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9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SACRAMENTO

14 **EDMUND G. BROWN JR., ATTORNEY  
GENERAL OF THE STATE OF CALIFORNIA,**

15  
16 Petitioner,

17 v.

18 **DEBRA BOWEN, SECRETARY OF STATE OF  
THE STATE OF CALIFORNIA,**

19  
20 Respondent.

24 **CHRISTINA L. WILSON, PROPONENT OF  
PROPOSITION 17, HARVEY ROSENFELD,  
25 OPPONENT OF PROPOSITION 17, AND KEVIN  
HANNAH, ACTING STATE PRINTER OF THE  
26 STATE OF CALIFORNIA,**

27 Real Parties in Interest.  
28

Case No.

**PETITION FOR PEREMPTORY WRIT  
OF MANDATE**

**(Proposition 17)**

Date: March 12, 2010  
Time: 9:00 a.m.  
Dept: 42  
Judge: Hon. Allen H. Sumner  
Action Filed: March 1, 2010

**ELECTION WRIT  
IMMEDIATE ACTION REQUESTED**

Exempt from fees (Gov. Code, § 6103)

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## INTRODUCTION

The Attorney General brings this action to correct an error in the wording of the ballot title and summary for Proposition 17<sup>1</sup>. The title and summary for Proposition 17 currently on public display is not the version actually approved by the Attorney General. The Attorney General's Office inadvertently submitted an unapproved preliminary draft title and summary to the Secretary of State, and some of the wording of this preliminary draft differs from the wording of the final title and summary approved by the Attorney General. This writ petition seeks simply to correct this error so that the title and summary that appears in the ballot pamphlet will be the one that the Attorney General approved as required by the Elections Code.

In accordance with Elections Code section 9092 and Government Code section 88006, Petitioner Edmund G. Brown Jr., Attorney General of the State of California, petitions this Court for a writ of mandate directing Respondent Secretary of State Debra Bowen and Real Party in Interest State Printer Kevin Hannah to correct the error in the ballot title and summary of Proposition 17. Neither Secretary of State Bowen, State Printer Hannah, nor the opponents of Proposition 17 oppose this writ. However, proponents have indicated that while they do not oppose the principle that the error in the language should be corrected to reflect the language approved by the Attorney General, they will oppose the approved language *on other grounds*.

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## PARTIES

1. Petitioner Edmund G. Brown Jr. is the Attorney General of the State of California. Under Elections Code sections 9050 and 9051, the Attorney General is responsible for preparing the titles and summaries of initiative measures that qualify for the ballot and providing those titles and summaries to the Secretary of State.

2. Respondent Debra Bowen is the Secretary of State of the State of California, and is responsible for preparing the ballot pamphlet. Elections Code section 9092 and Government Code section 88006 require that the Secretary of State be named as a respondent in any

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<sup>1</sup> This writ does not seek any changes to the ballot label.

1 proceeding challenging the ballot pamphlet. The Secretary of State has advised petitioner  
2 through her representative that she does not oppose this petition.

3 3. Real party in interest Kevin Hannah is the Acting State Printer of the State of  
4 California. Elections Code section 9092 and Government Code section 88006 require that the  
5 State Printer be named as a real party in interest in any proceeding challenging the ballot  
6 pamphlet.

7 4. Christine L. Wilson is the proponent of Proposition 17, and in that capacity is being  
8 named as a real party in interest.

9 5. Harvey Rosenfield is one of the opponents of Proposition 17, and in that capacity is  
10 being named as a real party in interest.

#### 11 **FACTS**

12 6. Proposition 17 is an initiative measure that has qualified to appear on the ballot for  
13 the statewide election on June 8, 2010. A true and correct copy of the text of Proposition 17, as  
14 displayed on the Secretary of State's web site is attached as Exhibit A to the accompanying  
15 Declaration of Stephen Acquisto.

16 7. In accordance with his statutory duties, the Attorney General prepared and approved a  
17 title and summary for Proposition 17 for inclusion in the ballot pamphlet. The approved title and  
18 summary contains three bullet points, the second of which provides, "*Will allow insurance*  
19 *companies to increase cost of insurance to drivers who do not have a history of continuous*  
20 *insurance coverage.*" A true and correct copy of the Attorney General's approved title and  
21 summary for Proposition 17 is attached as Exhibit B to the accompanying Declaration of Stephen  
22 Acquisto.

23 8. Due to an inadvertent error, the Attorney General's Office did not submit the  
24 approved title and summary of Proposition 17 to the Secretary of State. Instead, the Attorney  
25 General's Office submitted a preliminary draft title and summary that the Attorney General did  
26 not approve. This preliminary draft contains slightly different language than the approved final  
27 title and summary. Specifically, the second bullet point of the unapproved draft provides, "*May*  
28 *allow insurance companies to increase cost of insurance to drivers who do not qualify for*

1 *discount.*” (differing words italicized.) Because this unapproved draft was mistakenly submitted  
2 to the Secretary of State, it is now the version that is on public display. A true and correct copy of  
3 the unapproved title and summary of Proposition 17, as displayed on the Secretary of State’s web  
4 site is attached as Exhibit C to the accompanying Declaration of Stephen Acquisto.

5 9. The public display period began on February 23, 2010. At that time, the Attorney  
6 General’s Office reviewed the title and summary of Proposition 17 on the Secretary of State’s  
7 web site, and discovered the error. That same day, the Attorney General’s Office notified the  
8 proponents and opponents of the measure that the error had occurred, and that a petition for writ  
9 of mandate would be sought in order to correct the mistake.

10 **FIRST CAUSE OF ACTION**

11 **(Writ of Mandate)**

12 10. The Court is required to issue a peremptory writ of mandate upon clear and  
13 convincing proof that the language in the ballot pamphlet is “inconsistent with the requirements”  
14 of the Elections Code or Government Code, “and that issuance of the writ will not substantially  
15 interfere with the printing and distribution of the ballot pamphlet as required by law.” (Elec.  
16 Code, § 9092; accord Gov. Code, § 88006.) The Elections Code establishes that it is the Attorney  
17 General’s duty to prepare the official titles and summaries of initiative measures and provide  
18 them to the Secretary of State for inclusion in the ballot pamphlet sent out to voters. (Elec. Code,  
19 §§ 9050, 9051.)

20 11. Elections Code section 9092 and Government Code section 88006 provide a 20-day  
21 public display and litigation period for all materials to be included in the ballot pamphlet for  
22 statewide elections. This action is brought within the 20-day review period.

23 12. So long as this writ petition is decided before the conclusion of the public display  
24 period on March 15, 2010, the writ will not interfere with the printing or distribution of the ballot  
25 pamphlet.

26 13. Unless this Court’s issues a writ of mandate directing otherwise, respondent Bowen  
27 and real party in interest Hannah will continue to take steps to publish and distribute a ballot  
28 pamphlet that contains a title and summary of Proposition 17 that was not approved by the

1 Attorney General, and is therefore, out of compliance with the requirements of the Elections  
2 Code.

3 **PRAYER FOR RELIEF**

4 1. That this Court issue an alternative writ of mandate directing Respondent Secretary of  
5 State to correct the error on the second bullet point of the ballot title and summary of Proposition  
6 17 by substituting the word "Will" for "May" and the words "have a history of continuous  
7 insurance coverage" for "qualify for discount" or, in the alternative to show cause before this  
8 Court at a specified time why respondent has not done so.

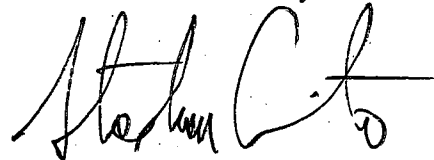
9 2. That this Court issue a peremptory writ of mandate directing Respondent Secretary of  
10 State to correct the error on the second bullet point of the ballot title and summary of Proposition  
11 17 by substituting the word "Will" for "May" and the words "have a history of continuous  
12 insurance coverage" for "qualify for discount."

13 3. That this Court grant such other relief as it deems proper.

14  
15 Dated: March 1, 2010

Respectfully Submitted,

16 EDMUND G. BROWN JR.  
17 Attorney General of California  
18 JONATHAN K. RENNER  
19 Senior Assistant Attorney General



20  
21 STEPHEN P. ACQUISTO  
22 Supervising Deputy Attorney General  
23 *Attorneys for Petitioner Edmund G. Brown*  
24 *Jr., Attorney General of the State of*  
25 *California*

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**DECLARATION OF SERVICE BY ELECTRONIC MAIL and U.S. MAIL**

Case Name: *Edmund G. Brown Jr. v. Debra Bowen*

No.:

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 that same day in the ordinary course of business.

On March 1, 2010, I served the attached **PETITION FOR PEREMPTORY WRIT OF MANDATE** by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

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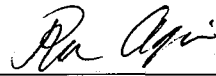
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*Real Party in Interest Kevin Hannah*

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 March 1, 2010, at Sacramento, California.

Rowena Aquino

Declarant



Signature

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