COMMITTEE
FOR FREEDOM OF THE PRESS

1156 15th St. NW, Suite 1020
Washington, D.C. 20005
(202) 795-9300
www.rcfp.org

Bruce D. Brown
Executive Director
bbrown@rcfp.org
(202) 795-9301

November 27, 2018

Honorable Chief Justice Tani Cantil-Sakauye
and the Associate Justices of the Supreme Court of California
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-4797

Re: *National Lawyers Guild, San Francisco Bay Area Chapter v. Hayward*, Supreme Court Case No. S252445; Court of Appeal Case No. A149328, 27 Cal.App.5th 937 [328 Cal.Rptr.3d 505], Letter of *Amici Curiae* the Reporters Committee for Freedom of the Press and eight media organizations in support of the Petition for Review and requesting depublication

Dear Chief Justice Cantil-Sakauye and Associate Justices of the Court:

Pursuant to California Rule of Court 8.500(g), *amici curiae* the Reporters Committee for Freedom of the Press ("RCFP"), Californians Aware, First Amendment Coalition, Gannett Co., Inc., Los Angeles Times Communications LLC, The McClatchy Company, ProPublica, Reveal from The Center for Investigative Reporting and The San Diego Union-Tribune, LLC submit this letter in support of the Petition for Review filed by Petitioner the National Lawyers Guild ("Petitioner") in *National Lawyers Guild, San Francisco Bay Area Chapter v. Hayward*. *Amici* also respectfully request that this Court depublish the Court of Appeal's Opinion in this case, 27 Cal.App.5th 937 [328 Cal.Rptr.3d 505] (2018), pursuant to Rule of Court 8.1125(a)(1).

I. Interest of *Amici Curiae*

The Reporters Committee for Freedom of the Press is an unincorporated nonprofit association. The Reporters Committee was founded by leading journalists and media lawyers in 1970 when the nation's news media faced an unprecedented wave of government subpoenas forcing reporters to name confidential sources. Today, its attorneys provide *pro bono* legal

representation, *amicus curiae* support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists. The Reporters Committee has appeared as *amicus curiae* in several cases before the California Courts of Appeal concerning the California Public Records Act (CPRA), including, recently, *National Conference of Black Mayors v. Chico Committee Publishing, Inc.* (2018) 25 Cal.App.5th 570, as well as in other important cases in this Court affecting the news media, such as *Hassell v. Bird* (2018) 5 Cal. 5th 522. Full descriptions of the other *amici* are included below as Appendix A.

II. The Court should grant review.

A. Transparency and accountability provided by public access to body-worn camera footage benefits both law enforcement and the public.

Law enforcement agencies in California and around the country are increasingly using body-worn camera ("BWC") technology. (*See* Spagat, *US Border Agency Tests Body-Cam Use by Agents in 9 Locations*, AP NEWS (May 1, 2018), http://bit.ly/2RQFVeK (citing survey of 70 major law enforcement agencies where 95 percent have either implemented body-worn camera programs or intend to do so).) Some police departments collect more than a thousand hours of BWC footage each day. (*See* Ripley, *A Big Test of Police Body Cameras Defies Expectations*, N.Y. TIMES (Oct. 20, 2017), https://nyti.ms/2D7fmOp (explaining that over half of the footage is kept for months or years depending on the retention policy).) Public access to this footage is necessary for both the public and law enforcement personnel to reap the benefits of BWC technology.

The right of access to public records is enshrined in the California Constitution. (Cal. Const., art. I, § 3, subd. (b)(1).) The California Public Records Act (CPRA) similarly recognizes that public access to government records is a "fundamental and necessary right." (Gov. Code § 6250). The Act makes clear that public access extends to both paper and electronic records. (*See* Gov. Code § 6252(e) (defining "public records" as any "writing"

containing information retained by an agency "regardless of physical form or characteristics"); *id.* § 6252(g) (defining "writing" as any recording upon "any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored"); *see generally City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 617.)

The California legislature reinforced the public's right of access to BWC footage earlier this year, when it passed Assembly Bill 748, which provides that agencies must disclose BWC footage within 45 days and places the burden on the state to prove that the release of BWC footage would interfere with an ongoing investigation before it may be withheld longer than that. (Assem. Bill No. 748 (2017–2018 Reg. Sess.) § 6254(f)(4)(A) (approved by the Governor and filed with the Secretary of State on Sept. 30, 2018); *see also* Dillon, *California Legislature Passes Major Police Transparency Measures on Internal Investigations and Body Cameras*, L.A. TIMES (Sept. 1, 2018), https://lat.ms/2Fnz0bF.) This bill was signed by the Governor and will take effect in 2019. In short, California's dedication to transparency and citizen access to government records is well established, and access to BWC footage is no different.

Police use of BWCs provides immense benefits, both to law enforcement and civilians, and public access to BWC footage is key to realizing those benefits. When law enforcement officers know that the public can monitor their conduct through public access to BWC footage, they are less likely to use unnecessary force. For example, a 2017 study revealed that officers with BWCs had fewer use of force incidents as well as civilian complaints. (Braga et al., The Benefits of Body-Worn Cameras: New Findings from a Randomized Controlled Trial at the Las Vegas Metropolitan Police Department (Sept. 28,

2017) p. 11, available at http://bit.ly/2qWAXBU.) The study suggests that BWCs may "de-escalate aggression or have a 'civilizing' effect on the nature of police-citizen encounters," while also discouraging false complaints. (*Id.* at pp. 10–11, 28.) Some studies have found that complaints drop by as much as 87 percent, and use of force by 59 percent. (*See* UNIVERSITY OF CAMBRIDGE, First Scientific Report Shows Police Body-Worn-Cameras Can Prevent Unacceptable Use-of-Force (Dec. 23, 2014), http://bit.ly/2QAUxio.) Fewer complaints and use of force incidents means that law enforcement departments spend less money and time on internal investigations. The savings could be as much as $3,000 annually per BWC wearing officer. (*See* Muhlhausen, *Research Shows Body-Worn Cameras Protect Law Enforcement*, OFFICE OF JUSTICE PROGRAM BLOGS (Feb. 7, 2018), http://bit.ly/2QuEYc2 (citing the Braga study, *supra*).)

There are also numerous examples of BWC footage, when released to the public, revealing officer misconduct or inaccurate department reports, prompting agency reform. For instance, the Charlotte-Mecklenburg Police Department ("CMPD"), facing intense public protests, released footage of the 2016 shooting and death of Keith Lamont Scott. (*See* Marusak & Washburn, *CMPD Releases Full Video of Fatal Keith Lamont Scott Shooting*, CHARLOTTE OBSERVER (Oct. 4, 2016), http://bit.ly/2z6xmFQ.) Mr. Scott's death prompted the CMPD to reevaluate its use of force policy. (*See* Wester & Smith, *After Keith Scott Shooting, CMPD is Reviewing Its Use of Force Policy*, CHARLOTTE OBSERVER (Sept. 15, 2017), http://bit.ly/2DCARYr.) Similarly, a Mesa Police Department report stated that a man had advanced on officers and continued to fight them after he was handcuffed. (Windsor, *Arizona Man Claims Police Brutality After Body Camera Captures Officer Pushing Him to Ground*, ABC NEWS (Dec. 30, 2016), https://abcn.ws/2B2sAKW.) BWC footage told a different story: Officers instigated the incident without provocation and used excessive

force, leading to the victim's hospitalization. (*Id.*) More recently, BWC footage was crucial in a complaint against the Milwaukee police department, when eight officers surrounded and stun gunned Sterling Brown for an alleged parking violation. (*See* CBS NEWS (June 19, 2018), https://cbsn.ws/2zQfheR (reporting that an officer is recorded saying "[i]f he makes a [expletive] complaint, it's going to be a [expletive] media firestorm").)

At the same time, BWC footage has helped clear officers of accusations of misconduct or supported their reports of controversial encounters. For example, when an officer in South Euclid, Ohio, killed a man while responding to a report of a domestic disturbance, footage from the officer's BWC revealed that the man was continuously stabbing his ex-girlfriend, screaming "Kill me!," preventing any controversy about the killing before it even began. (Siemaszko, NBC NEWS (May 8, 2016), https://nbcnews.to/2TbFzRs.) Similarly, a Georgia police officer faced a complaint by two firefighters for creating a "sense of fear," cursing at them, and being belligerent. (PoliceOne Staff, POLICEONE (Jan. 21, 2016), http://bit.ly/2DooBd6.) However, the accusers changed their story after BWC footage revealed a different scene than described in the complaint. (*Id.*)

B. The Court of Appeal's decision stymies public access to BWC footage.

Public access to BWC footage helps makes law enforcement officers who use BWC accountable to the public. But the benefits that BWC footage provide in building community trust and ensuring accountability exist only when the public has ready access the footage. Imposing fees on requesters for the redaction of BWC footage stymies public access, while also losing the monetary and community benefits of purchasing and using BWCs in the first place.

The Court of Appeal's decision will allow law enforcement agencies to charge prohibitive fees for almost any CPRA request for BWC footage. Under the Court of Appeal's interpretation of Government Code section 6253.9(b), requesters must pay any and all costs associated with the redaction of BWC footage and other electronic records.[1] Indeed, the Court of Appeal upheld a fee of nearly $3,000 that included everything from the time it took an agency employee to select which software to use (through trial and error) and to learn how to use that software, as well as the time to redact the footage, including reviewing it to determine what redactions must be made, redacting the audio and video, and reviewing the footage to ensure no content subject to disclosure was inadvertently redacted. (*See Hayward*, 328 Cal.Rptr.3d at 508, n.4.) Thus, even if an agency were to redact only a few minutes or seconds of footage in response to a CPRA request for BWC footage, under the Court of Appeal's decision, it would be permitted to charge the requester, at least, the cost having a government official review the requested footage twice: Once to determine whether there is any exempt material, and again to determine whether the redactions were done properly. (*See id.*) Under the respondent's and the Court of Appeal's theory, these costs may always be passed onto the requester, regardless of how inefficiently redactions are made.

These prohibitive fees will discourage requests for BWC footage of events where public interest in disclosure may be highest. For example, the footage at issue here is of a public demonstration in the City of Berkeley, which led to numerous injuries and arrests.

[1] The Court of Appeal's interpretation of Government Code section 6253.9(b) would apparently permit a government agency to charge CPRA requesters for the costs of redacting *any* electronic records, a decision which may have vast impact on CPRA requests as more and more government records are held in electronic form. (*See Amici Curiae* Br. of the Reporters Committee for Freedom of the Press and Seven Media Organizations in Support of Respondent at 11–13, *Nat'l Lawyers Guild v. City of Hayward*, 27 Cal.App.5th 937 [328 Cal.Rptr.3d 505] (filed July 31, 2017) (discussing the increasing digitization of government records).)

(*See* Pet. for Review at 15.) The requested footage was redacted to remove information pertaining to "medical injuries and information pertaining to police tactics." (*Id.* at 24.) The news media frequently reports upon public demonstrations, and the public has a legitimate interest in BWC footage from these demonstrations. (*See, e.g.*, *Violent Protests Break Out at UC Berkeley*, ABC NEWS (Feb. 2, 2017), https://abcn.ws/2zaE2D1 (showing video footage from helicopters and from the ground).) The Court of Appeal's decision, if permitted to stand, will decrease public access to BWC footage that shows officers coordinating and working with large crowds by allowing government agencies to charge requesters the cost of redacting such footage. (*See id.* at 12–13.)

Allowing government agencies to charge requesters for any and all costs of redaction of BWC footage affects the news media and, therefore, the public. Regardless of a newsroom's budget, the Court of Appeal ruling will drastically limit newsroom access to BWC footage and other electronic documents. Journalists regularly file numerous freedom of information requests every day in order to understand how agencies are conducting the people's business. (*See* Lucas, *How Times Reporters Use the Freedom of Information Act*, N.Y. Times (July 21, 2018), https://nyti.ms/2LGWvv6 ("Times journalists file [FOIA] requests every day in search of documents.").) Numerous requests are critical for the press to "fully and accurately" inform members of the public about government conduct so that they can "vote intelligently" or "register opinions on the administration of government generally." (*See Cox Broadcasting Corp. v. Cohn* (1975) 420 U.S. 469, 492.) For freelance journalists and smaller newsrooms who lack financial resources especially, the costs of redacting a single electronic record may be prohibitive. (*See* Semuels, *Is There Hope for Local News?*, ATLANTIC (Nov. 10, 2014), https://perma.cc/WW33-87ZE (explaining that for financial reasons, a local San Francisco paper had one full-time employee and otherwise hires freelancers);

PROJECTWORLD, *Untold Stories: A Survey of Freelance Investigative Reporters* 15–18 (2015) (explaining that freelancer reporters are often hindered by lack of access because of expensive tools).) But even if the costs for any single request are not prohibitive for certain newsrooms, the cumulative cost for multiple CPRA requests will place many electronic government records out of reach for even the most well-resourced news organizations. The Court of Appeal's decision, if upheld, will transform CPRA requests into a scarce and expensive tool and effectively neuter the Fourth Estate's central role as a government watchdog. (*See, e.g.*, Potter Stewart, *"Or of the Press"* (1975) 26 HASTINGS L.J. 631, 634 (explaining that the press's constitutional protections are "to create a fourth institution outside the Government as an additional check on the three official branches").)

Perhaps most unsettling, allowing law enforcement departments to pass on these costs to requesters gives them a means to manipulate public perception. As this Court has stated, law enforcement officers "hold one of the most powerful positions in our society; our dependence on them is high and the potential for abuse of power is far from insignificant." (*Comm'n on Peace Officer Standards & Training v. Superior Court* (2007) 42 Cal. 4th 278, 299 (citation omitted).) BWC footage is not perfect—there are inherent biases that come with seeing the footage from the officer's point of view. (*See, e.g.*, Timothy Williams et al., *Police Body Cameras: What do You See*, N.Y. TIMES (Apr. 1, 2016), https://nyti.ms/2T8gJSq.) But the Court of Appeal's decision magnifies this bias. It gives agencies the power to release favorable footage free of charge, while simultaneously charging potentially exorbitant fees before a requester is given *any* access to recordings it may not want the public to see. (*See* Pet. for Review at 25.)

The limits on public access created by exorbitant fees for BWC footage hurt the news industry, but it is the public that is hurt the most. The press is the primary means for

the public to learn about government activities. (*See Grosjean v. American Press Co.* (1936) 297 U.S. 233, 250 (stating that an "untrammeled press [is] a vital source of public information"); *Richmond Newspapers, Inc. v. Virginia* (1980) 448 U.S. 555, 573 ("Instead of acquiring information about trials by firsthand observation or by word of mouth form those who attended, people now acquire it chiefly through the print and electronic media. In a sense, this validates the media claim of functioning as surrogates for the public.").) When the press cannot afford to obtain government records, the public loses access.

C. The Court of Appeal erred in failing to interpret Government Code section 6253.9(b) in favor of access, as the California Constitution requires.

This Court has long recognized that "[o]penness in government is essential to the functioning of a democracy," and that "access permits checks against the arbitrary exercise of official power and secrecy in the political process."' (*Int'l Fed'n of Prof'l & Tech. Eng'rs, Local 21, AFL-CIO v. Superior Court* (2007) 42 Cal.4th 319, 328–29 (citation omitted).) The California Constitution specifically declares that "[t]he people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny." (Cal. Const., art. I § 3, subd. (b)(1).) In furtherance of this right, the California Constitution also requires that statutes must be "broadly construed" in favor of public access. (Cal. Const., art. I, § 3, subd. (b)(2).)

When the Court of Appeal found the statutory language of Government Code section 6253.9(b)(2) ambiguous, it went straight to the legislative history and did not even discuss the California Constitution's mandate that the statute be broadly construed in favor of access. Even if the statutory language is in fact ambiguous, the Court of Appeal should have turned to the California Constitution and wealth of case law that is in favor of granting

access, rather than relying on its flawed interpretation of legislative history.[2] (*See* 328 Cal.Rptr.3d at 514–15.)

Protections in the California Constitution for individual privacy do not justify the Court of Appeal's decision. *Amici* acknowledge that, in some cases, electronic records can contain private information that can be withheld from disclosure. (*See id.* at 514, n.7.) Privacy interests, however, are protected through redactions, even if the government agency bears the cost of those redactions.[3] The current Court of Appeal's interpretation of "extraction" in Code § 6253.9(b) to permit government agencies to charge requesters the cost of redacting *any* BWC video (including, potentially, the cost of reviewing the footage to determine if redactions are permitted) is simply not necessary to protect individual's privacy interests.

III. In the alternative, the Court should depublish the Court of Appeal's decision pursuant to Rule of Court 8.1125(a)(1).

Depublication of the Court of Appeal decision in this case is warranted because its reasoning suggests that requesters for *any* electronic records could be subject to "extraction" fees. The court held that "lawmakers were in fact aware the costs of redacting exempt information from electronic records would in many cases exceed the cost of redacting such information from paper records." (*Hayward*, 238 Cal.Rptr.3d at 515.) Under the Court of Appeal's approach, agencies could charge requesters for electronic records simply because the agency must redact them, even if it could not charge requesters for the same records if

---

[2] *Amici* agree with Petitioner that the Court of Appeal erroneously interpreted the legislative history in this case. (Pet. for Review at 35–39.) *Amici* do not address arguments concerning legislative history, which have been fully and adequately briefed by Petitioner and other *amici*. (*Id.*; *see also* Cal. News Publishers Ass'n, Letter of *Amici Curiae* in Support of Rev. 3–6.) *Amici* do not concede that there is no legislative history supportive of Petitioner's arguments or only contrary legislative history.

[3] *Amici* note that there are widely available and affordable options for video editing, which would be less onerous that the method chosen by Respondent. (*See, e.g.*, *Testimony of Katie Townsend on Behalf of the Reporters Committee for Freedom of the Press on Metropolitan Police Department's Body-Worn Camera Program* (May 7, 2015) at 8–10, *available at* https://www.rcfp.org/sites/default/files/2015-05-07-comments-on-dc-police-bodycam.pdf.)

provided in physical, rather than electronic, form. This is contrary to the CPRA, which prohibits agencies from charging beyond the cost of producing a copy of the record itself. (*See* Gov. Code § 6253.9 ("The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.").) This is especially concerning as public agencies begin to digitize and store more records electronically. (*See* CALIFORNIA RECORDS AND INFORMATION MANAGEMENT PROGRAM, *Electronic Records Guidebook* at p.1, available at https://archives.cdn.sos.ca.gov/pdf/calrim_e_records_guidebook_full.pdf ("[T]oday's highly technical environment means that more records will be created and stored electronically.").) The implications of the opinion below extend well beyond BWC and endanger public access to all electronically held records.

Moreover, the opinion seemingly conflicts with Assembly Bill 748, which created uniform law across California regarding public access to BWC footage. Governor Brown signed the Bill on September 30, 2018, two days after the Court of Appeal opinion's initial publication,[4] and it will take effect in July 1, 2019. The Bill, along with Senate Bill 1421 signed the same day, recognizes the broad public interest in disclosing BWC footage and other records. (*See* Sen. Bill No. 1421 (2017–2018 Reg. Sess.) § 1 (approved by the Governor and filed with the Secretary of State on Sept. 30, 2018) ("The public has a right to know all about serious police misconduct.").) Moreover, the new BWC law calls for private information to be "redacted"—not "extracted." The amended statute never refers to extraction. Nor does it ever state redaction of BWC footage would be somehow distinct from non-electronic documents and thus subject to extraction fees, as the Court of Appeal suggests. (*Hayward*, 328 Cal.Rptr.3d at 515.)

[4] The Court of Appeal modified its opinion on Oct. 26, 2018, without changing the judgment or addressing AB 748.

IV. Conclusion

This Court has consistently been at the forefront of asserting the public's right to access government records in light of new technologies. The legal and factual issues for which Petitioner seeks review give the Court an opportunity to clarify and underscore the public's right of access to electronic records without facing unjustified fees for redaction of records. For the reasons listed above, *amici curiae* respectfully urge the Court to grant review in this case and to reverse the decision of the Court of Appeal, or, in the alternative, to depublish the Court of Appeal decision.

Respectfully submitted,

Katie Townsend
Legal Director
The Reporters Committee for Freedom of the Press
Counsel of Record for amici curiae

APPENDIX A

SUPPLEMENTAL STATEMENT OF IDENTITY OF AMICI CURIAE

Californians Aware is a nonpartisan nonprofit corporation organized under the laws of California and eligible for tax exempt contributions as a 501(c)(3) charity pursuant to the Internal Revenue Code. Its mission is to foster the improvement of, compliance with and public understanding and use of, the California Public Records Act and other guarantees of the public's rights to find out what citizens need to know to be truly self-governing, and to share what they know and believe without fear or loss.

First Amendment Coalition is a nonprofit public interest organization dedicated to defending free speech, free press and open government rights in order to make government, at all levels, more accountable to the people. The Coalition's mission assumes that government transparency and an informed electorate are essential to a self-governing democracy. To that end, we resist excessive government secrecy (while recognizing the need to protect legitimate state secrets) and censorship of all kinds.

Gannett Co., Inc. is a leading news and information company which publishes USA TODAY and more than 100 local media properties. Each month more than 110 million unique visitors access content from USA TODAY and Gannett's local media organizations, putting the company squarely in the Top 10 U.S. news and information category.

Los Angeles Times Communications LLC and The San Diego Union-Tribune, LLC are two of the largest daily newspapers in the United States. Their popular news and information websites, www.latimes.com and www.sduniontribune.com, attract audiences throughout California and across the nation.

The McClatchy Company is a 21st century news and information leader, publisher of iconic brands such as the Miami Herald, The Kansas City Star, The Sacramento Bee, The Charlotte Observer, The (Raleigh) News and Observer, and the (Fort Worth) Star-Telegram.

McClatchy operates media companies in 28 U.S. markets in 14 states, providing each of its communities with high-quality news and advertising services in a wide array of digital and print formats. McClatchy is headquartered in Sacramento, Calif., and listed on the New York Stock Exchange under the symbol MNI.

ProPublica is an independent, nonprofit newsroom that produces investigative journalism in the public interest. It has won four Pulitzer Prizes, most recently the 2017 Pulitzer gold medal for public service. ProPublica is supported primarily by philanthropy and offers its articles for republication, both through its website, propublica.org, and directly to leading news organizations selected for maximum impact. ProPublica's first regional operation, ProPublica Illinois, began publishing in late 2017, and was honored (along with the Chicago Tribune) as a finalist for the 2018 Pulitzer Prize for Local Reporting.

Reveal from The Center for Investigative Reporting, founded in 1977, is the nation's oldest nonprofit investigative newsroom. Reveal produces investigative journalism for its website https://www.revealnews.org/, the Reveal national public radio show and podcast, and various documentary projects. Reveal often works in collaboration with other newsrooms across the country.

APPENDIX B

ADDITIONAL COUNSEL FOR *AMICI CURIAE*

Terry Francke
General Counsel
Californians Aware
2218 Homewood Way
Carmichael, CA 95608

David Snyder
First Amendment Coalition
534 Fourth St., Suite B
San Rafael, CA 94901

Barbara W. Wall
Senior Vice President & Chief Legal
Officer
Gannett Co., Inc.
7950 Jones Branch Drive
McLean, VA 22107
(703)854-6951

Jeff Glasser
Vice President, Legal
Los Angeles Times Communications LLC
& The San Diego Union-Tribune, LLC
2300 E. Imperial Highway
El Segundo, CA 90245

Juan Cornejo
The McClatchy Company
2100 Q Street
Sacramento, CA 95816

Richard J. Tofel
President
ProPublica
155 Avenue of the Americas, 13th floor
New York, NY 10013

D. Victoria Baranetsky
General Counsel
Reveal from The Center for Investigative
Reporting
1400 65th Street, Suite 200
Emeryville, California 94608

PROOF OF SERVICE

I, Daniel J. Jeon, declare that at the time of service, I was over 18 years of age and **not a party to this action**. I am employed in Washington, D.C. My business address is 1156 15th Street NW, Suite 1020, Washington D.C. 20005.

On November 27, 2018, I served true copies of the following document(s) described as **LETTER OF AMICI CURIAE IN SUPPORT OF THE PETITION FOR REVIEW** on the interested parties in this action as follows:

Michael S. Lawson
Justin Nishioka
City of Hayward
777 B Street
Hayward, CA 94541

Counsel for *City of Hayward*
michael.lawson@hayward-ca.gov
justin.nishioka@hayward-ca.gov

Amitai Schwartz
Law Offices of Amitai Schwartz
2000 Powell Street, Ste. 1286
Emeryville, CA 94608

Counsel for *National Lawyers Guild, San Francisco Bay Area Chapter*
attorneys@schwartzlaw.com

Alan L. Schlosser
American Civil Liberties Union Foundation of Northern California, Inc.
39 Drumm Street
San Francisco, CA 94111

Counsel for *National Lawyers Guild, San Francisco Bay Area Chapter*
aschlosser@aclunc.org

BY ELECTRONIC SERVICE: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission via Court's Electronic Filing System (EFC) operated by ImageSoft TrueFiling (TrueFiling), I provided the document(s) listed above electronically on the TRUE FILING Website to the parties on the Service List maintained on the TRUE FILING Website for this case, or on the attached Service List. TRUE FILING is on the on-line e-service provider designated in this case. Participants in the case who are not registered TRUE FILING users will be served by mail or by other means permitted by the court rules.

BY MAIL: I served the attached **LETTER OF AMICI CURIAE IN SUPPORT OF THE PETITION FOR REVIEW** by placing a copy thereof in an envelope for the addressees named hereafter, addressed to the addressees as follows:

The Honorable Evelio Grillo
Alameda County Superior Court
1225 Fallon Street
Oakland, CA 94612

First Appellate District, Division 3
350 McAllister Street
San Francisco, CA 94102

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on November 27, 2018. I am a resident or employed in the county where the mailing occurred.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 27, 2018, at Washington, D.C.

Daniel J. Jeon