Petitioners misunderstand the quo warranto process and the discretion given the Attorney General to decide whether to prosecute a case or not. Petitioners fail to show that a petition for writ of mandate is appropriate in these circumstances.

Moreover, even assuming a petition for writ of mandate is available, petitioners have failed to show that the Attorney General's decision to deny the quo warranto application was the result of an "extreme and clearly indefensible" abuse of discretion. Even if this Court does review the Attorney General's decision to deny "leave to sue" in this case, it is clear that very broad discretion is given the Attorney General in determining whether to grant or deny a quo warranto application.

Here, the Attorney General carefully considered the quo warranto application, including the briefs submitted by both parties, and then issued a reasoned and logical opinion concluding that it was not in the public interest to grant leave to sue. Petitioners disagree with this conclusion, but they have pointed to no abuse of discretion on the part of the Attorney General. At most, Petitioners have alleged a "debatable" issue with respect to the interpretation of a provision in a city charter, but this is not enough to meet the very high burden of an "extreme and clearly indefensible" abuse of discretion. Indeed, this case does not even come close to meeting this standard. The petition for writ of mandate should be dismissed in its entirety.

STATEMENT OF FACTS

I. HISTORY OF QUO WARRANTO

Quo warranto ("by what authority") is a legal action brought to resolve disputes concerning the right to hold public office or exercise a franchise. Quo warranto originated as a writ filed by early English monarchs to challenge claims of royal subjects to an office or franchise supposedly granted by the crown. Current California law provides that the action may be brought by the Attorney General or by a private party acting with the consent and direction of the Attorney General.

The nomenclature "action in the nature of 'quo warranto'" is still used even though that phrase no longer appears in the statutory or constitutional framework. (*Int'l Assoc. of Fire Fighters v. City of Oakland* (1985) 174 Cal.App.3d 687 n.10.) The 1872 code abolished the writ and substituted a statutory action, identical in purpose and effect. (*Ibid.*) Then the Constitution of 1879 included quo warranto in the recital of writs which the *superior court* had jurisdiction over. (*Ibid.*) Subsequently, the constitutional revision of 1966 eliminated the reference to quo warranto and made the statute the foundation of the proceeding. (*Ibid.*)

II. MODERN USE OF QUO WARRANTO AND APPLICATION FOR QUO WARRANTO

Code of Civil Procedure section 803 provides in pertinent part:

> 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, . . . within this state.

(Code Civ. Proc., §§ 803-811 ["Actions for the Usurpation of an Office or a Franchise"].)

Application to the Attorney General for leave to sue in quo warranto may be made by private person or local agency pursuant to the rules and regulations issued by the Attorney General. (Cal .Code Regs. tit. 11, §§ 1-11.) Any person desiring "leave to sue" in the name of the people of the State of California under any law requiring the prior permission of the Attorney General shall serve the application and required papers on the proposed defendant and within five days file the same with the Attorney General. (*Id.* at § 1.) The application must include an (1) original verified complaint, prepared for the signature of the Attorney General, a deputy attorney general and the attorney for the relator (i.e., the person desiring leave to sue) and a verified statement of facts; (2) points and authorities in support of the application; (3) a notice to the proposed defendant of the filing of the application giving the proposed defendant 15 days to appear and show cause to the Attorney General; and (4) proof of service of all the documents on the proposed defendant. (*Id.* at §§ 2, 3.)

The proposed defendant is given 15 to 20 days to respond, depending upon where service is made. (Cal. Code Regs. tit. 11, § 3.) The Attorney General may prescribe a shorter period of time in special cases or upon a showing of good cause. (*Ibid.*) The relator may then file a reply

within 10 days. (*Id.* at § 4.) These response times may be extended by stipulations filed with the Attorney General, or upon a showing of good cause. (*Ibid.*)

If "leave to sue" is granted, the relator must, within 10 days, present the Attorney General an undertaking of $500, to the effect that the relator will pay any judgment for costs or damages that may be recovered against the plaintiff, and "all costs and expenses incurred in the prosecution of the proceeding in which such 'leave to sue' is granted." (Cal. Code Regs. tit. 11, § 6.)

The proposed complaint shall be changed or amended as the Attorney General shall suggest or direct, and the "relator shall not thereafter in any way change, amend or alter the said complaint without the approval of the Attorney General." (Cal. Code Regs. tit. 11, § 7.)

The Attorney General may at all times, at any stage of the proceeding, withdraw, discontinue or dismiss the case. Additionally, the Attorney General may assume management of the litigation at any stage she chooses. (Cal. Code Regs. tit. 11, § 8.) If appropriate, no appeal may be taken of the matter without first securing the approval of the Attorney General. (*Id.* at § 11.)

In the last ten years, the Attorney General has received and decided approximately three to four quo warranto applications a year. (See Susan K. Smith Declaration filed herewith ("Smith Dec." at ¶ 3.) Some of the decisions are issued in a formal Attorney General opinion and some decisions are answered by letter. (Smith Dec. at ¶ 3.)

III. ATTORNEY GENERAL'S DECISION IN THIS MATTER

A. Quo Warranto Application and the Attorney General Opinion

On October 25, 2013, the Attorney General issued an opinion, No. 13-504, denying petitioners leave to file an action in quo warranto to seek removal of a city council member of the City of Glendale. (See Opinion attached to Declaration of Susan K. Smith, Exhibit A ("Opinion"). The Opinion issued after an application and full briefing by petitioners and Real Parties in Interest was completed June 17, 2013. (See exhibits C, D and E, attached to petitioners' Memorandum of Points and Authorities in Support of Ex Parte Application, dated November 8, 2013 ("Pet. Br.")

Proposed Defendant the City of Glendale ("City" or "Glendale") is a charter city and has been since 1921. Proposed Defendant Frank Quintero is currently serving as a member of the Glendale City Council, having been appointed to that office on April 23, 2014. The proposed defendants were also named as real parties in interest. The relators and petitioners in this litigation, John Rando and Marian Rodas, are residents of Glendale. The petitioners sought to remove Mr. Quintero from public office because they contended that he was ineligible to serve. (Opinion at p. 2.) They seek to remove Mr. Quintero via the proposed action in quo warranto. (*Ibid.*)

B. The Underlying Facts

On April 12, 2013, the City held a municipal election, and Rafi Manuakian, a city council member, was elected to the office of City Treasurer, creating a vacancy on the council. (Opinion at p. 3.) The Glendale Charter specifies that "'any vacancy occurring in the council shall be filled by a majority vote of the remaining members of the council.'" (Opinion at p. 3.) On April 15, 2013, Mr. Quintero completed his term as City Mayor and councilman. On April 23, 2013, the remaining members of the Council unanimously voted to appoint Mr. Quintero to the vacant council position. The term for this position expires in June 2014. (*Ibid.*)

Petitioners asserted in this quo warranto application that Mr. Quintero's appointment violated a provision of the Glendale charter that provides, "[n]o former councilmember shall hold any compensated city office or city employment until two (2) years after leaving the office of councilmember."[1] (Opinion at p. 4.)

The Attorney General fully considered whether leave to sue in quo warranto should be granted to petitioners in order to seek removal of Frank Quintero from the Glendale city council member. (Opinion at pp. 1-2.) As noted in the Opinion, quo warranto is "the proper remedy to 'try title' to public office; that is to evaluate whether a person has the right to hold a particular

[1] This section was amended to its current wording by Glendale voters' passage of an initiative measure in an election held on November 2, 1982. The provision in full provides: "A councilmember shall not hold any other city office or city employment except as authorized by State law or ordinarily necessary in the performance of the duties as a councilmember. No former councilmember shall hold any compensated city office or city employment until two (2) years after leaving the office of councilmember."

office by virtue of eligibility requirements, valid election procedures, the absence of disqualifying factors, etc." (Opinion at p. 2.) When a private party seeks to file an action in quo warranto in superior court, that party must obtain consent from the Attorney General. (Opinion at p. 3.) The standard for determining whether consent to proceeding in quo warranto shall be granted is whether the application presents a substantial issue of fact or law that warrants judicial resolution, and whether granting the application would serve the public interest. (*Ibid.*)

After analyzing the issues, the Opinion denied leave to sue to petitioners because "it is not in the public interest to authorize the initiation of a quo warranto lawsuit under the present circumstances." (Opinion at p. 8.)

IV. THE STATUS OF THIS LITIGATION

Petitioners gave ex parte notice to Respondent Attorney General Harris on the afternoon of November 8, 2013, stating that they were filing an alternative writ and challenging the Attorney General's denial of petitioners' quo warranto application.

On November 13, 2013 at a hearing before this Court, respondent Attorney General and real parties in interest appeared and opposed granting a petition for writ of mandate.

This Court granted the alternative writ of mandate only to expedite a hearing on an order to show cause why a peremptory writ of mandate should not be issued in this matter. The order issued by this Court set the matter for hearing on January 7, 2013 and issued a briefing schedule.

ARGUMENT

I. MANDAMUS MAY NOT ISSUE TO ORDER THE ATTORNEY GENERAL TO FILE SUIT IN THIS ACTION

The separation of powers prohibit mandamus issuing in the circumstances before this Court. "The powers of state government are legislative, executive and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution." (Cal. Const., art. III, § 3.) "Subject to the powers and duties of the Governor, the Attorney General shall be the chief law officer of the State. It shall be the duty of the Attorney General to see that the laws of the State are uniformly and adequately enforced." (Cal. Const., art. V, § 13.) With respect to criminal law, "the legislative branch bears the sole responsibility and

power to define criminal charges and to prescribe punishment, it is the executive branch which decides which crime to charge and the judicial branch which imposes sentence within the legislatively determined limits for the chosen crime." (*People v. Mikhail* (1993) 13 Cal.App.4th 846, 854 [internal citations omitted]; see also *People v. Honig* (1996) 48 Cal.App.4th 289, 354-55 [Attorney General has broad discretion to determine when to step in and prosecute a criminal case and there is no suggestion that the discretion "is reviewable by the superior court at the behest of a defendant."].)

Similarly, there is a divided function for civil matters: "As the chief law officer of the state the Attorney General has broad common law powers. In the absence of legislative restriction [s]he has the power to file any civil action which [s]he deems necessary for the enforcement of the laws of the state and the protection of public rights and interests. (*People v. New Penn Mines, Inc.* (1963) 212 Cal.App.2d 667, 671 [internal citations omitted]; see also *People v. Rizzo* (2013) 214 Cal.App.4th 921, 937 [same].) Here, not only is there an absence of legislative restriction with respect to the Attorney General's discretion, there is specific statutory language, in addition to the Constitutional authority, acknowledging the Attorney General's discretion to decide whether a quo warranto application should be granted or denied, and authorizing the Attorney General to dismiss the litigation once commenced. (Cal. Code Regs. tit. 11, §§ 1-11 at § 8 ["The Attorney General may at all times, at any and every stage of the proceeding, withdraw, discontinue, or dismiss the same, as to [her] may seem fit and proper, or may, at [her] option, assume the management of said proceeding at any state thereof"]; see also Code Civ. Proc., §§ 803 [specifying authority for Attorney General to bring an action "whenever [she] has reason to believe that any such office or franchise has been usurped, intruded into, or unlawfully held. . ."].) Additionally, specific regulatory language acknowledges the Attorney General's discretion in determining whether a litigation begun pursuant to a quo warranto application may be appealed. (Cal. Code Regs. tit. 11, § 11.)

Contrary to petitioners' argument, the Attorney General does *not* have a "ministerial duty to approve quo warranto applications that bring a cause of action that is in the public interest." (Pet. Br. at p. 5:1-2.) The discretion involved in allowing a suit to be brought "in the name of the

people of the State of California" is far from a "ministerial" task. Rather, the gravity that goes into such a decision is one that rests appropriately with the executive branch, specifically the Attorney General. The legislature recognizes the process through specific statutory language acknowledging the Attorney General's discretion and ability to control the litigation. (*Ibid.* Code Civ. Proc., § 803.) And although courts that have rejected quo warranto claims against the Attorney General focused on a failure to show any abuse of discretion, no court has ever expressly held that a writ could issue compelling the Attorney General to approve such an action. For example, in an early case, the California Supreme Court "assum[ed] for the purposes of this appeal that the attorney general's discretion under [Code of Civil Procedure section 803] is not entirely beyond the control of a court," but did not decide the broader question of the judiciary's power to order the Attorney General to grant leave to commence a quo warranto proceeding. (*Lamb v. Webb* (1907) 151 Cal. 451, 455; see also *Int'l Assoc. of Fire Fighters v. City of Oakland* (1985) 174 Cal.App.3d 687, 697 [noting that while the "suggestion[] that a court may intervene in the event of an extreme abuse of the Attorney General's discretion. . . no such instance of mandamus issuing can be found."].)

Other decisions have likewise recognized the power of the Attorney General and prosecutors to exercise discretion on whether to bring an action, whether civil or criminal. For example, in *City of Campbell v. Mosk,* the Court recognized that in comparable situations, the Attorney General need not "automatically grant leave to file any kind of suit presented to him if he does not in the exercise of his discretion deem it a proper subject for litigation." (*City of Campbell v. Mosk* (1961) 197 Cal.App.2d 640, 647.) In an analogous situation, the California Supreme Court held that a decision by county counsel on whether to institute a suit under certain code provisions "necessarily requires the exercise of discretion." (*Wilson v. Sharp* (1954) 42 Cal.2d 675, 678.) And in a mandamus proceeding to compel a district attorney to prosecute an alleged crime, an appellate court ruled that "'the investigation and prosecution were matters in which the district attorney is vested with discretionary power as to which mandamus will not lie.'" (*Taliaferro v. Locke* (1960) 182 Cal.App.2d 752, 757.) Similarly, here, discretion of the Attorney General is required for every step of the quo warranto application and proceeding. At

any point, pursuant to the Attorney General's discretion, a quo warranto suit can be altered, amended or withdrawn. Issuance of a writ to compel the Attorney General to authorize such an action is inconsistent with the inherently discretionary nature of the proceeding.

Thus, for purposes of this litigation, no assumption need be made that the Attorney General's Opinion denying the quo warranto application is reviewable by way of mandate. Although Petitioners argue that a writ of mandate is appropriate in this case because the Attorney General has purportedly abused her discretion in not acquiescing to petitioners' application for quo warranto (Pet. Br. at pp. 4-5), they have failed to show why mandamus is appropriate. The discretion to file any civil action which is deemed necessary for the enforcement of the laws of the state and the protection of public rights and interests lies wholly with the Attorney General. Thus, a petition for writ of mandate is not a proper procedure, and petitioners' request for mandamus should be denied.

II. EVEN IF THE COURT COULD REVIEW THE DISCRETION EXERCISED IN THIS MATTER, THE ATTORNEY GENERAL ACTED PROPERLY AND DID NOT USE "EXTREME AND CLEARLY INDEFENSIBLE" DISCRETION

Even if the Court does review the Attorney General's decision to deny "leave to sue" in this case, it is clear that very broad discretion is given the Attorney General in determining whether to grant or deny a quo warranto application. (See *Intl. Assn. of Fire Fighters v. City of Oakland*, *supra*, 174 Cal.App.3d at pp. 693-698; *City of Campbell v. Mosk*, *supra*, 197 Cal.App.2d at pp. 646-47 [same].) In fact, the Supreme Court specified that *if* it is appropriate to review the executive's discretion, "the power of a court to compel [her] to violate [her] own judgment by ordering [her] to grant leave to commence a suit . . . should be exercised only where the abuse of discretion by the attorney-general in refusing the leave is *extreme and clearly indefensible*." (*Lamb v. Webb*, *supra*, 151 Cal. at p. 455, emphasis added.) "When such an extreme case does not appear, a decree of a court compelling [her] to act against [her] judgment is erroneous, and is itself an abuse of discretion." (*Ibid.*) Research has not disclosed any court that has issued such mandamus in the last one hundred six years since *Lamb* was decided. The case before this Court does not even come close to meeting this very high burden.

In the present application that was before the Attorney General, the City held a municipal election on April 2, 2013 and city council member Rafi Maoukian, who had 14 months left to serve on his term, was elected to the office of City Treasurer, resulting in a vacancy on the Council. Under Glendale's charter, article VI, section 13, "any vacancy occurring in the council shall be filled by a majority vote of the remaining members of the council." (Opinion at p. 3.) On April 15, 2013, real party in interest Quintero completed his term as City Mayor, and on April 23, 2013, the remaining members of the Glendale council unanimously voted to appoint Mr. Quintero to the vacant council position. (*Ibid.*) The unexpired term of Mr. Quintero's position ends in June 2014. (*Ibid.*)

Petitioners argued to the Attorney General that Mr. Quintero's appointment violated the Glendale charter provision prohibiting a former councilmember from holding "any compensated city office or city employment until two years after leaving the office of councilmember." (Glendale Charter Art. VI, § 12 ("Section 12"); Opinion at p. 4.) The Attorney General's Opinion concluded, however, that, although there is more than one way to read Section 12, the provision is more likely a limit on "a Council member's opportunity to use his or her influence on the Council as a stepping-stone to future City employment," rather than a term-limit. (Opinion at pp. 4-5.) The Attorney General reviewed briefs from petitioners, the City and evidence regarding the city charter ballot amendment leading to Section 12's enactment in making her decision. (Opinion at pp. 1, 4-5; see also attachments to Pet. Br. Exs. B, C and D.) The Opinion noted that the same rules that apply to any other voter-approved measure, such as a constitutional amendment, apply to ballot measures. (See *Woo v. Superior Court* (2000) 83 Cal.App.4th 967, 974; *Currieri v. City of Roseville* (1970) 4 Cal.App.3d 997, 1001.) One goal in construing ballot measures is to effectuate the intent of the electorate. (*Woo*, 83 Cal.App.4th at 975; see also *Lungren v. Deukmejian* (1988) 45 Cal.3d 727, 735.)

To determine the intent of the electorate, the language of the provision adopted is examined. (*Woo v. Superior Court*, *supra*, 83 Cal.App.4th at p. 975.) The Opinion correctly noted that a "recognized indicator of voter intent is the official ballot pamphlet, which contains

both the language of the measure as well as information and arguments advanced for and against its passage." (Opinion at p. 5 n. 17.)

Section 12 was amended in November 1982.[2] The official ballot pamphlet from that election shows that the purpose of the amendment was to "clarify (1) that sitting Council members could obtain or maintain *outside* employment while serving on the part-time Council, and (2) that the then-existing Charter provision only prohibited Council members from obtaining *City* employment. In addition, the proposed measure would extend the ban on obtaining other City employment for a period of two years after a Council member left office." (Opinion at p. 6.) In contrast, nothing in the ballot pamphlet suggests that a former council member would be prohibited from seeking *elective* office for two years after leaving the council. (Opinion at pp. 6-7.) In fact, Glendale's charter does not impose any limits on the number of terms that a councilmember may serve. (Opinion at p. 5.) The ballot argument in favor of passing the amendment to Section 12 explained that the measure was intended to "curb a former Council member's 'use of his [or her] influence to obtain employment with the City,' and the elective office of Council member is not the type of position that one can generally exert prestige or improper influence to obtain." (Opinion at p. 7.) "But reading the provision in the context of the Charter as a whole, and in light of the reasons given in the ballot pamphlet," the Opinion determined that Section 12 "was aimed at prohibiting (or rather, continuing to prohibit) a Council member from improperly using his or her influence to gain *non-elective* City employment." (*Ibid.*)

Petitioners argue that the two-year restriction to "any city office" includes elected city council members based on the plain meaning of the provision. (Pet. Br. at pp. 8-9.) However, the Attorney General's Opinion adequately explains that "the text itself does not provide a clear answer" to the question of what Section 12 means. (Opinion at pp. 5-6.) The Opinion readily states that Section 12 "could have been worded more precisely," but it was not. (*Id.* at p. 7.)

[2] The former language read: "No members of the council shall be eligible to any office of employment except an elected office, during a term for which he was elected." (Opinion at p. 6.)

Thus, the Attorney General appropriately reviewed the ballot materials regarding Section 12 to ascertain the intent of the electorate.

Moreover, the Opinion noted any ambiguities in the language of Section 12 should be resolved in favor of eligibility to hold office. (Opinion at p. 7.) An individual's eligibility to hold public office is a fundamental right of citizenship in California, which may not be prohibited or curtailed "'except by plain provisions of law.'" (Opinion at p. 7 n. 25-26, citing *Zeilenga v. Nelson* (1971) 4 Cal.3d 716, 720; *Carter v. Commission On Qualifications on Judicial Appointments* (1939) 14 Cal.2d 179, 182.) Petitioners argue that any ambiguity in the plain language of Section 12 should be resolved in favor of *restricting the plaintiff from taking office.* (Pet. Br. at p. 12:14-18, citing *Lungren v. Deukmejian, supra*, 45 Cal.3d at p. 743.) *Lungren*, however, does not stand for this proposition.

In *Lungren*, the Supreme Court construed the provisions of article V, section 5, subdivision (b) of the California Constitution ("Section 5(b)") when the elected state Treasurer died while serving his term of office. (*Lungren v. Deukmejian, supra*, 45 Cal.3d at pp. 729-730.) The question was whether pursuant to that provision, a nominee may be viewed as having been confirmed by the Legislature even though he has been confirmed by only one house and rejected by the other house. The question arose when Governor Deukmejian nominated Congressman Lungren to the office of Treasurer, and, although the Assembly voted to confirm the nomination, the Senate voted to deny confirmation. (*Id.* at p. 730.) The Court concluded that the language of the second sentence of Section 5(b), standing alone, "is susceptible to the construction offered by both respondents and Lungren, but that, when the section is read as a whole, it supports respondents' view that a negative vote on the confirmation by either house of the Legislature results in disapproval of the nomination." (*Id.* at p. 733.) Additionally, the legislative history of Section 5(b) supported this conclusion, and the Court rejected an alternative legislative history argument made by Lungren. (*Ibid.*) At no point did the Supreme Court state that ambiguities in language should be resolved in restricting the plaintiff from taking office, as petitioners argue. (Pet. Br. at p. 12.) Thus, *Lungren* does not contradict the reasoning and rationale specified in the

Opinion. There is no basis for arguing that the Attorney General abused her discretion in issuing the Opinion.[3]

Further, the Attorney General concluded that, although there may be a debatable issue as to the interpretation of Section 12, "the overall public interest would not be furthered by burdening the courts, the parties, and the public with the proposed quo warranto action." (Opinion at p. 8.)[4] Merely raising a "debatable issue" is not enough for a private party to proceed where the Attorney General has determined that the quo warranto proceeding "would not serve the public interest." (*Id.*; see also *Intl. Assn. of Fire Fighters*, 174 Cal.App.3d at 697.) "The exercise of the discretion of the Attorney General in the grant of such approval to sue calls for care and delicacy. Certainly the private party's right to it cannot be absolute; the public interest prevails." (*City of Campbell v. Mosk* (1961) 197 Cal.App.2d 640, 650.)

Thus, even if reasonable persons can disagree over the meaning of Section 12, the Attorney General correctly decided that the public interest would not be furthered by granting the quo warranto application. There has been no abuse of discretion by the Attorney General, much less an "extreme and clearly indefensible" abuse of discretion. The petition for writ of mandate should be denied in its entirety.

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[3] Petitioner also cites *Schabarum v. California Legislature* (1998) 60 Cal.App.4th 1205, 1215, for the proposition that a challenge to the constitutionality of an act is a judicial rather than a political question. (Pet. Br. at p. 12:19-24.) Petitioners' argument is unclear as there is no constitutional challenge to a law at issue here. (*Schabarum*, 60 Cal.App.4th at p. 1211 [examining the interpretation of Article IV, section 7.5 of the California Constitution].) The Attorney General does not argue that this is a political question that is nonjusticiable; rather, the application for quo warranto did not meet the legal requirements in order to be granted. (Opinion at pp. 7-8.)

[4] The Opinion notes that Mr. Quintero's term will end in June 2014, "for all practical purposes before judicial proceedings could conclude." (Opinion at p. 8.) This reinforces the conclusion that the public interest is best served by denying leave to sue. (*Ibid.*)

CONCLUSION

For all the reasons discussed, this Court should deny the petition for writ of mandate in its entirety.

Dated: December 20, 2013

Respectfully Submitted,

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **John Rando, et al. v. Kamala Harris**
Case No.: **BS145904**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On December 20, 2013, I served the attached **RESPONDENT'S OPPOSITION TO PETITION FOR WRIT OF MANDATE AND ORDER TO SHOW CAUSE WHY PEREMPTORY WRIT SHOULD NOT ISSUE** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

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I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 20, 2013, at Los Angeles, California.

Angela Artiga
Declarant

Signature

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