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6 SUPERIOR COURT OF CALIFORNIA
7 COUNTY OF SACRAMENTO

8 DAVID PALMER, Pro Per

CASE NO. _____

9 Petitioner,

10 v.

**VERIFIED PETITION OF DAVID
PALMER AND FOR PEREMPTORY
WRIT OF MANDATE
[Cal. Civ. Proc. Code §§ 1086, 1088.5]**

11 DARREL STEINBERG AS CHAIRMAN
12 of the SENATE RULES COMMITTEE, and
13 FRED MESSERER as LEGISLATIVE
14 COUNSEL of the SENATE RULES
15 COMMITTEE and JOHN WALDIE as CHIEF
16 ADMINISTRATIVE OFFICER of the
17 ASSEMBLY RULES COMMITTEE and JOHN
18 CHIANG as STATE COMPROLLER

19 Respondents,

20 Comes now David Palmer, in pro per, who declares as follows:

21 1. Petitioner David Palmer is a nonpartisan freelance-independent investigative
22 reporter who has spent the last 15 or more years investigating abuse, waste and/or
23 outright fraud involving public officials.

24 2. Petitioner's efforts has provided the public throughout the country (primarily Ohio,
25 Texas, Louisiana, Florida, Louisiana, and now California) with evidence of abuse, waste
26 and/or fraud involving the expenditure of public funds by a variety of public officials,
including but not limited to:

- General jurisdiction judges
- Ohio Supreme Court justices
- Ohio Appellate Court and Common Pleas judges
- County Prosecutors
- Ohio retired visiting judges
- Texas state legislators

3. Via a detailed, time-consuming and sophisticated analysis of available public records regarding the use of state-funded vehicles/fuel provided to California legislators from 1975 to 2008, petitioner has to date discovered the following facts:

- Legislators pilfering gas (8.2 mpg on Prius – 40 mpg on Explorer)
- Driving 190,000 miles in a 145 day period of time
- Consuming over 10,000 gallons of fuel one-year
- Spending over \$17,000 on vehicle maintenance in one year
- Spending over \$30,000 on vehicle maintenance over three-years
- Spending nearly \$11,000 on vehicle maintenance when termed out and at a time when the vehicle was worth \$5,000 or less
- State Senate selling state vehicles to undisclosed buyers for much less than the going retail price and/or for more than its stated value

4. Six examples of said abuses are set forth in the text boxes below (there’s over 650 more) on petitioner’s web site under “California Reporter.” Petitioner hereby incorporates as if fully rewritten herein the matters posted on his web site at www.noethics.net dealing with abuses involving state cars under the title: “California Reporter.”

Text Box 1

Dean Florez – 16th Senate – Long Beach

- 2003 GMC Yukon Denali – 12/2/02 = \$47,723.53
- 2007 Lexus LS400 Hybrid – 03/01/07 = \$49,627.63

Year	Fuel	Gals.	Miles	Year	Fuel	Gals.
2003	\$3,210.79	1,934	14 mpg	2004	\$5,165.53	2,649
2005	\$6,218.29	2,419		2006	\$6,936.75	2,384
2007	\$6,160.71	1,962	26 mpg	2008	\$4,092.89	1,134
			211,600			12,482

- \$20,790.00 = Lease costs – need 2008
- \$9,690.48 = Maintenance costs = \$1,615 yearly average

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Text Box 2

Michael Machado – 5th Senate – Davis

- 2001 Jeep Cherokee – 12/04/00 - \$37,878.44
- 2005 Ford Escape Hybrid – 02/11/05 = \$35,068.85
- 2006 Lexus LS400 Hybrid - 01/22/07 = \$37,000 (used)

Year	Fuel	Gals.	Miles	Year	Fuel	Gals.
2001	\$3,344.87	2,339	15 mpg	2002	\$2,991.38	2,232
2003	\$3,589.08	2,474		2004	\$4,891.66	2,644
2005	\$2,789.16	1,129	29 mpg	2006	\$2,782.75	990
2007	\$3,206.68	1,021	28 mpg	2008	\$4,070.30	1,127
			266,930			13,966

- \$33,264.00 = Lease costs
- \$15,358.87 = Maintenance costs = \$1,920 yearly average

Text Box 3

Jeff Denham – 12th Senate – San Francisco

- 2003 Ford Expedition – 12/6/02 = \$45,066.32
- 2005 Ford Escape Hybrid – 10/27/04 = \$34,366.48
- 2007 Highlander Hybrid – 03/01/07 = \$45,936.38

Year	Fuel	Gals.	Miles	Year	Fuel	Gals.
2003	\$5,145.32	3,298	14 mpg	2004	\$5,156.41	2,787
2005	\$3,338.15	1,351	29 mpg	2006	\$4,308.14	1,533
2007	\$4,727.11	1,550	26 mpg	2008	\$5,311.51	1,513
			248,464			12,032

- \$20,790.00 = Lease costs – need 2008
- \$9,710.85 = Maintenance costs = \$1,618 yearly average

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Text Box 4

Kevin Murray – 26th – Los Angeles

- ➡ 2002 Lincoln Navigator – 12/12/01 = \$52,995.58
- ➡ 2006 Lexus RX 400H – 7/21/05 = \$57,334.98

Year	Fuel	Gals.	Miles	Year	Fuel	Gals.
1999	\$1,767.11	1,550	14 mpg	2000	\$2,063.64	1,385
2001	\$2,521.61	1,764		2002	\$2,351.09	1,633
2003	\$2,695.78	1,624		2004	\$3,021.93	1,548
2005	\$2,928.06	1,140	28 mpg	2006	\$1,864.58	641
			174,944			11,285

- ➡ \$32,664.00 = Lease costs
- ➡ \$13,190.67 = Maintenance costs = \$1,649 yearly average

Text Box 5

Roy Ashburn – 18th Senate – San Diego

- ➡ 2003 Chevy Suburban – 12/02/02 = \$42,925.25
- ➡ 2007 Chevy Tahoe – 01/04/07 = \$47,499.50

Year	Fuel	Gals.	Miles	Year	Fuel	Gals.
2003	\$2,103.25	1,348	15 mpg	2004	\$4,445.84	2,403
2005	\$5,416.15	2,193		2006	\$6,329.81	2,253
2007	\$7,021.76	2,310	16 mpg	2008	\$6,303.19	1,796
			192,757			12,303

- ➡ \$24,598.00 = Lease costs
- ➡ \$15,021.18 = Maintenance costs = \$2,504 yearly average

Text Box 6

Jim Battin – 37th Senate – Palm Desert

➡ 2001 Ford Expedition – 12/4/00 = \$36,166.29

➡ 2005 Lincoln Aviator – 12/8/04 = \$47,526.15

Year	Fuel	Gals.	Miles	Year	Fuel	Gals.
2001	\$2,515.79	1,759	14 mpg	2002	\$2,498.15	1,864
2003	\$3,390.52	2,174		2004	\$3,630.17	1,962
2005	\$3,350.99	1,304	14 mpg	2006	\$4,347.47	1,494
2007	\$3,554.98	1,132		2008	\$4,459.08	1,235
			180,936			12,924

➡ \$33,2640.00 = Lease costs – no lease costs

➡ \$12,476.59 = Maintenance costs = \$1,560 yearly average

5. In addition to the abuses set forth set forth in Text Boxes 1-6 above, the following text boxes set forth further abuses, waste and/or outright fraud:

- ➡ Outrageous Maintenance Costs – 7-10
- ➡ Cars sold to unknown buyers – 11 – (Ex. A)
- ➡ Cars sold to undisclosed dealerships – 12 – (Ex. A)
- ➡ Cars sold at auction to unknown buyers – 13 – (Ex. A)
- ➡ Cars sold (re-purchased) by government agencies – 16 – (Ex. A)
- ➡ Unbelievable hours spent driving –

Text Box 7

Stan, Statham – 1st Assembly – Eureka

➡ **\$17,247.05** – Maintenance costs for 1986

➡ \$6,511.57 = Maintenance costs for 1985

➡ \$6,253.96 – Maintenance costs for 1988

The following facts prove just how absurd Stan's maintenance costs are:

➡ \$9,255 = average cost of a new car in 1986

➡ \$22,400 = average income in 1986

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Text Box 8

Doug La Malfa – 2nd Assembly - Redding

- ➡ \$10,505.05 = maintenance on Mustang Mach 1 for 2006
- ➡ \$7,636.54 = maintenance on Mustang Mach 1 for 2005
- ➡ \$5,753.39 = maintenance on Mustang Mach 1 for 2007
- ➡ \$23,876.89 = three year total – 2005 to 2007

Text Box 9

John Burton – 3rd Senate – San Francisco

- ➡ \$10,122.73 = Maintenance 2004 – termed out in 2004

Text Box 10

Tom Torlakson– 7th Senate – Antioch

- ➡ \$10,776.28 = maintenance – Camaro Z28 Convertible
- ➡ Car worth about \$5,500 in 2008 – termed out in 2008

Text Box 11

Undervalued sales to Unknown Buyers

Name	Vehicle	Bought	Amt. + Date	Retail
Torlakson, T	'00 Camero Z28	\$15,900	\$ 4,646 – 2006	\$ 7,107
Brulte, J	'01 Suburban	Unknown	\$ 5,200 – 2005	\$ 8,637
Ackerman,	'01 Expedition	\$29,802	\$ 6,100 – 2005	\$ 8,651
Oller, T	'00 Lincoln LS	\$36,594	\$ 9,200 – 2005	\$10,225
Vincent, Ed	'00 Town Car	\$47,278	\$ 7,000 – 2005	\$11,800
Burton, J	'99 LeSabre	\$29,560	\$22,000 – 2005	\$ 4,484

Text Box 12

Vehicles sold to Undisclosed Dealerships

Name	Vehicle	Bought	Sold + Date	Retail 04/09
Battin, J	'05 Navigator	\$47,526	\$11,000	\$21,250
Bowen, D	'97 Mazda MX6	\$17,882	\$ 2,500 – 12/06	\$ 4,850
Figueroa, L	'03 Thunderbird	\$37,946	\$15,700 – 12/06	\$20,900
Florez, D	'03 Yukon Denali	\$47,733	\$10,525 – 02/06	\$16,575
Vincent, Ed	'05 Town Car	\$47,895	\$11,500 – 12/08	\$17,012

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Text Box 13
Cars sold at Auction to Undisclosed Buyers

Name	Vehicle	Bought	Sold + Date	Retail 04/09
Speier, Jackie	'01 Town Car	\$36,850	\$ 5,846 – 2007	\$12,788
Chesbro, W	'05 Escape	\$34,366	\$ 5,546 – 2007	\$15,575
Florez, D	'03 Yukon Denali	\$47,732	\$10,525 – 2007	\$16,575
Hollingsworth	'03 Expedition	\$45,066	\$ 9,096 - 2007	\$13,150
Ashburn, R	'03 Suburban	\$42,929	\$11,846 – 2007	\$15,619
Poochigian, C	'01 Marquis	\$26,199	\$ 2,746 – 2007	\$ 8,000
Yee, Leland	'03 Le Sabre	\$29,988	\$ 4,346 – 2007	\$ 6,162
Migden, C	'05 Caddy STS	\$53,481	\$22,486 – 2007	\$18,019
Perata, D	'06 Charger RT	\$38,615	\$17,453 – 2008	\$17,000

Text Box 14
Cars sold to Government Agencies

Name	Vehicle	Bought	Sold + Date	Retail 05/09
Ridley-Thomas	'06 Chrysler 300	\$32,373	\$21,445 – 2009	\$ 8,988
Soto, Nell	'05 Magnum	\$32,939	\$23,453 – 2007	\$16,974

Text Box 15
Laughable Hours Driving Per Day

Name	Dist.	Venue	Year	Total Miles	Daily Miles	Hours Daily
Jones, Bill	32 nd	Bakersfield	1986	193,608	1,335	33.4
Seastrand, E	29 th	Fresno	1989	161,280	1,112	27.8
Villaraigosa, A	45 th	Los Angeles	2000	120,626	832	27.7
Seastrand, E	29 th	Fresno	1988	103,482	714	17.8
Grandlund, B	65 th	Yucaipa	2000	102,388	706	17.6
Briggs, Mike	29 th	Fresno	2002	90,068	621	15.5
Florez, Dean	30 th	Bakersfield	2001	88,286	609	15.2
Tucker, C Jr.	51 st	Inglewood	2001	65,720	453	15.1
Richter, B	3 rd	Grass Valley	1998	87,940	606	15.1
Cardenas, T	39 th	Arleta	1999	64,878	447	14.9
Briggs, Mike	29 th	Fresno	2001	85,246	589	14.7
Briggs, Mike	29 th	Fresno	2000	83,270	574	14.3
Thomson, H	8 th	Vacaville	2000	82,808	572	14.3
Thompson, B	66 th	Murrieta	2000	82,808	571	14.3

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Text Box 16

Top Ten Legislative Car Spendthrifts

Top 10 reasons you should avoid being a California taxpayer are:

- ◆ \$465,000 – Assy-Sen. John Vasconcellos – ca: 1967-2004
- ◆ \$360,000 – Assy-Sen. Charles Calderon – Los Angeles – ca: 1982-2008
- ◆ \$325,000 – Assy. Lou Papan – San Mateo – ca: '73-'86 + '97'02
- ◆ \$309,000 – Assy-Sen. Mike Machado – Vacaville ca: 1994-2000
- ◆ \$298,000 – Assy. Stan Statham – Eureka – ca: 1976-1992
- ◆ \$291,000 – Assy-Sen. Kevin Murray – Los Angeles – ca: 1994-2008
- ◆ \$280,000 – Assy-Sen. Roy Ashburn – San Diego – ca: 1996-2008
- ◆ \$275,000 – Assy-Sen. Jim Costa – Long Beach – ca: 1978-2002
- ◆ \$270,000 – Assy-Sen. Jim Battin – Palm Desert – ca: 1994-2000
- ◆ \$249,000 – Assy-Sen. Dick Ackerman – Laguna Hills – ca: 1995-2008

6. The evidence contained in the test boxes above demonstrate that legislators have and continue to hose (pun intended) the overburdened taxpayers of California.

Additionally, petitioner's review of the limited records provided further proves:

- Legislators drove nearly 100 million miles since 1975
- Nearly \$90 million spent on the unconscionable and unjustified largess at public expense since 1975 with no end in sight

Equal Protection Clause of the 14th Amendment

7. It would be frivolous to the nth degree for this pro se litigant to waste this court's valuable time in setting forth the meaning of the 14th Amendment and/or legal precedents attendant thereto. Suffice it to say that, no persons and/or governmental entity are lawfully allowed to enjoy greater rights than those similarly situated.

8. Defendants have unconstitutionally exempted themselves from providing a myriad of public records to petitioner. This despite the fact that numerous government agencies in California, Ohio and elsewhere have voluntarily provided said documents and/or agreed to make them available for inspection and copying.

Denial of Public Records re: State Assembly/Senate

9. Beginning in January 2009, petitioner requested the following records:
- 1) **Travel records**, including lodging, meal and airfare receipts for legislators traveling to conferences and/or seminars at public expense
 - 2) **Gas charge card receipts**
 - 3) **Vehicle logs** differentiating personal v. official use of state cars
 - 4) **Long distance telephone billing statements** for long distance calls made by legislators on land and/or cell phones at public expense
10. In their written denials defendants took hubris to new levels by putting forth the following frivolous arguments (Ex. B – Senate Rules Committee March 24, 2009 letter and Ex. C – Assembly Rules Committee March 6, 2009 letter attached hereto)
- 1) **Travel record reply:** “We believe that the disclosure of their air schedules and related travel information *poses a serious risk to the security of individual Senators* and therefore, *the public interest served by its disclosure is clearly outweighed by the public interest served in not making the disclosure public.*” (See numbered ¶8 of Ex. B and C)
 - 2) **Gas charge card receipts reply:** Reply same as above
 - 3) **Long distance phone record reply:** “The Legislative Open Records act exempts from mandatory disclosure “[r]ecords pertaining to the names and phone numbers of the send and recipients of telephone and telegraph communications, providing that records of the total charges for any such communications shall be open for inspection.” (Ex. B at ¶8 at page 2)
 - 4) **Vehicle logs reply:** “The Legislative Open Records act excludes any record with respect to “[p]ersonnel, medical, or similar files, *the disclosure of which would constitute an unwarranted invasion of personal privacy.*” (Ex. B at ¶1 at)

Refusal to Provide Travel Records

12. The refusal to provide **dated (past)** travel receipts under the guise it would pose a serious security risk to individual members is beyond absurd. In fact, it doesn't pass the involuntary laugh test! What defendants are arguing is that if petitioner reviewed Senator Smith's **Jan. 2007** travel records for a trip to Aspen that such disclosure would pose a serious security risk. How asinine is this argument?

1 13. Of course such a scenario would be appropriate fodder for a skit on SNL and/or for
2 comedic derision by Jay Leno, John Stewart or David Letterman. Put simply, if one is
3 seeking comedic material, then the defendants have cheerfully and unwittingly provided it;
4 albeit at an unknown cost to the public.

5 14. While investigating egregious waste, abuse and/or fraud in Ohio, petitioner
6 requested and was provided meal/lodging/airfare receipts for the Chief Justice, associate
7 justices, Ohio Attorney General, Secretary of State, Auditor, and over 400 Common
8 Pleas, Appellate and retired judges, all of which was done voluntarily.

9 15. Petitioner's review of the aforementioned public records uncovered an astounding
10 amount of waste, abuse and/or fraud, which is set forth in Ex. D.

11 **Public Record replies by CA Government Agencies**

12 16. The following government agencies in California have provided and/or have agreed
13 to provide to petitioner copies of requested travel and gas charge card record, none of
14 whom put forth the specious argument that in doing so it would "it would pose a serious
15 threat to public employees and/or invade their privacy rights."
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- 17
- 18 ▶ Sacramento County Sheriff – gas receipts including undercover sheriff's
- 19 ▶ Counties of Contra Costa, Alameda, Los Angeles, San Mateo, Ventura, Marin,
20 Riverside, Sacramento and Tulare (there's more)
- 21 ▶ Los Angeles County
- 22 ▶ CA Dept. of Education, Controller, Attorney General, Board of Equalization
- 23 ▶ City of Sacramento

24 17. The aforementioned evidence proves defendants denials are a clear violation of
25 the 14th Amendment to the U.S. and California Constitutions.

Comptroller Chiang's Denial of W-2s

18. In his April 14, 2009 denial letter (Ex. E) defendant Chiang merely offers to provide petitioner with each member's annual gross salary and per diem. "We do not provide the *amount of taxes withheld.*" Chiang's refusal to provide the amount of taxes withheld is specious and denies petitioner the opportunity to discover:

- Amount of federal and/or state taxes withheld for personal use of state vehicles/fuel by the individual legislators
- Amounts declared by individual legislators as income derived from personal use of state vehicles/fuel

W-2s Obtained from Ohio & Evidence of Tax Avoidance/Fraud

19. Chiang's refusal flies in the face of Ohio's voluntary compliance with requests for said public information, which is alluded to in the documents described below.

- 04/12/05 Dept. of Admin. Services letter (Ex. F-1)
- 04/06/06 e-mail from Ohio Dept. of Admin. Services –(Ex. F-2)
- 2001 W-2s for Chief Justice and associate justices – F-3)

20. While investigating possible tax avoidance by Chief Justice Thomas Moyer and associate justices, petitioner discovered the following:

- Nondisclosure of income re: personal use of state cars/on W-2s ca: '03-'05
- Falsely claiming 80% or more or use of state cars for official court business
- Failing to maintain vehicle logs differentiating personal vs. official use of cars

21. Documents/reports proving that Chief Justice Moyer and associate justices were involved in a tax avoidance scheme and/or outright fraud are as follows:

State Auditor's 02/24/04 Supreme Court Management Letter

22. State Auditor Betty Montgomery's Feb. 24, 2004 management letter titled: "Reporting of Taxable Personal Use of State-Owned Vehicles" states: (Ex. G)

Tax Avoidance Involving Retired Visiting Judges

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2 25. Petitioner's review of 100s of retired visiting judge W-2s proved that many were
3 engaged in tax avoidance/fraud by not reporting income earned in cities with income
4 taxes. After reporting his findings, petitioner received a letter dated June 14, 2002 from
5 Sandusky, Ohio City Manager Gerald Lechner stating in part: (Ex. J)
6

7 ▶ "While we cannot share any specific information about any of the alleged taxpayer
8 data, we can tell you that some of the judges on the list are complying and some are
9 not." We appreciate you sharing this information with us and commend you for civic
10 mindedness."

11 26. It should shocks ones conscience to know that Chief Justice Moyer and numerous
12 associate justices sitting as the court of "last resort" in Ohio would knowingly engage in a
13 years-long scheme of tax avoidance and/or outright tax fraud!

Refusal to Provide Gas Charge Card Receipts

14 27. Defendants' spurious argument of security fears relevant to gas charge card
15 receipts is as fallacious as it is in regards to their refusal to provide travel records/receipts.
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17 28. The following evidence demonstrates that the defendants' denial of gas charge
18 card receipts is a blatant violation of the 14th Amendment.

- 19 ▶ Sacramento County Sheriff fuel records – K-1
20 ▶ Receipts for Ohio Supreme Court Justice Terrence O'Donnell (Ex. K-2)
21 ▶ CA Dept. of Education fuel receipts – (Ex. K-3)

22 29. Evidence gleaned by petitioner in reviewing gas charge card receipts for Ohio
23 Supreme Court justices and other public officials proved the following:

- 24 ▶ Attending partisan political fundraisers/rallies
25 ▶ Attending sporting events (Ohio State football games)
 ▶ Transporting family members (unlawful in Ohio)
 ▶ Teaching classes at local University for profit
 ▶ Shopping at various stores – Dining out
 ▶ Family vacation to South Dakota and Colorado

1 39. The LORA (Legislative Open Records Act) provides that whenever it is made to
2 appear by verified petition to the superior court of the county where the records or some
3 part thereof are situated that certain legislative records are being improperly withheld from
4 a member of the public, the court shall order the committee charged with withholding the
5 records to disclose the legislative record or show cause why the committee should not do
6 so. The court shall decide the case after examining the record in camera, if permitted by
7 subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such
8 oral argument and additional evidence as the court may allow. Gov't Code § 9076.

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10 40. Pursuant to Gov't Code § 9078, Petitioner is entitled to recover his costs from
11 respondents.

12 **WHEREFORE**, petitioner prays as follows:

- 13 1. That the Court issue a peremptory writ of mandate directing Respondents to
14 provide the requested records and copies of un-redacted records;
15
16 2. That the Court declare that Gov't Code § 9075 (c), (d) and (e) are unconstitutional
17 in that they are in violation of the 14th Amendment to the U.S. and California Constitution.
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19 3. That petitioner be awarded all reasonable costs; and
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21 4. For such other and further relief/damages the Court deems proper and just.

22 By: _____

23 David Palmer, Petitioner Pro Per
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VERIFICATION

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I, David Palmer, the Petitioner named herein have read paragraphs 1 through 39 of the foregoing Petition for Writ of Mandate. The facts alleged in those paragraphs are within my knowledge and I know these facts to be true. The exhibits attached to the Petition for Writ of Mandate are true and accurate copies of original documents obtained by Petitioner and in his possession.

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

DATED: May 20, 2009

David Palmer