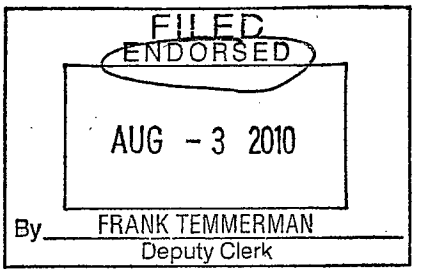
Attachment 5



SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

JON COUPAL, an individual; HOWARD JARVIS TAXPAYERS ASSOCIATION, an incorporated California Association, Petitioner, **v.** **DEBRA BOWEN, in her official capacity as Secretary of State of the State of California,** Respondent, **KEVIN HANNAH, in his official capacity as interim State Printer, EDMUND G. BROWN JR., in his official capacity as the Attorney General of the State of California,** Real Parties in Interest.	Case No. 34-2010-00080000612 **~~[proposed]~~ ORDER AND JUDGMENT AFTER HEARING ON PETITION FOR PEREMPTORY WRIT OF MANDATE** **ELECTION MATTER: PROPOSITION 23** Date: August 3, 2010 Time: 9:00 a.m. Dept: 29 Judge: The Hon. Timothy M. Frawley Action Filed: July 27, 2010

The petition for peremptory writ of mandate by Jon Coupal, an individual, and Howard Jarvis Taxpayers Association, an incorporated California Association, came on for hearing in Department 29 of this Court on August 3, 2010. Stephen P. Acquisto, Supervising Deputy Attorney General, appeared on behalf of Edmund G. Brown Jr., the Attorney General, Debra

Bowen, the Secretary of State, and Kevin Hannah, the Acting State Printer. Thomas W. Hiltachk appeared on behalf of Petitioner Jon Coupal, an individual, and Howard Jarvis Taxpayers Association, an incorporated California Association.

Having read and considered the memoranda of points and authorities filed by the parties, and having heard argument of counsel,

IT IS HEREBY ORDERED AND ADJUDGED THAT:

____ The Petition for Peremptory Writ of Mandate is denied.

X The Petition for Peremptory Writ of Mandate is granted in part and denied in part. As reflected in the attached exhibit "A" the Secretary of State shall implement changes to the Ballot Label and Ballot Title and Summary, and make the revised Ballot Label and Ballot Title and Summary available for public examination throughout the remainder of the 20-day public display period that began July 20, 2010, and is set to end August 9, 2010. Thereafter, if no court-ordered changes are made to the revised Ballot Label and Ballot Title and Summary, the Secretary of State is directed to forward the revised Ballot Label and Ballot Title and Summary, and its translations to Real Party in Interest Kevin Hannah and county elections officials, for inclusion on the November 2, 2010 General Election ballot and ballot pamphlet.

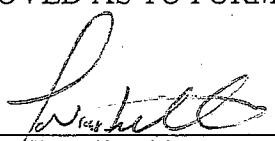
____ The Petition for Peremptory Writ of Mandate is granted in its entirety. The Secretary of State shall delete the Ballot Label and Ballot Title and Summary from the ballot pamphlet and furnish this information to the Acting State Printer.

Dated: August 3, 2010

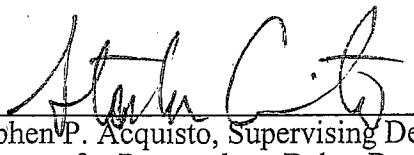
Honorable Timothy M. Frawley
Superior Court of California, County of Sacramento

Attachment 5

APPROVED AS TO FORM



Thomas W. Hiltachk
Attorney for Petitioners Jon Coupal, and
Howard Jarvis Taxpayers Association



Stephen P. Acquisto, Supervising Deputy Attorney General
Attorney for Respondent, Debra Bowen,
and Real Parties in Interest, Edmund G. Brown Jr.,
and Kevin D. Hannah

Exh. "A" Revised for word count limitations

Attachment 3

The ballot label for Proposition 23 would be revised as follows:

SUSPENDS IMPLEMENTATION OF AIR POLLUTION CONTROL LAWS (AB 32) REQUIRING MAJOR ~~POLLUTERS~~ SOURCES OF EMISSIONS TO REPORT AND REDUCE GREENHOUSE GAS EMISSIONS THAT CAUSE GLOBAL WARMING, UNTIL UNEMPLOYMENT DROPS TO 5.5 PERCENT OR LESS FOR FULL YEAR. INITIATIVE STATUTE. Fiscal Impact: Likely modest net increase in overall economic activity in the state from suspension of greenhouse gases regulatory activity, resulting in a potentially significant net increase in state and local revenues.

The ballot title and summary for Proposition 23 would be revised as follows:

SUSPENDS IMPLEMENTATION OF AIR POLLUTION CONTROL LAWS (AB 32) REQUIRING MAJOR ~~POLLUTERS~~ SOURCES OF EMISSIONS TO REPORT AND REDUCE GREENHOUSE GAS EMISSIONS THAT CAUSE GLOBAL WARMING, UNTIL UNEMPLOYMENT DROPS TO 5.5 PERCENT OR LESS FOR FULL YEAR. INITIATIVE STATUTE.

- Suspends State law that requires greenhouse gas emissions be reduced to 1990 levels by 2020, until California's unemployment drops to 5.5 percent or less for four consecutive quarters.
- ~~Requires State to abandon~~ Suspends ~~implementation of~~ comprehensive greenhouse-gas-reduction program that includes increased renewable energy and cleaner fuel requirements, and mandatory emissions reporting and fee requirements for major ~~polluters~~ emissions sources such as power plants and oil refineries~~, until suspension ends~~.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- The suspension of AB 32 could result in a modest net increase in overall economic activity in the state. In this event, there would be an unknown but potentially significant net increase in state and local government revenues.
- Potential loss of a new source of state revenues from the auctioning of emission allowances by state government to certain businesses that would pay for these allowances, by suspending the future implementation of cap-and-trade regulations.
- Lower energy costs for state and local governments than otherwise.