

THE ZUMBRUN LAW FIRM  
A Professional Corporation  
3800 Watt Avenue, Suite 101  
Sacramento, CA 95821

1 RONALD A. ZUMBRUN, SBN 32684  
2 MARK A. TEH, SBN 216756  
3 THE ZUMBRUN LAW FIRM  
3800 Watt Avenue, Suite 101  
4 Sacramento, California 95821  
5 Telephone: (916) 486-5900  
6 Facsimile: (916) 486-5959

7 Attorneys for Plaintiff

ZUMBRUN LAW FIRM  
ENDORSED COPY

2006 NOV -9 PM 4:27

SACRAMENTO COURTS  
DEPT. #53 #54

8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
9 COUNTY OF SACRAMENTO

11 THE ZUMBRUN LAW FIRM,

12 Plaintiff,

13 v.

14 CALIFORNIA LEGISLATURE; JOINT  
15 COMMITTEE ON RULES; ASSEMBLY  
16 COMMITTEE ON RULES; SENATE  
17 RULES COMMITTEE; JON WALDIE,  
18 Chief Administrative Officer of the Joint  
19 Committee on Rules and Assembly  
20 Committee on Rules; GREGORY P.  
21 SCHMIDT, Secretary of the Senate and  
22 Senate Rules Committee; KEITH FELTE,  
Senate Rules Committee and DOES 1  
through 50, inclusive,

23 Defendants.

Case No.: 06AS00775

Complaint Filed: 2/27/06

[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION PURSUANT TO  
MAY 4, 2006 ORDER TO SHOW CAUSE

Date: 11/16/06  
Time: 2:00 p.m.  
Dept.: 53  
Trial Date: None

The Hon. Loren E. McMaster

23 On November 16, 2006, attorneys Ronald A. Zumbrun and Mark A. Teh appeared on  
24 behalf of plaintiff, The Zumbrun Law Firm, and attorneys Marian M. Johnston and Aaron Silva  
25 appeared on behalf of the defendants California Legislature, et al.

26 The Court having considered the complaint, the May 2, 2006 Ex Parte Application for  
27 Order to Show Cause, the memorandum of points and authorities in support thereof, the  
28 Declaration of Ronald A. Zumbrun in support thereof, the May 4, 2006 Order to Show Cause, the

1 June 2, 2006 Court's ruling on Motion Taken Under Submission, the September 13, 2006 Notice  
2 of Motion Pursuant to May 4, 2006 Order to Show Cause, the memorandum of points and  
3 authorities in support thereof, the Declarations of Anne Cavanagh and Mark A. Teh in support  
4 thereof, the opposing and reply briefs, and the arguments of counsel,

5 THE COURT FINDS AND DECLARES that the defendants (1) have failed to comply  
6 with the Legislative Open Records Act in that Defendants' Memorandum of Points and  
7 Authorities in Opposition to Request for Injunctive Relief (Opposition Brief) contains numerous  
8 documents that were not produced as requested by plaintiff; the Rules Committee failed to seek  
9 responding documents from their members who were personally served at both their Capitol and  
10 District offices; have not obtained the required authorizations for their participation concerning  
11 the Capitol Park Safety and Security Improvements Project Contract; have been unlawfully  
12 delegated the functions of selecting, prequalifying, and making direct payments to the contractor  
13 and receiving reimbursement from the Department of General Services; have lacked authority to  
14 add the "shall employ an all union work force" clause into the contract documents; have failed to  
15 conduct competitive bidding as required of the Department of General Services under the State  
16 Contract Act; have failed to consider seeking federal funding as it would be prohibited by  
17 including the "all union work force" clause in the project construction contract; have failed to  
18 "broadly construe" and "narrowly construe" the people's right of access to public information as  
19 required by article I, section 3(b) of the California Constitution; have failed to properly use the  
20 balancing process provided by Government Code section 9074 of the Legislative Open Records  
21 Act; have violated the California Constitution, article III, section 3 (the separation of powers  
22 clause) by failing to first obtain approval of both houses of the Legislature and the Governor  
23 before intruding on the core functions of the executive branch of government; have failed to  
24 authorize the Department of General Services to delegate its contracting authority, competitive  
25 bidding requirements and moneys to the Legislature without the approval of both houses of the  
26 Legislature and the Governor; have violated Code of Civil Procedure section 526a (the taxpayer  
27 injunctive relief act) and have illegally spent and wasted public funds and property by the  
28 failures outlined above.

THE ZUMBRUN LAW FIRM  
A Professional Corporation  
3800 Watt Avenue, Suite 101  
Sacramento, CA 95821

1 IT IS HEREBY ORDERED AND DECLARED that the defendants California  
2 Legislature, Joint Committee on Rules, Assembly Committee on Rules, Senate Committee on  
3 Rules, Jon Waldie, Gregory Schmidt and Keith Felte are ordered (1) to fully comply with the  
4 Legislative Open Records Act; (2) to not require the inclusion of an "all union workforce" clause  
5 in capitol security projects as said provision is unlawful and ineffectual; (3) to not participate in  
6 an unlawful delegation of authority from the Department of General Services resulting in a  
7 violation of competitive bidding and State Contract Act procedures; (4) to not violate the  
8 separation of powers clause of our state's Constitution, article III, section 2 without the  
9 authorization of both houses of the Legislature and Governor; (5) to not narrowly interpret the  
10 Legislative Open Records Act where it limits the right of the public's access and broadly if it  
11 furthers the people's right of access as required by California Constitution section 3(b)(1) and  
12 (2); and (6) to be enjoined from violating section 526a of the Code of Civil Procedure as  
13 outlined above;

14 In order to prevent a finding of unconstitutionality, section 9074 of the Legislative Open  
15 Records Act shall prevail and "whenever such committee withholds any legislative record from  
16 inspection, within four working days of the request to inspect such record, the committee shall  
17 justify in writing the withholding of such records by demonstrating that the record in question is  
18 exempt under the express provisions of this article or that on the facts of the particular case the  
19 public interest served by not making the record public clearly outweighs the public interest  
20 served by disclosure of the record, provided that when the Legislature is not in session, such  
21 committee shall furnish such written justification within 10 working days of the request to  
22 inspect such record."

23 The defendants shall comply with this order within 10 days after the mailing of notice of  
24 this ruling and are enjoined from further violations as described above.

25 DATED: \_\_\_\_\_

26  
27  
28

\_\_\_\_\_  
THE HON. LOREN E. MCMASTER  
Judge of the Superior Court