

Case No. A125750

COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

ST. JOHN'S WELL CHILD AND FAMILY CENTER, *et al.*,
Petitioners,

v.

ARNOLD SCHWARZENEGGER, in his official capacity as Governor of the
State of California, and JOHN CHIANG, in his official capacity as California
State Controller,
Respondents.

On Petition for a Writ of Mandate

**[PROPOSED] AMICI CURIAE BRIEF OF THE
LOS ANGELES COUNTY DEMOCRATIC CENTRAL COMMITTEE
A/K/A LOS ANGELES COUNTY DEMOCRATIC PARTY AND
THE RIVERSIDE COUNTY DEMOCRATIC CENTRAL COMMITTEE**

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**Court of Appeal
State of California
First Appellate District**

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Court of Appeal Case Number: A125750

Division Two

Case Name: St. John's Well Child and Family Center, et al. v. Arnold Schwarzenegger

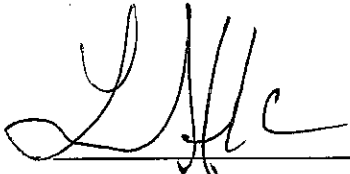
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There are no interested entities or persons to list in this Certificate per California Rules of Court, rule 8.208(d)(3).

Interested entities or persons are listed below:

Name of Interested Entity or Person	Nature of Interest
1.	
2.	
3.	
4.	

Please attach additional sheets with Entity or Person information if necessary.



Signature of Attorney/Party Submitting Form

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IF SUBMITTED AS A STAND-ALONE DOCUMENT, SUBMIT A SEPARATE PROOF OF SERVICE ON ALL PARTIES WITH YOUR CERTIFICATE.

TO BE FILED IN THE COURT OF APPEAL

APP-008

COURT OF APPEAL, APPELLATE DISTRICT, DIVISION		Court of Appeal Case Number: A125750
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Martin A. Weiss State Bar No. 91423 32969 Adelante Street Temecula, CA 92592 TELEPHONE NO.: 951-255-1202 FAX NO. (Optional): E-MAIL ADDRESS (Optional): attyweiss@aol.com ATTORNEY FOR (Name): Riverside County Democratic Central Committee		Superior Court Case Number: FOR COURT USE ONLY
APPELLANT/PETITIONER: St. John's, et al. v. Schwarzenegger, et al. RESPONDENT/REAL PARTY IN INTEREST: Arnold Schwarzenegger, John Chang		
CERTIFICATE OF INTERESTED ENTITIES OR PERSONS		
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 b. Interested entities or persons required to be listed under rule 8.208 are as follows:

Full name of interested entity or person	Nature of interest (Explain):
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- (1)
- (2)
- (3)
- (4)
- (5)

Continued on attachment 2.

The undersigned certifies that the above-listed persons or entities (corporations, partnerships, firms, or any other association, but not including government entities or their agencies) have either (1) an ownership interest of 10 percent or more in the party if it is an entity; or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).

Date: September 20, 2009

Martin A. Weiss
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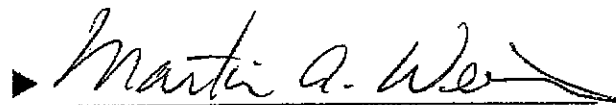

 (SIGNATURE OF PARTY OR ATTORNEY)

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I. INTRODUCTION

The Los Angeles County Democratic Central Committee, also known as the Los Angeles Democratic Party (LACDP) is the official governing body of the Democratic Party in the County of Los Angeles. It is the largest local Democratic Party entity in the United States, representing over 2.2 million registered Democrats in the 88 cities and the unincorporated areas of Los Angeles County. As the local Democratic Party organization representing these 2.2 million Californians, the LACDP has long fought to vindicate the values and principles described in the Platform of the California Democratic Party. Among these is the aspiration to “[l]ift at-risk families and working poor families out of poverty so they can become independent and lead self-sufficient lives” [CALIFORNIA DEMOCRATIC PARTY, 2008 PLATFORM 3 (2008), *available at* <http://www.cadem.org/atf/cf/%7BBBF9D7366-E5A7-41C3-8E3F-E06FB835FCCE%7D/2008%20Platform%20Combined%20Final.pdf>], establish health care as “a right not a privilege” [*id.*, at 7], and uphold the democratic principles embodied in our State Constitution [*id.* at 2].

The Riverside County Democratic Central Committee (RCDCC) is the official governing body of the Democratic Party in the County of Riverside. It represents and serves all registered Democrats in a 2,000 square mile County with over 2,100,000 residents; 74 incorporated and unincorporated communities; 9 colleges; 2 military installations and 9 Native American Indian Reservations. The RCDCC is actively working to protect and promote the rights of residents of Riverside County, including those who are disabled; gay, bisexual, lesbian and transgender; undocumented immigrants, workers, seniors, the medically indigent, prisoners, veterans, students, the homeless, hungry, the disenfranchised and victims of domestic violence. When Governor Schwarzenegger purportedly used the “line-item-veto” to eliminate \$489 million of funding for programs and

persons who the Democratic Party in California serves, it acted in contravention of the purposes of the RCDDC.

As described in the Petition [Petition at para. 1- 5, pp. 1-2; *id.* at para. 33-35, p. 17], this case involves the attempted exercise by Governor Arnold Schwarzenegger of authority not granted to him under the Constitution of the State of California. This fact alone would be sufficient to establish the public importance of this case. Yet, it is the devastating nature of the cuts imposed by Governor Schwarzenegger, and the immediate irreparable harm which these cuts will inflict on some of California's most vulnerable residents, which are the most compelling reasons for this Court to hear and resolve—in Petitioners' favor—the matters at issue in this writ.

II. ARGUMENT

A. This Case Arises Out of a Purported Exercise by Governor Schwarzenegger of Authority Not Granted to the Governor by Our State Constitution

This Court has original jurisdiction “in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition.” Cal. Const. art. IV, § 10; *see, also*, California Rule of Court 8.490. Jurisdiction is only exercised where the case presents issues of great public importance that must be resolved promptly. San Francisco Unified School Dist. v. Johnson (1971) 3 Cal.3d 937, 944. Here, both of these factors are satisfied. This case is of the utmost public importance for two reasons: (1) this case arises out of the Governor's exercise of authority not granted to him by our state constitution; and (2) the consequences of this constitutionally unwarranted action are devastating to the welfare of the many Californians dependent on essential state services.

When a governor is acting in his legislative capacity, as he is when exercising his line item veto authority, the governor is acting as a “special agent

with limited powers.” Lukens v. Nye (1909) 156 Cal. 498, 501-02. These powers are solely those “specifically enumerated” in the State Constitution and any acts outside the scope of those powers are “wholly ineffectual and void for any and every purpose.” Id. For the reasons articulated by Intervenor Karen Bass and Darrell Steinberg [Intervenor’s Memorandum of Points and Authorities, Part I, pp. 15-21, and Part II.A., pp. 21-25], it is manifest that, here, by purporting to further reduce an already enacted appropriation, Governor Schwarzenegger traveled outside the ambit of his “limited powers.” Such an ultra vires act by our State’s chief executive is, in and of itself, a sufficient basis for this Court to find the issues in this case to be of great public importance.

B. The Catastrophic Consequences to the Well-Being of Many of California’s Most Vulnerable Residents of the Governor’s Constitutionally Unwarranted Exercise of Line Item Veto Authority Vividly Demonstrate the Public Importance of this Case and the Urgent Need for Prompt Extraordinary Relief

Important as the legal issues in this case are, it is the great human cost of leaving intact the Governor’s constitutionally unwarranted cuts in vital services which most vividly demonstrates the public importance of this case and the urgent need for prompt extraordinary relief.

Press reports make manifest the scope and severity of the elimination of (or drastic reduction in) public services effectuated by the Governor’s purported line item veto:

- In total, the Governor’s veto encompasses \$316 million in cuts from health and social service programs. Bob Egelko, *Second suit strikes at governor’s budget cuts*, S.F. GATE, Aug. 14, 2009, at D7, available at <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/08/14/BAF219897F.DTL>.
- Domestic violence programs will be devastated by the Governor’s cuts. \$16.3 million has been eliminated from the California

Department of Public Health's domestic violence programs, a program that supports domestic violence shelters throughout the state. Press Release, Stop Family Violence, CA Governor Eliminates State Funding to Domestic Violence Programs (July 28, 2009), *available at* <http://www.stopfamilyviolence.org/pages/441>. As a result, many domestic violence agencies will be unable to provide emergency shelter, transitional housing, legal advocacy, restraining order assistance, counseling, and other vital services to those in need.

- HIV and AIDS services will also be greatly curtailed due to \$85 million in cuts included in the Governor's line-item vetoes. Press Release, AIDS Project Los Angeles, APLA Condemns Destructive \$85 million cut to state HIV/AIDS Programs (July 28, 2009) ("APLA Press Release"), *available at* http://www.apla.org/news/press_releases/2009/2009_0728_APLA_condemns_destructive_HIV_and_AIDS_budget_cuts.html.
- One program that will be eliminated as a result of these cuts to HIV and AIDS programming is the Therapeutic Monitoring Program, which tracks the effectiveness of HIV/AIDS drugs. Rex Wockner, Schwarzenegger decimates AIDS services (July 29, 2009), <http://www.eatg.org/eatg/Global-HIV-News/Access-to-treatment/Schwarzenegger-decimates-AIDS-services>.

As compelling as the above numbers are, they only tell part of the story of the harms inflicted by the Governor's cuts. The Governor's cuts have forced organizations that provide vital services to the most vulnerable members of our society to scale back those services resulting in real people being denied the help that they desperately need. For instance, as described in the Declaration of Carol Broadus, Women Alive, a bilingual counseling and education program for and by women living with HIV/AIDS, will, as a result of the line item veto at issue in this

case, terminate its HIV treatment education program on October 15, 2009 [Declaration of Carol Broadus (Broadus Decl.) at para. 4, p.2¹]. This will have a catastrophic impact on women like “Gloria” (a pseudonym to protect her identity) and those women like her who will now be unable to access services vital to their health and the well-being of their children. As described in the declaration, Gloria is an HIV-positive woman with three dependent children who was admitted to the hospital due to medical complications arising from her inability to “stick to her complicated medication regimen” [id. at para. 5, p. 2]. With assistance from a treatment coordinator—whose services will now be terminated as a result of the veto-imposed cuts—Gloria was able to modify her regimen and stay out of the hospital.

It will also have a devastating impact on the women and men in Women Alive’s peer support and treatment programs. As one participant said, without this program she will be left without help in coping with her medical needs while simultaneously fighting to put food on the table and obtain child care for her children so she can go to work [id. at para. 6, p. 3]. Another participant noted that the services lost through the termination of Women Alive’s heterosexual HIV men’s support services will leave him with no appropriate alternative to which to go to obtain assistance with housing and other needs his physician cannot provide [id. at para. 7, p.3].

The Governor’s line item veto will bring about this same kind of devastation to the beneficiaries of the programs of Culver City’s Women at Risk, an organization that does not receive government funding. Women at Risk will not suffer a loss of funding, but it is already experiencing an unprecedented increase in demand for its services as government-funded programs cut back or eliminate services. According to Carmen Johnson, Executive Director of Women at Risk, the number of referrals to the organization have tripled from 10 to 12 per

¹ Declaration references are to the declarations appended to LACDP’s and RCDCC’s concurrently filed Application for Leave to File Declarations.

month before the line item veto to 30 to 35 per month at present [Decl. at para. 5, p.1]. Johnson describes an HIV-positive 27-year-old mother of two who was able to access antiretroviral medication for one month because of Women at Risk's financial help, but notes that in the wake of the line item veto, there are—and will be—many more women who are similarly situated and , as a result, will be “forced to choose between either paying for food or paying for medication” [id. at para.7, p. 2].

These severe and possibly life-threatening consequences of the line item veto are not limited to agencies providing services to those with HIV/AIDS. Clients and potential clients of agencies providing assistance to victims of domestic violence also find themselves in dire straights. According to Judy Vaughan, Executive Director of Los Angeles' Alexandria House, as a direct result of the line item veto, domestic violence assistance organizations across the state are cutting back on services. As a result, the calls to her agency for assistance with the consequences of domestic violence incidents has also tripled, from 100 calls per month before the line item veto to 300 calls per month at present. As a result of this and the fact that in the current economic climate “families have to stay at Alexandria House longer than ever,” it has become increasingly difficult to accommodate new families, “forcing [many women and their children] to stay in [homes beset by] violent relationships” [Dec. at para. 5 & 7, p. 2]. Johnson cites the example of a woman to whom Alexandria House had to deny housing because of a lack of space. Although Alexandria House was able to house her for a month in a motel, if it cannot obtain additional voucher money on this woman's behalf, the woman will “be forced to either live in the street with her children or return to the violent relationship that she is trying to escape” [Decl. at para. 9-10, pp. 2-3].

As the examples above illustrate, the consequences of the cuts effectuated by the line item veto—especially on those impacted by HIV/AIDS and domestic violence—is grave and urgent. This urgency would not exist if not for the

Governor's purported line item vetoes, which will take effect immediately if they are allowed to stand.

Due to the great public importance of this litigation and the urgency with which the dispute must be resolved, this Court should find it has jurisdiction and should grant Petitioners immediate extraordinary relief. See San Francisco Unified School Dist. v. Johnson (1971) 3 Cal.3d 937, 944.

III. CONCLUSION

For the foregoing reasons, the LACDP and RCDCC, as amici curiae, respectfully urge this Court to grant the writ petition and prevent the devastating cuts imposed by Governor Schwarzenegger's legally unjustifiable exercise of the line item veto.

Dated: September 21, 2009

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 29.1(c) of the California Rules of Court, I certify that the foregoing Brief Amici Curiae was produced on a computer in 13-point type. The word count, including footnotes, as calculated by the word processing program used to generate the brief is 2,429.

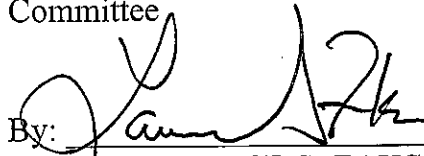
Dated: September 21, 2009

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PROOF OF SERVICE [C.C.P. § 1013(a)]

I am employed in the County of Los Angeles, State of California and over the age of eighteen years. I am not a party to the within action. I am employed by Reich, Adell & Cvitan, and my business address is 3550 Wilshire Boulevard, Suite 2000, Los Angeles, CA 90010. I am readily familiar with the practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, such correspondence would be deposited with the United States Postal Service, with the postage thereon fully prepaid, the same day I submit it for collection and processing for mailing.

On **September 21, 2009**, I served the within document entitled: **(PROPOSED) AMICUS CURIAE BRIEF OF THE LOS ANGELES COUNTY DEMOCRATIC CENTRAL COMMITTEE A/K/A LOS ANGELES COUNTY DEMOCRATIC PARTY AND THE RIVERSIDE COUNTY DEMOCRATIC CENTRAL COMMITTEE** on the parties in the action by placing a true copy thereof in an envelope addressed as follows:

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and, following ordinary business practices of Reich, Adell & Cvitan, by sealing said envelope and depositing the envelope for collection and mailing on the aforesaid date by placement for deposit on the same day in the United States Postal Service at 3550 Wilshire Boulevard, Suite 2000, Los Angeles, CA.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on **September 21, 2009** at Los Angeles, California.



CHERYL WINBORNE