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ENDORSED
FILED
San Francisco County Superior Court

AUG 08 2019

CLERK OF THE COURT
BY: NEYL WEBB
Deputy Clerk

*Exempt from filing fees pursuant to
Government Code section 6103.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

**THE PEOPLE OF THE STATE OF
CALIFORNIA ex. rel. XAVIER
BECERRA, ATTORNEY GENERAL OF
THE STATE OF CALIFORNIA,**

Plaintiff,

v.

**SAUSALITO MARIN CITY SCHOOL
DISTRICT,**

Defendant.

Case No. **CGC-19-578227**
**COMPLAINT FOR INJUNCTIVE
RELIEF**

1 The People of the State of California, by and through Xavier Becerra, Attorney General of
2 the State of California, allege on information and belief as follows:

3 **JURISDICTION AND VENUE**

4 1. This Court has jurisdiction over the allegations and subject matter of the People's
5 Complaint filed in this action, and the parties to this action; venue is proper in this County; and
6 this Court has jurisdiction to enter this Judgment.

7 **PARTIES**

8 2. Plaintiff Xavier Becerra is the Attorney General of the State of California. The
9 Attorney General is the chief law officer of the state and has the duty to see that the State's laws
10 are uniformly and adequately enforced for the protection of public rights and interests. (Cal.
11 Const., art. V, § 13.)

12 3. Defendant Sausalito Marin City School District ("Defendant" or the "District") is a
13 public school district organized and existing under the laws of the State of California.

14 **FACTUAL BACKGROUND**

15 **Introduction and Summary**

16 4. The State of California and the District have a strong interest in ensuring that every
17 student in the State, regardless of his or her race or ethnicity, are treated equally in all aspects of
18 education. California and the District are entrusted with ensuring that institutions of public
19 education are adequately preparing students to fully participate in further education and the
20 economy. California and the District also have a significant interest in preparing all students to
21 learn, live, and work in a diverse, multicultural environment. To that end, the District has an
22 obligation to maintain schools that are not intentionally segregated by race, because a school
23 district intentionally segregated by race deprives students of equal protection of the laws and due
24 process. The unremedied intentional segregation of schools results in an untenable situation
25 where future policies and decisions are influenced or affected by an impermissible consideration
26 of race and ethnicity.

27 5. In November of 2016, the Attorney General's Office began an investigation to
28 determine whether the District complied with state and federal laws with respect to the

1 organization and funding of the District's schools. After a comprehensive investigation of the
2 District between 2016 and 2018, the Attorney General's Office concluded in October of 2018 that
3 the District had knowingly and intentionally maintained and exacerbated existing racial
4 segregation, and had established an intentionally segregated school.

5 6. In 2013, the District was aware that it operated racially segregated schools and aware
6 that the District had a legal obligation to reduce segregation. Despite this, the District chose to
7 locate a new K-8 school in a majority-minority community, Marin City, while providing
8 discretionary funding to a K-8 public school in a majority non-Hispanic White city, Sausalito,
9 approximately one mile away. The District was advised by community members, staff, and
10 outside consultants that establishing this new K-8 school would likely exacerbate racial
11 segregation and hinder future desegregation efforts. Further, the District was motivated to take
12 these segregative actions by a District Board of Trustees member's desire to create a separate
13 school for the District's African-American community, in knowing opposition to that
14 community's near-unanimous objection.

15 7. Despite promises that establishment of the new K-8 school would translate into cost
16 savings used to improve the new school, the District began cutting programming at the
17 intentionally segregated K-8 school within a year of its establishment. These cuts led to the loss
18 of dedicated, qualified teachers, the type of teachers that are hard to recruit and retain—losses that
19 have not been restored to date.

20 **Condition of District Prior to Marin City Consolidation**

21 8. In the 1960s, California school districts began implementing policies to ensure that
22 students were provided the opportunity to attend racially integrated schools, and that students
23 were not provided inferior education opportunities because of their race and ethnicity. In 1963,
24 the District requested assistance from the California Department of Education ("CDE") to resolve
25 issues related to racial segregation within the District's schools, particularly in relation to the
26 responsibilities created by the California Supreme Court in *Jackson v. Pasadena School District*
27 (1963) 59 Cal.2d 876. In 1964, CDE concluded that the District was racially segregated in grades
28 K-4, where students attended school sites split between Sausalito and Marin City, but that the

1 District was not racially segregated in Grades 5-8, where all students attended school at the same
2 campus. CDE recommended that the District unify the school sites into a single K-8 campus,
3 such that the District's racially segregated residential geography would not lead to racially
4 segregated schools. Ultimately, the District rearranged its facilities and programs to create a
5 school system where generally all District students of the same grade attended school at the same
6 site and the District ceased operating racially segregated schools by or before 1970. From 1965
7 to 2005, generally all District students of a particular grade level were enrolled at the same school
8 site.

9 9. In 2004, voters approved a bond funding the construction of a 180-student facility in
10 Marin City intended for students in Grades 6-8. This facility was completed in 2010, and began
11 to host a District-operated middle school program of less than fifty students, while the Sausalito
12 campus continued to host a District-operated K-5 school and a public charter K-8 school.

13 10. In December of 2010, the District engaged the Foundation Strategy Group ("FSG") to
14 conduct a study of the District's structure. In particular, the District wanted suggestions relating
15 to the use of the new middle school facility and the structure of the school district's programs.
16 FSG participated in meetings with the District's board, interviews with community members, and
17 community forums. FSG also conducted an examination of the District's entire operation. On
18 March 15, 2011, FSG stated that one of the options under consideration, closing the District-
19 operated public school offerings in Sausalito, while providing a facility to a public charter school
20 in Sausalito, and creating a separate K-8 entirely in Marin City, could drive increased racial
21 segregation and increase the concentration of students with severe needs in the District-operated
22 public school. FSG identified racial segregation as a core issue that the District should address.

23 11. At a District meeting on July 19, 2011, FSG staff appeared before the District to
24 discuss their findings. FSG stated that the District was operating a "very segregated" middle
25 school program in Marin City. In the previous academic year, enrollment at the Marin City
26 program was 78% African-American and 13% Hispanic or Latino. FSG warned that organizing
27 the District into two K-8 programs, one in Sausalito and one in Marin City, would expand racial
28 segregation from just middle school to all grades. One member of the District's Board of

1 Trustees raised concerns that some of the plans being considered resembled school segregation.
2 A different Trustee, a supporter of the plan to split the District into two K-8 schools, expressed
3 that he did not believe students residing in Sausalito would attend a K-8 school in Marin City so
4 long as a public charter school was operated in Sausalito.

5 **Decision to Implement Marin City Consolidation**

6 12. On August 9, 2011, the District received a summary of its recommendations from
7 FSG. FSG recommended that the District retain the Marin City campus as a middle school
8 program, invest in improving that program, and retain the District-operated elementary school
9 program in Sausalito. Nevertheless, the District moved forward with a general plan to
10 consolidate District-operated K-8 programs by moving the Bayside Elementary school in
11 Sausalito to the Marin City campus, and merging that school with the Martin Luther King Jr.
12 Academy middle school program in Marin City (“Marin City Consolidation”).

13 13. In February of 2012, the District convened a committee to plan for the move of all
14 District-operated schools to the Marin City campus. On May 10, 2012, the committee expressed
15 a concern that moving all District-operated programming to Marin City would lead to a more
16 deeply racially segregated school District. The District agreed to discuss the issue of segregation
17 within the District at a meeting on May 24, 2012.

18 14. At the May 24, 2012 meeting, the President of the District’s Board of Trustees stated
19 that the District’s schools were segregated. A different District Trustee stated that the District
20 was segregated and that the plan to move all District-operated K-8 programs to Marin City would
21 increase racial segregation. One community member stated that the proposal was illegal because
22 federal law prohibited racial segregation of schools. A third District Trustee admitted that the plan
23 to create separate programs for Sausalito and Marin City was motivated by a desire to create
24 separate programs for separate communities. This Trustee was aware that one community was
25 predominately non-Hispanic White, and the other community was predominately African-
26 American and Hispanic or Latino. This Trustee also expressed it would improve community
27 relations if students in Marin City were not “shipped over” to Sausalito. Marin City is
28 approximately one mile from the District’s Sausalito campus.

1 15. In December of 2012, the District received a petition with the signatures of 209
2 community members requesting that the board postpone the votes to implement the Marin City
3 Consolidation to allow for further community input, and that the proposed plan evoked racial
4 segregation. In January of 2012, the District's Superintendent wrote a letter to the Board stating
5 that there was "ZERO support from anyone in the SMCS D community for the move to occur by
6 [F]all 2013," and that the District had not considered the perspectives of the community that
7 would be impacted by the move. The District Superintendent found that there was no need from
8 a facilities perspective for the Marin City Consolidation to occur in the coming year. The District
9 Superintendent also described an interest in a merger or partnership with the Mill Valley School
10 District that could be explored. At the time, the District had an interdistrict relationship with the
11 Mill Valley School District allowing only for the transfer of students residing in a small, majority
12 non-Hispanic White northern portion of the District, which could have been modified or
13 expanded to create new education options for Marin City students. The District Superintendent
14 recommended that the Trustees postpone the votes related to the Marin City Consolidation.

15 16. In an open board meeting on January 12, 2016, a Sausalito-residing District Trustee
16 who had voted in favor of the Marin City Consolidation reflected on the lack of community
17 support for the Marin City Consolidation, and that the decision was driven by that District
18 Trustee's desires in opposition to the community the school served. "We had a big issue moving
19 Bayside over here [to Marin City]. It was not approved by the public, we got criticized coming
20 and going, and yet my feeling always was: 'Marin City needs a community school.'"

21 17. During the process leading to the votes implementing the Marin City Consolidation,
22 District officials internally developed a document explaining the motivations behind the District's
23 decisionmaking. This document apparently served as a vehicle for District officials to discuss
24 certain issues relating to the Marin City Consolidation outside of public meetings. This document
25 reveals that immediately prior to voting to implement the Marin City Consolidation: (1) the
26 District was aware of a duty to "proactively address its racial segregation and isolation," (2) the
27 District was motivated to create a separate K-8 program in Marin City because "white people
28 generally do not choose to send their children to schools with high percentages of black or brown

1 children,” (3) the District did not expect students from Sausalito to attend the consolidated K-8
2 school in Marin City, and (4) the District knew it was feasible to locate all public schools in
3 Sausalito.

4 18. On January 24, 2013, the District Trustees voted to finance and enact the Marin City
5 Consolidation. The vote to finance the Marin City Consolidation required a supermajority, and
6 received the necessary four votes. At this meeting, a District Trustee supporting the Marin City
7 Consolidation cited the existing racial segregation within the District as justification for this
8 Trustee’s dismissal of concerns that the action would increase racial segregation.

9 19. In response to community concerns related to segregation, District officials promised
10 that the Marin City Consolidation would lead to cost savings that could be invested in the Marin
11 City K-8 program. During the 2012-2013 school year, the District, in particular the interim
12 superintendent, prepared to launch an International Baccalaureate (“IB”) concept alongside the
13 Marin City Consolidation. A well-functioning IB program in grades K-8 may have acted as an
14 attractive and rigorous alternate academic program, reducing racial isolation and improving
15 academic outcomes.

16 **Conditions Following Marin City Consolidation**

17 20. Shortly following the Marin City Consolidation vote establishing Bayside Martin
18 Luther King Jr. Academy (“Bayside MLK”), the District began the search for a new
19 superintendent, choosing not to retain the interim superintendent engaged in planning and
20 implementing the IB program. On July 25, 2013, the District hired Steven Van Zant. Prior to
21 being hired, Van Zant was the superintendent of a San Diego County school district, where he
22 had engaged in an unlawful conflict of interest by authorizing charter schools in which he had a
23 prohibited financial interest. (*People v. Steven Van Zant* (San Diego Sup.Ct. Feb. 25, 2016 No.
24 CD265092) [Van Zant guilty plea].) And only ten days prior to his hiring by the District, on July
25 15, 2013, the California Court of Appeals affirmed a judgment supported by a finding that “Van
26 Zant acted to retaliate against” a school principal for reporting sexual harassment. (*Young v.*
27 *Mountain Empire Unified School District* (Cal.Ct.App. July 15, 2013 No. D061228).)

1 21. After Van Zant was hired by the District, he continued to manage his EdHive, LLC,
2 education consulting business and continued to reside in San Diego County, 500 miles away from
3 the District. While superintendent of the District, Van Zant arranged for a Sonoma County
4 charter school client of EdHive to operate a transitional kindergarten program in a District
5 facility. Van Zant was indicted in early 2016 relating to his actions as a superintendent in San
6 Diego County, and resigned as District Superintendent as a condition of his guilty plea.
7 According to a 2019 San Diego County Grand Jury indictment, after Van Zant resigned as
8 superintendent of the District, he became involved in a conspiracy operating across the State of
9 California to enrich himself via, *inter alia*, misrepresenting services provided by charter schools
10 and misappropriating public funds he was charged with handling. (Indictment, *People v. Sean*
11 *McManus, et al.* (Super.Ct. San Diego County May 17, 2019, No. SCD266439).)

12 22. Typically, middle school students in California public schools receiving instruction in
13 a particular subject are taught by teachers with Single-Subject credentials. In March of 2014, the
14 District under Van Zant reclassified the District's Single-Subject credentialed teaching positions
15 to Multiple-Subject credential positions starting in the Fall of 2014. The District's middle school
16 instructors had California Teaching Commission Single Subject Teaching Credentials in Math,
17 Biological Sciences, English, and Social Science. Because the District's middle school teaching
18 staff had Single Subject credentials, the reclassifying of positions effectively terminated the entire
19 middle school faculty unless they could obtain a new teaching credential by June 15.
20 Notwithstanding other elements of the credentialing process, California Teaching Commission
21 credential applications may take three to five months to process. The District also terminated its
22 Spanish teacher, necessary for the IB program, and cut music, art, physical education, and
23 counseling services. Bayside MLK's principal, the assistant principal, and about one-half of the
24 teaching staff left before or during the 2014-2015 school year.

25 23. Access to specialists in Math, Science, English, and Social Sciences is a critical
26 education resource for middle school students. Termination of these specialists harmed the
27 academic development of the District's students. The District was warned by staff of the local
28 public high school and other community members that terminating these positions would

1 negatively impact the performance of students in high school and beyond. While funding to some
2 specialist positions has been restored, as the date of filing the herein Complaint, the District has
3 yet to retain a Math, Science, English, or Social Science specialist for more than one academic
4 year.

5 24. On July 8, 2014, Van Zant presented an outline for a Memorandum of Understanding
6 between the District-authorized charter school and the District. Van Zant stated that the
7 Memorandum of Understanding was designed to distribute funding as if the District was “a two
8 school district.”

9 25. In school years 2014-2015, 2015-2016, and 2016-2017 (except for one month),
10 students attending the district-operated K-8 school did not have access to a qualified Math
11 teacher. During this period, however, the plurality White District-funded charter school offered
12 instruction from a qualified math teacher.

13 26. During the 2014-2015 school year, students in the District-funded charter school had
14 access to a full-time counselor, whereas students in the District-operated Bayside MLK only had
15 access to a .2 part-time-equivalent counselor. During this time-period, the District had the
16 greatest discipline disparity between non-Hispanic White students and Black students among
17 State of California public school districts. On average, a Black student in a District-funded
18 program lost sixty-six times as many days of instruction to suspensions as a non-Hispanic White
19 student. This difference is, in part, attributable to the disparity in availability of District-funded
20 counseling and other related programming between the two District-funded programs.

21 27. Despite the fact that the District’s Trustees freely acknowledged the operation of
22 segregated schools during the period where the Marin City Consolidation was contemplated,
23 more recently the District has refused to acknowledge that the District operates segregated
24 schools, even going so far as to refuse a request from the California Department of Education
25 (“CDE”) to evaluate whether or not the District operated a segregated school.

26 28. On October 13, 2016, the District responded to a complaint filed by concerned
27 community members under the District’s Uniform Complaint Procedure. This complaint alleged
28 that the District operated a segregated school, describing facts and conditions generally consistent

1 with the findings of the Attorney General's Office's investigation. The District's response
2 included inaccurate demographic statistics. For example, the District stated in its October 13,
3 2016 response that in 2014-2015, Bayside MLK was "nearly 70% minority enrollment." In fact,
4 in 2014-2015 Bayside MLK had a lower than 5% enrollment of non-Hispanic White students,
5 meaning the District overstated the portion of White students enrolled at Bayside MLK more than
6 sevenfold. Other demographic information in the letter was similarly inaccurate.

7 29. On March 17, 2017, CDE directed the District to make a finding as to whether or not
8 Bayside MLK was unlawfully segregated. In an April 6, 2017 letter, the District refused, stating
9 that because Bayside MLK was the only District-operated school, that it was not feasible for the
10 District to evaluate whether or not Bayside MLK was segregated. On August 30, 2017, CDE
11 returned the complaint to the District, again instructing the District to make the factual
12 determination as to whether or not Bayside MLK was a segregated school. The District once
13 again refused to make this factual determination in an October 2, 2017 letter. The District also
14 stated that, even if operated a segregated school, it cannot employ desegregative techniques such
15 as relocating schools or consolidating schools. However, as described above, the District
16 relocated and consolidated a school just four years prior, in 2013.

17 30. The Attorney General's Office's investigation concluded that Bayside MLK was
18 racially segregated and students were not provided with equitable educational opportunities
19 needed to succeed at high school and beyond. These academic disadvantages are compounded by
20 safety, behavioral, and socioemotional harms associated with segregated schools. The District
21 has, in the past, operated a public school that provides a high-quality education to disadvantaged
22 students. In 2008, Bayside Elementary was academically successful and recognized as a
23 California Distinguished School and was a Title I Academic Achievement Award recipient.
24 However, since its establishment in 2013, Bayside MLK generally has low academic
25 achievement.

26 31. The harms of segregation follow Bayside MLK students into the predominately
27 White high schools of Tamalpais Union High School District ("Tamalpais District"). Former
28 District students describe being unprepared, academically and socially, for high school in the

1 Tamalpais District. Former District students struggle to succeed in the Tamalpais District , likely
2 caused in part by a lack of preparation and inadequate education in the District. One African-
3 American student who attended a super-majority White public middle school that “feeds” into the
4 Tamalpais District described that receiving an integrated learning experience makes transition
5 into the Tamalpais District easier. Former District students described that the known poor
6 performance of the District’s schools translated into a racially-associated stigma at the Tamalpais
7 District.

8 32. Conflicts at Bayside MLK are intensified by the fact that more than half of students at
9 Bayside MLK reside in the same public housing complex. The school’s inability to address the
10 safety and emotional needs of students feeds into negative interactions at the homes of some
11 students. The isolation and segregation of students in the same school and the same housing
12 complex generally has damaging effects to the socio-emotional development of students.

13 33. The establishment of a segregated school has had a negative impact on civil society in
14 the District. By establishing a segregated school intended for a majority-minority community, the
15 District aggravated relations between a wealthy, majority White city and a relatively poor,
16 majority-minority unincorporated community. By discrediting or disregarding the African-
17 American community’s input during the process to establish Bayside MLK, the District has
18 abused the community’s trust and discouraged community involvement in schools.

19 34. The District operated public schools that were not segregated for decades. Presently,
20 the District has authorized and provides facilities to a public charter school that is not segregated.
21 The District therefore has the ability to operate schools that are not segregated. But from its
22 establishment in 2013 to the present day, the consolidated K-8 school in Marin City has been a
23 segregated school, and was established knowing it would be a segregated school.

24 **Conclusion**

25 35. The Attorney General’s Office presented the District with its conclusions in
26 December of 2018. Beginning in January of 2019, the parties have negotiated in good faith on
27 plans and policies to remedy the findings of the Attorney General’s investigation, and have come
28 to an agreement that includes short- and long-term remedial plans. Prior to the beginning of

1 negotiations, the District had already begun to make changes to improve learning conditions at
2 the District-operated school.

3 36. The parties also engaged in a process to gather community input during settlement
4 negotiations. The community generally agrees that the District should not be operating a
5 segregated school. Community members expressed a desire that the District operate a school that
6 is attractive to the community outside Marin City, and that all students receive education from
7 appropriately qualified teachers. Community members were concerned about past District
8 management, and suggested that outside oversight and consultation was important to ensure long-
9 term success and restore trust.

10 37. Community members were concerned for students affected by the described conduct,
11 and suggested that those affected students receive future support, even if they were no longer in
12 students in District schools.

13 38. The Attorney General's Office and the District have come to an agreement to
14 develop and implement an attractive education plan for the District's entire community with the
15 goal of creating a desegregated school district. In addition to oversight by the Attorney General's
16 Office and the District, the plan will be overseen by an independent monitor who has the relevant
17 expertise and the District will be accountable to desegregative and academic goals under specified
18 timelines for a period of at least five years. As a condition of this settlement, the District will also
19 implement a compensatory support plan that includes counseling and scholarship programs for
20 students affected by past conduct.

21 39. Thus, Plaintiff respectfully requests that the Court enter Judgment as set forth in the
22 proposed Stipulated Judgment.

23 **CAUSES OF ACTION**

24 **FIRST CAUSE OF ACTION**

25 **(Violation of Equal Protection Guarantee of the California Constitution)**

26 40. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
27 as though they were fully set forth in this cause of action.

1 indicator of an intent to segregate. It is indicative of an intent to segregate if a California school
2 district, aware of existing segregation and the duty to desegregate, fails to take feasible steps to
3 remedy segregation. Similarly, if a California school district, aware of a duty to remedy
4 segregation, refuses to make a formal, factual finding as to whether or not segregation exists, that
5 inaction indicates the district intends to maintain segregation. Locating a school in a majority-
6 minority area with the intent that it be a neighborhood school is a strong indicator of an intent to
7 segregate. If a school district eliminates curriculum that is attractive to a more integrated student
8 body, that is an indicator of intent to segregate. A decision made contrary to usual
9 decisionmaking considerations indicates that there may be a discriminatory motive.
10 Decisions made in violation of regular order, such as a decision preceded by discussions in
11 violation of the public meeting requirement of the Brown Act, Government Code section 54950 et
12 seq., may indicate a segregative motive.

13 48. Defendants intentionally established and maintained a racially segregated school,
14 Bayside Martin Luther King Jr. Academy, depriving students of an equal education opportunity.

15 **THIRD CAUSE OF ACTION**

16 **(Violation of Government Code section 11135)**

17 49. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
18 as though they were fully set forth in this cause of action.

19 50. Government Code section 11135 prohibits discrimination based on race and ethnicity
20 in state-funded education institutions.

21 51. Defendant has violated Government Code section 11135 by discriminating against
22 students of color with respect to the provision of critical education programs that result in adverse
23 disparate impact on students of color. In 2013, Defendant established and maintained a racially
24 segregated school. In 2014, Defendant eliminated critical programming at the segregated school,
25 Bayside Martin Luther King Jr. Academy, while expending funds to provide similar
26 programming at a non-segregated public school.

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1 **FOURTH CAUSE OF ACTION**

2 **(Violation of Education Code section 200)**

3 52. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
4 as though they were fully set forth in this cause of action.

5 53. Education Code section 200 prohibits discrimination based on race and ethnicity in
6 state-funded education institutions.

7 54. Defendant has violated Education Code section 200 by discriminating against
8 students of color with respect to the provision of critical education programs that result in adverse
9 disparate impact on students of color. In 2013, Defendants established and maintained a racially
10 segregated school. In 2014, Defendant eliminated critical programming at the segregated school,
11 Bayside Martin Luther King Jr. Academy, while expending funds to provide similar
12 programming at a non-segregated public school.

13 **PRAYER FOR RELIEF**


14 **WHEREFORE**, Plaintiff respectfully prays for the Court to enter judgment as follows:

- 15 1. For the Court to issue an order enjoining Defendant from engaging in the unlawful
16 practices challenged in this Complaint, requiring Defendant to implement the injunctive relief
17 provisions as set forth in the proposed Stipulated Judgment, and entering final judgment;
- 18 2. For the Court to exercise continuing jurisdiction over this action to ensure that
19 Defendant complies with the judgment as set forth in the proposed Stipulated Judgment;
- 20 3. For such other and further relief as the Court deems just and proper.
- 21

22 Dated: August 7, 2019

Respectfully Submitted,

23 XAVIER BECERRA
24 Attorney General of California

25 
26 GARRETT LINDSEY
27 Deputy Attorney General
28 *Attorneys for the State of California*