No. C101480

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

PROTECT KIDS CALIFORNIA and JONATHAN ZACHRESON, individually and on behalf of PROTECT KIDS CALIFORNIA Appellants v. ROB BONTA, in his official capacity as Attorney General of the State of California and DOES 1-50, inclusive, Appellees	Appeal from the Superior Court of the State of California, County of Sacramento No. 24WM000034 The Hon. Stephen Acquisto, Judge Presiding

APPELLANTS' OPENING BRIEF

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CERTIFICATE OF INTERESTED ENTITIES OR PARTIES

Pursuant to California Rules of Court, Rule 8.208, Respondents hereby submit the following certificate of interested entities or persons:

I, Emily Rae, know of no other entity or person that has a financial or other interest in the outcome of the proceeding that I reasonably believe the Justices should consider in determining whether to disqualify themselves under California Rules of Court, Rule 8.208.

Dated: February 19, 2025

Respectfully submitted,

/s/Emily Rae

Emily Rae

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INTRODUCTION

The decision below effectively granted the Attorney General a heckler's veto over any ballot initiative he dislikes. If left standing, that decision would irreparably damage California's 100-year legacy of granting direct democratic powers to its residents.

Appellants Protect Kids California and Jonathan Zachreson seek to qualify for the 2026 ballot a measure that would allow voters to weigh in on three important issues: whether parents should be notified if their children are transitioning their gender in school; whether schools should ensure that the use of locker rooms and participation on sports teams align with a student's sex assigned at birth, and whether sex-change surgeries and treatments should be available to minors.

This proposed ballot measure ("the Initiative") was submitted to Appellee California Attorney General Rob Bonta ("the AG," "Appellee," or "Bonta"), who was required to provide a true, impartial, neutral title and summary that was not likely to cause prejudice and explained the points and purposes of the initiative. (Elec. Code §§ 9002, 9004(a), 9051(d).) Bonta, who has a long history of personal animus against the issues in the Initiative, failed to do so.

Instead, Bonta purposely provided a negative title, using language that tips the scales in his favor. The AG falsely characterized the Initiative both by overstating its impact – claiming that it would ban *all* gender affirming health care and falsely stating that there would be no exceptions to parental notification for student safety – and understating its scope by omitting Appellants' definitions of "male" and "female" from the description. Further, Bonta renamed the Initiative so that voters would no longer see that it "protect[s] kids" but instead would see that it "restricts rights," using hyperbolic language to obfuscate the true purpose of the initiative.

This lawsuit followed. Appellants produced a mountain of evidence demonstrating both Bonta's bias against the Initiative and the damage to its support that Bonta's false characterization of the Initiative caused. In response, Appellee presented evidence of numerous other initiatives that used the word "restrict"—but each of those initiatives had also failed, which only bolsters Appellants' position that the term creates prejudice against the measure. (App. 466, 526-542.) The trial court, however, dismissed much of this evidence on relevance grounds.

The court then stated that the language Bonta used to describe the Initiative was true and impartial, and denied the petition.

But the trial court only performed half the required analysis. It is not sufficient that the title and summary be "true and impartial"; it must also not "be an argument, nor be likely to create prejudice . . . against the proposed measure." (Cal. Elec. Code § 9051(d).)

The trial court's failure to do the full prejudice analysis gives the Attorney General secret veto power over any ballot measure he does not like. This, of course, undermines the entire purpose of the ballot measure process. The initiative process was "drafted in light of the theory that all power of government ultimately rests in the people" and "the duty of the courts [is] to jealously guard the right of the people." (*Associated Home Builders etc. Inc. v. City of Livermore* (1976) 18 Cal. 3d 582, 591.) "The ballot box is the sword of democracy." (*Forty-Niners v, Nishioka* (1999) 75 Cal. App. 4th 637, 643 (cert. denied).) This Court should reverse the decision of the trial court, specifically with respect to sections A, D, and E of its opinion. The trial court should be ordered to determine whether the term "restricts rights" is likely to create prejudice against the proposed measure and consider all relevant

evidence on that issue; properly review the overstated impacts and understated scope of the Initiative; and provide Appellant with a true, impartial, neutral title and summary and a new opportunity to continue gathering signatures for the Initiative.

FACTS

I. The Initiative

In September 2023, Protect Kids California submitted the Initiative to the Office of the Attorney General so the AG could prepare a circulating title and summary as provided by law. (App. 068-72.) The Initiative makes, *inter alia,* the following observations:

- "The Supreme Court has consistently opined that parental rights are a fundamental liberty interest" and that "the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children."
- "For parents or legal guardians to make the best decisions possible with respect to their children, schools must keep parents fully informed about all matters that are important to

a parent and the well-being of a student, including the child's mental health and social and psychological development."

- "There are physical differences between the sexes, giving male athletes a physical, competitive advantage against female athletes."
- "There are no long-term studies demonstrating the efficacy and safety of gender-related medical interventions on children," and many such interventions "are not approved for treating gender dysphoria or gender identity disorders for children."
- "Countries including the United Kingdom, Sweden, and Finland no longer recommend gender-related medical interventions on children with limited exceptions."
- "It is in the interest of the people of California to protect the reproductive, sexual health and bodily integrity of children as they grow into adults, including their natural ability to function sexually, reproduce, and breastfeed."

The Initiative would amend the Education Code to require schools to notify parents and legal guardians if a pupil requests that the school treat the pupil as a different gender; however, the Initiative makes

clear that nothing in that section affects confidentiality between a school counselor and a pupil as provided in Section 49602 of the Education Code, Section 6924 of the Family Code, and Section 124260 of the Health and Safety Code.

The Initiative would further amend the Education Code:

- To define "male" and "female";
- To protect equal opportunities for female athletes by prohibiting male students from participating in female sports;
- To protect female students' privacy and safety by requiring that bathrooms and locker rooms be segregated by biological sex.

In addition, the Initiative would amend the Business and Professions Code to protect students' reproductive health by prohibiting health care providers from providing sex-reassignment prescriptions or procedures to patients under 18 years old (unless if medically necessary to address an disorder of sexual development) or if the child has already had sex-reassignment prescriptions or procedures and wishes to reverse or continue them).

As submitted, the Initiative was titled "Protect Kids of California Act of 2024." Appellee retitled it "RESTRICTS RIGHTS OF

TRANSGENDER YOUTH. INITIATIVE STATUTE" and described it as follows:

- "Requires public and private schools and colleges to: restrict gender-segregated facilities like bathrooms to persons assigned that gender at birth; prohibit transgender female students (grades 7+) from participating in female sports. Repeals law allowing students to participate in activities and use facilities consistent with their gender identity.
- "Requires schools to notify parents whenever a student under 18 asks to be treated as a gender differing from school records without exception for student safety.
- "Prohibits gender-affirming health care for transgender patients under 18, even if parents [sic] consent or treatment is medically recommended." (App. 081.)

II. Bonta's Conflicts of Interest Regarding Children's Gender Identity

Although the law requires him to be a neutral arbiter when it comes to ballot initiatives, Appellee is anything but. As California Attorney General, he has filed a civil rights action against a California school district that approved a policy notifying parents when their children are

suffering from gender dysphoria, *The People of the State of California, et al. v. Chino Valley Unified School District,* Case No. CIV SB 2317301 (App. 083-105); he has intervened as an amicus in a California case challenging a school board policy that requires parental notification when a student requests to be treated as a gender other than their biological sex, *Mae M. et al v. Komorsky et al,* Case No. CVSW2306224 (App. 107-132); he has publicly rebuked five school districts' notification policies (App. 218-219; 237-263); and he has issued a letter to all school superintendents and board members instructing them not to inform parents about their child's gender dysphoria (App. 215-219).

Not content to meddle solely with notification policies, Bonta has also repeatedly attacked sex-segregated bathrooms, changing rooms, and sports teams, as well as any limitations on childhood transitions. As California's Attorney General, he joined amicus briefs in other states to advocate against sex-segregated bathrooms, changing rooms, and sports teams. He also led or joined amicus briefs assailing other states' laws prohibiting changes to children's secondary sex characteristics through irreversible puberty blockers, hormones, and surgeries. (App. 226-230; 237-283; 295-307.)

In each of these cases, Bonta's partisan interests would be harmed by the passage of the Initiative. And so, unsurprisingly – but in contravention of his statutory duties – he portrayed the Initiative in an extremely negative light via his choice of language to describe it on the ballot, guaranteeing confusion and failure.

III. Bonta's Unlawful Title and Summary Deter Potential Supporters of the Initiative

Not long after Bonta's misleading, inflammatory, and prejudicial title and summary were published, Appellants were contacted by multiple members of the public who supported the Initiative but expressed concern that the language Bonta had saddled it with was deterring potential supporters. One such member of the public asked Appellants how they "expect[ed] this to have any chance to win with a title that says 'restrict rights[.]'" (App. 231) That same member of the public also reported difficulty gathering signatures to support the petition because they did not believe the substance of the Initiative could be so different from the title and summary. (App. 326 ¶ 7.) Another member of the public reported similar difficulties in gathering signatures for anything that "restrict[ed] rights." (App. 323 ¶¶ 8-9.) Appellants' counsel met with several high-value potential donors who informed her that they

would not donate to support the Initiative because of the AG's misleading, inflammatory, and prejudicial title and summary. (App. 373 ¶ 6.)

IV. Proceedings Below

The parties filed briefs on verified writ of mandate. On May 1, 2024, the trial court denied the writ of mandate and dismissed the petition with prejudice.

STANDARD OF REVIEW

On appeal from the denial of a petition for writ of mandate where the facts are undisputed, the issue to be resolved is a question of law. The appeal is treated as a renewed petition for writ of mandate, and the trial court's decision is reviewed de novo. (*Fountain Valley Regional Hospital & Medical Center v. Bonta* (1999) 75 Cal. App. 4th 316, 323; *Physicians & Surgeons Laboratories, Inc. v. Department of Health Services* (1992) 6 Cal. App. 4th 968, 981; *Evans v. Unemployment Ins. Appeals Bd.* (1985) 39 Cal. 3d 398, 407.)

ARGUMENT

The Attorney General was required to prepare a title and summary of the Initiative that was true, impartial, and unlikely to create

prejudice. (Cal. Elec. Code § 9051(d).) He did not. The trial court erred in ruling otherwise. Specifically, the trial court erred in holding that the AG's title and summary accurately and impartially stated that the Initiative "restricts rights" (section A); that it was not inaccurate or misleading when it (falsely) stated that the Initiative had no exception for student safety (section D); and that it was not inaccurate or misleading when it (misleadingly) stated that the Initiative prohibits gender-affirming care (Section E). The trial court also erred in declining to consider evidence Appellants proffered in support of their claims on relevance grounds.

I. The Trial Court Erred in Holding that the AG's Title and Summary were Impartial.

The trial court observed that current state law allows students to participate in sports activities and use the bathroom/changing facilities consistent with his or her gender identity. (App. 010, Ed. Code § 221.5.) The court then quoted the dictionary definitions of "restrict" and "restrain" to demonstrate that the use of the term "restrict" to describe the Initiative's impact on student rights was accurate. But the question is not whether the language is accurate; the question is whether the language is "true and impartial" and is "neither argument, nor be likely

to create prejudice, for or against the proposed measure." (Cal. Elec. Code § 9051(e).)

Appellants demonstrated that the language was not impartial, and that it was likely to create prejudice. (*See* Facts, Part III, *ante*.) But the court simply threw out that evidence on relevance grounds (App. 008-09)[1] and stated that if "people have expressed negative reactions when asked to sign the initiative petition, perhaps those reactions stem from the measure itself, rather than the accurate use of the word 'restricts.'" (App. 011.)

But consider *McDonough v. Superior Court* (2012) 204 Cal. App. 4th 1169. There, the court held that one word in a ballot title – "PENSION REFORM" – was impermissibly "argumentative" because it "implicitly characterized the existing pension system as defective, wrong, or

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[1] For an example of just how egregiously the court behaved in ignoring Appellants' evidence, what the court dismissed as a "statement found on the website 'ballotpedia.org'" – as though it was written by an anonymous wiki editor - was in fact a statement by the National Conference of State Legislatures. (App. 007, 357.) Moreover, that statement was directly relevant to the issue in this case: "The ballot title and summary are arguably the most important part of an initiative in terms of voter education. Most voters never read more than the title and summary of the text of initiative proposals. Therefore, it is of critical importance that titles and summaries be concise, accurate and impartial."

susceptible to abuse, thereby taking a biased position in the very titling of the measure itself." (204 Cal. App. 4th at 1174-75.) There, the court went on to say that the "substitution of the word 'modify' for 'reform'" would be appropriate, and changed the title to "PENSION MODIFICATION." (*Id.* at 1175.) Although *McDonough* was cited in Appellants' briefs below, the trial court failed to discuss the case at all. And how could it have? If an innocuous term like "reform" was too "argumentative," then so is the much more obviously charged word "restricts."

Or take *Huntington Beach City Council v. Superior Court* (2002) 94 Cal. App. 4th 1417. There, the title "Amendment of Utility Tax by Removing Electric Power Plant Exemption" was "insufficiently neutral" because "the word 'exemption' carries the whiff of privilege about it." (94 Cal. App. 4th at 1433.) "It conveys the idea that [a corporation that owned an electric power plant] isn't paying *any* utility tax at all – a proposition that, as we have seen, is simply not true." (*Id.* at 1434.) One word – "exemption" versus "exclusion" – was sufficiently prejudicial to require a rewrite of the title and summary. Again, Appellants

brought this case to the court's attention, and the court ignored its application here.[2]

Even if the statement that the Initiative "restricts rights" were true – and it was not (*see* section II, *infra*) – that statement was not impartial. And the trial court failed to even consider that it might be. The deficiency of the trial court's analysis on this point cannot be overstated. By refusing to faithfully analyze under Elec Code § 9051(e) Appellee's inflammatory rewrite of the Initiative, the trial court essentially gave the AG veto power over any ballot initiative he does not like; all he has to do is rewrite it in a vaguely-plausible-yet-inflammatory manner, and the public will vote it down or, as what happened in this case, the measure will fail to get enough signatures to even get to the ballot.

Of course, many initiatives are contrary to the administration's agendas; otherwise, the administration could utilize the bill process to effectuate its goal. The people only have the ballot box at their disposal,

[2] At least the court acknowledged *Huntington Beach*'s existence, albeit in the abstract. (App. 016.) It did not address Appellants' arguments pertaining to the application of *Huntington Beach* here.

and the "awesome" power of the initiative process that must be jealously guarded.

II. The Trial Court Erred in Holding that the AG's Title and Summary were True.

The main purpose of the title and summary is to provide citizens with accurate information that is not misleading. (*Becerra v. Superior Court of Sacr. Cnty* (2017) 19 Cal. App. 5th 967.) Upon clear and convincing proof that ballot information is false and misleading, the court must mandate revisions. "No elector can intelligently exercise his rights under the initiative law without knowledge of the petition which he is asked to sign." (*Boyd v. Jordan* (1934) 1 Cal. 2d 468, 475.) Therefore, "an initiative petition which contains objectively inaccurate information and calculated untruths that substantially mislead and misinform a reasonable voter is unlawful under the Elections Code." (*San Francisco Forty-Niners v. Nishioka* (1999) 75 Cal. App. 4th 637, 639.)

The court claimed that "whether the measure would 'protect' kids is subjective and debatable," whereas the AG's wording "provides an accurate description of the immediate and tangible effect of the

proposed measure," because "'restricts rights' accurately describes what the proposed measure would do." (App. 011.)

But the notion that the measure would "restrict rights" is *at least* every bit as "subjective and debatable" as the notion that the measure would protect kids. For example, the Initiative would *not* restrict the right of a female student to the privacy of a locker room reserved for the exclusive use of biological females – or to put it more bluntly, the Initiative does not "restrict" the right of a female student to not be forced to undress in front of an intact biological male.

Nor, as Appellants pointed out below, can what the Initiative "restricts" honestly be called "rights." Minors do not have the "right" to deceive their parents; this does not change even if they are acting in conjunction with their schools. Likewise, there is no school or student right to ignore or disregard parents' directions regarding appropriate accommodations for their child. And there is no California law granting a privacy right to a minor from their parent regarding gender identity. (*Mirabelli v. Olson* (S.D. Cal. 2023) 691 F. Supp. 3d 1197, 1212.) Indeed, *Mirabelli* described the school policy at issue there – a policy protecting the same "rights" asserted here – as:

> [A] trifecta of harm: it harms the child who needs parental guidance and possibly mental health intervention[;] . . . the parents by depriving them of the long recognized Fourteenth Amendment right to care, guide, and make health care decisions for their children[; and the teachers] who are compelled to violate the parent's rights by forcing [the teachers] to conceal information they feel is critical for the welfare of their students.

(691 F. Supp. at 1222.) Although Appellants brought this case to the lower court's attention, the court's opinion never mentions it.

Alternatively, consider that while the Initiative might, from one viewpoint, "restrict rights" of transgender students, it also *enhances* the rights of those students' parents. To not acknowledge this tradeoff is itself "the type of advocacy disallowed in a title and summary." (App. 011.)

III. The Trial Court Erred in Holding that the AG's Title and Summary were not Misleading Regarding Exceptions for Student Safety.

The Initiative's section on parental notification states that "[n]othing in this section affects confidentiality between a school counselor and a pupil as provided in Section 49602 of the Education Code, Section 6924 of the Family Code, and Section 124260 of the Health and Safety Code, as applicable." The AG's summary – which, again, is required to be true, impartial, and not likely to create prejudice – reads "Requires schools to

notify parents whenever a student under 18 asks to be treated as a gender differing from school records without exception for student safety."

According to the trial court, this was fair. Never mind that Appellant's brief below *acknowledged* the confidentiality exemption. (App. 439.)

The exemptions specifically mentioned in the Initiative provide for confidentiality between an age 12+ student and a mental health counselor if such counselor believes that there is a reason to exclude the parents from the child-counselor conversation. One such reason could be "the school counselor has reasonable cause to believe that the disclosure would result in a clear and present danger to the health, safety, or welfare of the student." (Cal. Educ. Code § 49602.) That is exactly the "exception for student safety" that the AG falsely represented does not exist in the Initiative.

While the court did acknowledge that "it could be argued that section 49602 creates an exception to the limited disclosure obligation on school counselors when maintaining confidentiality is necessary to protect the student's safety," it still inexplicably found against Appellants. (App.

014-15.) And the court's argument that "section 49602 applies only within the narrow context of the student-counselor relationship" (App. 015) is irrelevant. The exception exists. The AG, and the court below, ignored it.

Words "are not construed in a vacuum." (*Johnstone v. Richardson* (1951) 103 Cal. App. 2d 41, 46.) The Attorney General's language: "Requires schools to notify parents *whenever* a student under 18 asks to be treated as a gender differing from school records *without exception for student safety*" (emphasis added) is *patently false and misleading* when the Initiative plainly contains a student-safety exception for conversations with a school counselor.

IV. The Trial Court Erred in Holding that the AG's Title and Summary were not Misleading Regarding the Prohibition of Gender-Affirming Health Care.

Bonta falsely described the Initiative as "[p]rohibit[ing] gender-affirmative health care for transgender patients under 18." (App. 081.) But the AG ignored that there are exceptions that permit some children to undergo medical gender interventions. The text of the Initiative plainly states that "sex-reassignment prescriptions or procedures [that] are medically necessary to treat a minor born with a medically

verifiable genetic disorder of sexual development" are not prohibited, and neither are procedures to "reverse" the effects of a previous "sex-reassignment prescription[] or procedure[]" in order "to return his or her body to the appearance or function of his or her biological sex." (App. 071-72.) Furthermore, if a child "has already begun a continuous course of sex-reassignment prescriptions or procedures" prior to January 1, 2025, they are not prohibited from continuing those prescriptions or procedures. (App. 072)

Second, the term "gender-affirming health care" encompasses a wider range of care methods than the Initiative's term, "sex-reassignment prescriptions or procedures." "Sex-reassignment prescriptions or procedures" means "[t]he prescription or administration of puberty blockers," "[t]he prescription or administration of hormones or hormone antagonists," or "[a]ny medical procedures, inclusive of surgery, for the purposes of affirming a child's perceived gender identity if that perception is inconsistent with the child's biological sex." (App. 071) In other words, the Initiative restricts only specific medical interventions – those that the Initiative describes in its opening

recitation of facts as permanent and/or harmful because they delay puberty or cause sterility.

California law defines "gender affirming health care" as "medically necessary health care that respects the gender identity of the patient, and experienced and defined by the patient," including, "but not limited to," interventions "to suppress the development of endogenous secondary sex characteristics" or "to align the patient's appearance of physical body with the patient's gender identity." (Cal. Wel. & Inst. Code § 16010.2(b)(3)(A).) While this seems at first glance to comport with the text of the Initiative, the two definitions are not identical. As Appellants pointed out below, body contouring, hair removal, or trachea shaving would all "align the patient's appearance of physical body with the patient's gender identity" without the use of puberty blockers, hormones, or surgery that could delay puberty or cause sterility. (App. 554) As a result, those procedures would qualify as "gender affirming health care" under California law, but not under the Initiative. The AG's language is overinclusive.

The Attorney General, the state's chief law enforcement officer, who has filed numerous amicus briefs on the topic of transgender rights,

cannot claim ignorance of this distinction. Nor can the Attorney General, tasked with creating a truthful summary of the Initiative, claim ignorance of the fact that the Initiative's drafters were clearly aware of the distinction as well; the Initiative's parental reporting section includes language about notifying parents of a student's request to "[h]ave access to any type of body-modification clothing or materials, including breast binders or compression garments, tape, cosmetics, or any other body or appearance-altering materials for the purpose of appearing as a gender different from the pupil's record." (App. 070.) If the Initiative's drafters wanted to ban this sort of "gender affirming health care," the existence of which they clearly knew, they would not have limited the Initiative's prohibition on "sex-reassignment procedures or prescriptions" to surgical or pharmaceutical intervention. The conflation of "sex-reassignment procedures or prescriptions" and "gender affirming health care" was deliberate and misleading, and the court was wrong to hold otherwise.

V. The Trial Court Erred in Finding Appellants' Evidence Offered in Support of Their Petition was Irrelevant.

Appellants offered three declarations alongside their petition. All three had portions struck "on relevance grounds." (App. 008-009.)

Korey Wells stated that Bonta's false and misleading title and summary was "so alarming," but "fallacious," "carr[ying] intentionally negative connotative language incongruent with the true meaning, intent, and impact of the Initiative;" and that his contacts "have refused to sign and/or donate [to the Initiative] because they do not believe the substance of the Initiative could be so different than a plain-reading of the title and summary." (App. 326 ¶¶ 4-8.)

Robert Lee stated that he had spoken to many people who seemed enthusiastic about supporting the Petition until they read Bonta's false and misleading title and summary. (App. 323 ¶¶ 6-12.) Mr. Lee specifically stated that "although public polling indicated strong majority support for the policies proposed by the Initiative, very few people approve of the idea of 'restricting rights.'" (*Id.* ¶ 9.)

Erin Friday stated that almost half of the states in the nation had passed legislation "that safeguards children's natural bodies, sexual function[,] and ability to procreate," and that the titles of those acts or laws "are all framed in a neutral or in a positive manner – highlighting that the bills are protecting children." (App. 318 ¶ 4.)

The court's decision that all of these statements were irrelevant was clearly erroneous. The statements demonstrate that non-parties were misled by Bonta's false and misleading title and summary; that supporters of the Initiative struggled to gather signatures because of Bonta's false and misleading title and summary; and that similar laws had titles properly reflecting their function as *protecting* rights. All of those facts are directly relevant to this case.

Erin Friday submitted a second declaration, in which she stated that Mr. Wells had emailed the Initiative's supporters asking "How do you expect this to have any change [sic] to win with a title that says 'restrict rights?'" and that potential donors would not contribute to the Initiative due to Bonta's false and misleading title and summary. (App. 373 ¶¶ 4, 6). These statements were also stricken "on relevance" grounds. (App. 009.)

The court also ruled against allowing some of *Bonta*'s evidence, apparently because it would have bolstered Appellants' position. Specifically, Bonta requested "circulating title and summary previously prepared by the Attorney General for other proposed measures, offered to show that the Attorney General has been consistent on the usage of

certain terms." (App. 007-008, 466, 526-542.) But his evidence, if admitted, would have shown another consistency as well: that his choice of the word "restrict" inevitably doomed an initiative to failure. For example, one initiative was titled "HOLOCAUST DENIAL RESTRICTIONS." (App. 526.) That initiative failed. (App. 557.) There were a few initiatives titled "ABORTION RESTRICTION," (App. 528, 529), or "ABORTION ACCESS RESTRICTION," (App. 531-36.) Those initiatives also all failed. (App. 557.) Another one was titled "PROHIBITS POLITICAL CONTRIBUTIONS…," and another "PROHIBITS VOTING…." (App. 538, 540.) Those also failed. (App. 557.) Notably, the only initiative listed in Bonta's offered list of titles that *passed* used the word "limit" in place of "restricts." App. 542, 557. This information is *extremely* relevant because it demonstrates just how prejudicial the word "restricts" is. But the court inexplicably rejected this evidence. It was wrong to do so.

CONCLUSION

For the foregoing reasons, this Court should reverse the court below with respect to sections A, D, and E of its opinion. Appellants request that this Court order the trial court to determine whether the term

"restricts rights" is likely to create prejudice against the proposed measure and consider all relevant evidence on that issue; properly review the overstated impacts and understated scope of the Initiative; and provide Appellants with a true, impartial, neutral title and summary and a new opportunity to continue gathering signatures for the Initiative.

Respectfully submitted,

Dated: February 19, 2025

/s/Emily Rae

Emily Rae

LIBERTY JUSTICE CENTER

CERTIFICATE OF COMPLIANCE

I, Emily Rae, am counsel in this matter and I certify that the attached Appellants' Opening Brief has a typeface of 14 points or more and contains 4,744 words, as determined by a computer word count.

Dated: February 19, 2025

/s/Emily Rae

Emily Rae

LIBERTY JUSTICE CENTER

PROOF OF SERVICE

I am over the age of 18 and not a party to the within action. My business address is **3421 Via Oporto, Suite 201, Newport Beach, Calif. 92263.**

On the date below, I served the following document(s) described as **APPELLANT'S OPENING BRIEF** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

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/ X/ **Via Electronic Transmission.** By personally emailing the aforementioned document(s) in PDF format to the respective email address(es) listed above on pursuant to stipulation and agreement between counsel for the parties and/or Court order. I did not receive an electronic message indicating any errors in transmission.

/ / **By Certified U.S. Mail.** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U. S. Postal Service on that same day with postage thereon fully prepaid at Irvine, CA in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing of affidavit.

/ / **By Personal Service.** I delivered such envelope by hand to the addressee on 09/14/2021.

/ X / **State.** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

/ / **Federal.** I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed at **Irvine, California**.

DATED: February 19, 2025

Carla M. Holland