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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SACRAMENTO
12 CIVIL DIVISION
13

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15 **PUBLIC.RESOURCE.ORG., INC.,**

Petitioners,

16
17 v.

18 **CALIFORNIA OFFICE OF
19 ADMINISTRATIVE LAW, and the
20 CALIFORNIA BUILDING STANDARDS
COMMISSION,**

21 Respondents.

Case No. 34-2021-80003612

**DECLARATION OF ANDREW
MARTENS IN SUPPORT OF
RESPONDENT CALIFORNIA OFFICE
OF ADMINISTRATIVE LAW'S
OPPOSITION TO THE VERIFIED
PETITION FOR PEREMPTORY WRIT
OF MANDATE ORDERING
COMPLIANCE WITH THE PUBLIC
RECORDS ACT**

22 Date: January 21, 2022
23 Time: 1:30 p.m.
24 Dept: Dept. 27
25 Judge: Steven M. Gevercer
Trial Date:
Action Filed: March 17, 2021

26 I, Andrew Martens, declare as follows:

27 1. I am Senior Vice President and Global Head Legal Product and Editorial with

28 Thomson Reuters and have served in this position since 2012, leading the Product Management

1 and Editorial teams for the Legal business. Thomson Reuters provides various online state
2 government sites on behalf of various government agencies. I have personal knowledge of the
3 matters in this declaration, except for the matters that are specified to be based on information and
4 belief and, if called, would so testify. I submit this declaration in Support of Respondent
5 California Office of Administrative Law's Opposition to the Verified Petition for Peremptory
6 Writ of Mandate.

7 2. Thomson Reuters entered into a contract with the California Office of Administrative
8 Law (OAL) to provide publication services relating to the California Code of Regulations (CCR).
9 The current contract went into effect on January 1, 2021. Thomson Reuters provided these
10 publication services previously pursuant to a contract that was in effect from January 1, 2016
11 through December 31, 2020.

12 3. As part of its publication services set forth in the contract with OAL, Thomson
13 Reuters makes the CCR available online. Additionally, Thomson Reuters provides a subscription
14 of the hard copy of the Official CCR (or a CD-ROM or other electronic format at the recipient's
15 option) to each county clerk and each state depository library. The online CCR contains all
16 content that is available in the hard copies.

17 4. On April 9, 2021, as part of a holistic review of the various public websites managed
18 by Thomson Reuters, the linked notice "© 2021 Thomson Reuters" was removed from the footer
19 frame for all Westlaw state government sites. On July 9, 2021, the following language was
20 removed from all Westlaw state government sites maintained by Thomson Reuters: "Note: Your
21 browser must have cookies enabled to access the [content]." Thomson Reuters has, and continues
22 to require, temporary cookies for functionality. However, a user who disables cookies can still
23 text search, copy and print the information from the online CCR. Additional cookies such as those
24 used for advertising are not in effect on the Westlaw state government sites such as the online
25 CCR. The remaining disclaimer on the website is the same as that on all state government
26 websites managed by Thomson Reuters and states that "[b]y using this website, you agree not to
27 use it in any manner that could disable, overburden, damage, or impair the site or interfere with
28 any other party's use of the website, or to use any device, software or routine that interferes with

1 the proper working of the website.” This language relates to the integrity of the website that hosts
2 the data, not to the data itself.

3 5. Pursuant to the contract, Thomson Reuters creates and maintains a Master Database
4 of all of the contents of the Official CCR. Thomson Reuters owns the Master Database. At the
5 termination or expiration of the contract, OAL is entitled to an electronic copy of all the data from
6 the Master Database in a specific format. Due to the continued contractual relationship, Thomson
7 Reuters has never extracted the data and produced it in this format to OAL. The content of the
8 Official CCR that is maintained in the Master Database is all made available to the public online.

9 6. The Master Database exists in proprietary software obtained by Thomson Reuters.
10 While a small team of Thomson Reuters employees has access to the Master Database, OAL staff
11 does not. Even if the Master Database was provided to OAL for release to others, it cannot be
12 accessed or read without at least two other steps. The end user must have also purchased the same
13 proprietary software utilized by Thomson Reuters and must also set up certain background
14 requirements and perform some coding to replicate the functionality of the Master Database. The
15 Master Database cannot be easily converted to an XML or PDF format. To do so would require
16 extraction of over forty thousand pages of data and would also require the creation of a translation
17 table to allow the data to be converted in a logical and coherent manner that could be read in the
18 new format.

19 I declare under penalty of perjury under the laws of California that the foregoing is true and
20 correct to the best of my knowledge. Executed on December 21, 2021, in Minneapolis,
21 Minnesota.

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23 _____
24 Andrew Martens

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