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April 23, 2012

Hon. Judith McConnell,
Administrative Presiding Justice
California Court of Appeal, 4th District, Div. 1
750 B Street, Ste. 300
San Diego, CA 92101

Re: *San Diego Municipal Employees Association v. Superior Court of California*
Case No. D061724 - Petition for Writ of Mandate
(Request to Join Action as Real Parties in Interest and/or file a Preliminary Opposition as
an Interested Party)

Honorable Justice McConnell and Members of the Fourth District Court of Appeals:

On behalf of Catherine A. Boling, T.J. Zane, and Stephen B. Williams, we respectfully request that this court allow them to file an informal written response in the above-mentioned matter to the Petition of the San Diego Municipal Employees Association (MEA). This request is made on behalf of the three proponents of the Comprehensive Pension Reform Initiative that is the subject of MEA's writ request. The proponents are listed as interested parties but are not named as real parties in interest in the action.

Our primary request is that this court allow the proponents to participate as a real party in interest in the above-referenced action. In the alternative, we respectfully request to be allowed to submit an informal written response as interested persons pursuant to California Rules of Court, Rule No. 8.385(b). This Court has asked Real Party in Interest City of San Diego to file a Preliminary Opposition by April 23, 2012. We request that the Court accept the attached Preliminary Opposition from the Proponents of the Charter Amendment.

Petitioner requests to vacate a temporary restraining order issued by Judge Vargas of the San Diego Superior Court, halting a pre-election administrative proceeding before an administrative judge of the Public Employment Relations Board ("PERB"). The proponents of the measure at issue, have an independent right to defend their initiative measure. The measure in question was signed by approximately 115,000 City of San Diego registered voters. On January 30, 2012, it was placed on the June 5, 2012 ballot. Granting the writ would interfere with the proponents' unfettered right to ballot access.

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California has a long history of routinely allowing proponents to participate in all challenges to their initiatives as a matter of right. (*Perry v. Brown* (Nov. 17, 2011) California Supreme Court No. S189476, pp. 29-30.) The participation of the proponents in this action is of special importance because it is claimed that their initiative was illegally placed on the ballot. An administrative ruling by PERB prior to the election has the potential to influence the outcome of the election. Real Party in Interest City of San Diego cannot adequately represent the proponents' interests in that the writ accuses proponents of secretly working in concert with the City. (MEA: Writ of Mandate, pp. 6, 15.)

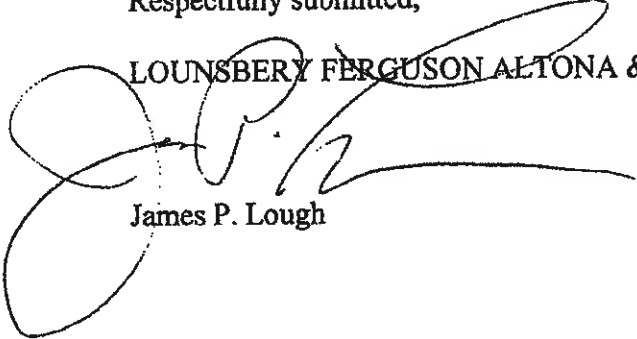
In the *Perry* decision, the Supreme Court, at the request of the Ninth Circuit Court of Appeals, held that initiative proponents are required to be allowed to participate in challenges to their initiative measures. They are allowed to take appropriate steps to defend their measure independent of any other rights granted to public agencies. The *Perry* Supreme Court allowed the proponents of Proposition 8 to defend the initiative before the Ninth Circuit Court of Appeals, even though no elected official would participate in the defense. Citing a long history of initiative proponent participation and legal actions affecting their initiative, the Court stated that this requirement "ensures a court faced with the responsibility of reviewing and resolving a legal challenge to an initiative measure that it is aware of and addresses the full range of legal arguments that reasonably may be proper in the measures defense". (*Perry* at p.4.)

Attached to this request is a proposed preliminary opposition to the MEA Writ. On behalf of the initiative proponents who gathered approximately 115,000 signature, we respectfully request to be allowed to participate in the defense of our initiative.

Thank you for your consideration of this matter.

Respectfully submitted,

LOUNSBERY FERGUSON ALTONA & PEAK, LLP



James P. Lough

JPL:kld