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LEGAL PROCESS #2

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7 Rail Authority, Chief Executive Officer Roelof van
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8 Treasurer Bill Lockyer, Director of Finance Ana
Matosantos, Acting Secretary of Business,
9 Transportation and Housing Traci Stevens, and
State Controller John Chiang*

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SACRAMENTO

15 **JOHN TOS, AARON FUKADA; AND**
COUNTY OF KINGS, A POLITICAL
16 **SUBDIVISION OF THE STATE OF**
CALIFORNIA,
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18 Plaintiffs,
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20 **CALIFORNIA HIGH SPEED RAIL**
AUTHORITY, CHIEF EXECUTIVE
21 **OFFICER, ROELOF VAN ARK;**
GOVERNOR JERRY BROWN; SENATOR
22 **MARK LENO, CHAIRMAN, JOINT**
LEGISLATIVE BUDGET COMMITTEE;
23 **STATE TREASURER, BILL LOCKYER;**
DIRECTOR OF FINANCE, ANA
24 **MATOSANTOS; SECRETARY (ACTING)**
OF BUSINESS, TRANSPORTATION AND
25 **HOUSING, TRACI STEVENS; STATE**
26 **CONTROLLER, JOHN CHIANG; AND**
DOES I-V, INCLUSIVE,
27 Defendants.

Case No. 34-2011-00113919
**DEFENDANTS' NOTICE OF HEARING
OF DEMURRER TO FIRST AMENDED
COMPLAINT; DEMURRER TO FIRST
AMENDED COMPLAINT**
Date: June 15, 2012
Reservation No.: 1660513
Time: 9:00 a.m.
Dept: 54
Judge: Hon. Shelleyanne W.L. Chang
Trial Date: None Set
Action Filed: November 14, 2011

FILED BY FAX

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TO PLAINTIFFS AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on Friday, June 15, 2012 at 9:00 a.m., or as soon thereafter as counsel may be heard in Department 54 of the above-entitled Court, located at 800 Ninth Street, Sacramento, California, defendants California High-Speed Rail Authority, Chief Executive Officer Roelof van Ark, Governor Edmund G. Brown, Jr., State Treasurer Bill Lockyer, Director of Finance Ana Matosantos, Acting Secretary of Business, Transportation and Housing Traci Stevens and State Controller John Chiang will and do hereby demur to the First Amended Complaint filed by plaintiffs in the above-entitled action based upon the grounds set forth in the demurrer below.

The demurrer will be based on this notice, the accompanying memorandum of points and authorities and request for judicial notice filed and served herewith, the complete files and records in this action, and upon such oral and documentary evidence as may be presented at the hearing on the demurrer.

Pursuant to Local Rule 3.04, the court will make a tentative ruling on the merits of this matter by 2:00 p.m., the court day before the hearing. You may access and download the court's ruling from the court's website at <http://www.saccourt.ca.gov>. If you do not have online access, you may obtain the tentative ruling over the telephone by calling (916) 874-8142 and a deputy clerk will read the ruling to you. If you wish to request oral argument, you must contact the courtroom clerk at (916) 874-7858 (Department 53) or (916) 874-7848 (Department 54) and the opposing party before 4:00 p.m. the court day before the hearing. If you do not call the court and the opposing party by 4:00 p.m. on the court day before the hearing, no hearing will be held.

1 Dated: January 19, 2012

Respectfully Submitted,

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KAMALA D. HARRIS
Attorney General of California
TAMAR PACHTER
Supervising Deputy Attorney General

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S. MICHELE INAN
Deputy Attorney General
Attorneys for Defendants California High-Speed Rail Authority, Chief Executive Officer Roelof van Ark, Governor Edmund G. Brown Jr., State Treasurer Bill Lockyer, Director of Finance Ana Matosantos, Acting Secretary of Business, Transportation and Housing Traci Stevens, and State Controller John Chiang

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DEMURRER TO FIRST AMENDED COMPLAINT

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Defendants California High-Speed Rail Authority, Roelof van Ark, Edmund G. Brown Jr., Bill Lockyer, Ana Matosantos, Traci Stevens and John Chiang hereby demur to the First Amended Complaint on the grounds that:

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(1) the first through sixth causes of action of the First Amended Complaint, and each of them, fail to state facts sufficient to constitute a cause of action pursuant to Code of Civil Procedure section 430.10 subdivisions (a) and (e) in that: (a) each cause of action fails to allege facts indicating that the California High-Speed Rail Authority has or will imminently spend public funds to construct the Central Valley HSR project in violation of the High-Speed Rail Bond Act (Stats. 2008, ch. 267, § 9 (hereinafter "HSR Bond Act")); (b) plaintiffs lack standing to bring each cause of action; and (c) each cause of action fails to allege an actual case or controversy that is proper for court adjudication; and

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(2) the first through sixth causes of action of the First Amended Complaint, and each of them, fail to state claims for relief pursuant to Code of Civil Procedure section 430.10 subdivision (e) against defendants van Ark, Brown, Lockyer, Matosantos, Stevens and Chiang in that: (a) these defendants cannot be sued for their exercise of legislative and executive discretion; and (b)

1 these defendants have no authority under the HSR Bond Act to spend bond money to construct
2 the high-speed rail.

3 WHEREFORE, these defendants pray as follow:

- 4 1. That this demurrer be sustained without leave to amend; and
5 2. For such other and further relief as the Court deems just and proper.

6 Dated: January 19, 2012

Respectfully Submitted,
KAMALA D. HARRIS
Attorney General of California
TAMAR PACHTER
Supervising Deputy Attorney General

11 *S. Michele Inan*

12 S. MICHELE INAN
13 Deputy Attorney General
14 *Attorneys for Defendants California High-*
15 *Speed Rail Authority, Chief Executive*
16 *Officer Roelof van Ark, Governor Edmund*
17 *G. Brown Jr., State Treasurer Bill Lockyer,*
Director of Finance Ana Matosantos,
Acting Secretary of Business,
Transportation and Housing Traci Stevens,
and State Controller John Chiang

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Tos, et al. v. California High Speed Rail Authority, et al.**
No.: **34-2011-00113919**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On January 19, 2012, I served the attached

DEFENDANTS' NOTICE OF HEARING OF DEMURRER TO FIRST AMENDED COMPLAINT; DEMURRER TO FIRST AMENDED COMPLAINT

DEFENDANTS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEMURRER TO FIRST AMENDED COMPLAINT; and

DEFENDANTS' REQUEST FOR JUDICIAL NOTICE; DECLARATION OF COUNSEL

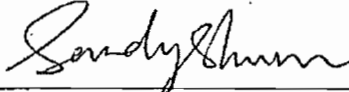
by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Michael J. Brady
Ropers Majeski Kohn & Bentley
1001 Marshall St, Suite 500
Redwood City, CA 94063

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on January 19, 2012, at San Francisco, California.

Sandy Shum

Declarant



Signature