

**THE ZUMBRUN LAW FIRM**  
*A Professional Corporation*

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**SACRAMENTO COURT RULES IN FIRST PHASE OF  
SUIT CHALLENGING THE LEGISLATURE'S COMPLIANCE  
WITH CALIFORNIA'S LEGISLATIVE OPEN RECORDS ACT**

**Sacramento, California [June 9, 2006]**: The Sacramento County Superior Court has ruled in the first phase of a lawsuit concerning whether the California Legislature has violated the Legislative Open Records Act. The suit brought by The Zumbrun Law Firm challenges procedures followed on the \$6.8 million Capitol Park Safety and Improvements Project. The first phase questioned whether the Legislature complied in furnishing its records. The second phase involves the legal ramifications of such records or the absence thereof and the constitutionality of the exceptions in the Act that allow the Legislature to restrict public access to its records.

Judge Loren E. McMaster's ruling on the first phase concluded that the Legislature had complied with the Legislative Open Records Act and that "absent evidence to the contrary, the court must presume that an 'official duty has been regularly performed.'" However, the court specifically described the Legislature's official duty as requiring that the files of each member of the three rules committees that contain responsive documents must be produced. Plaintiff had argued that in the past this was not performed and only the official file of each committee, not including the individual member's files, was all that was searched.

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The court also ruled that plaintiff can raise the issue of the constitutionality of the Legislative Open Records Act in view of a 2004 amendment to the California Constitution which provides that “the people have the right of access to information concerning the conduct of the people’s business,” and that “a statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.”

Also to be addressed at a subsequent hearing will be the issue of whether the “union only work force” clause inserted into the contract by the Senate Rules Committee is valid since no record of its being authorized was produced; whether the Department of General Services made an unlawful delegation of its authority to the Legislature permitting it to circumvent competitive bidding; whether the Legislature wasted taxpayer monies by avoiding competitive bidding; and whether the Legislature violated the Separation of Powers Clause by taking over the administration of the \$6.8 million project by introducing a unique prequalification process, personally selecting the bidders without competitive bidding and arranging for the Legislature to pay the contractors subject to being reimbursed by the Department of General Services. Article III, § 3 of the California Constitution provides that there are three branches of government, Legislative, Executive and Judicial, and none may exercise the powers of the other. Here, the Legislature took over the functions of the Department of General Services of the executive branch of state government.

The subsequent hearing on the second phase will be scheduled following further briefing by the parties. The Application for Order to Show Cause filed by The Zumbrun Law Firm is available at [www.zumbrunlaw.com](http://www.zumbrunlaw.com) under May 5, 2006 “News.”

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