

**RONALD R. TALMO, SBN 78376**  
**THOMAS W. SMITH, SBN 93102**  
**RICHARD L. DUQUETTE, SBN 108342**

Attorneys at Law  
P.O. Box 2446  
Carlsbad, CA 92018-2446

Telephone: (760) 730-0500

**Attorney for Petitioner**  
**CHRISTINA HARRIS**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF SAN DIEGO, CENTRAL DIVISION**

CHRISTINA HARRIS and all	)	<b>CASE NO. GIC 876101</b>
UNNAMED AND FUTURE	)	<b>Court No. CN215995</b>
PETITIONERS SIMILARLY	)	
SITUATED,	)	<b><u>REPLY TO RESPONDENT'S</u></b>
	)	<b>RETURN TO ORDER TO SHOW</b>
Petitioner,	)	<b>CAUSE ON PETITION FOR WRIT</b>
	)	<b>OF PROHIBITION / MANDATE</b>
VS.	)	
	)	
SUPERIOR COURT OF SAN DIEGO	)	
COUNTY, And DOES 1-10;	)	
	)	
Respondent,	)	
	)	
PEOPLE OF THE STATE OF	)	
CALIFORNIA,	)	
	)	
Real Party in Interest.	)	
_____	)	

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**PETITIONER HAS ESTABLISHED THAT THE RESPONDENT COURT  
PRACTICES AND MAINTAINS AN IMPROPER “BLANKET POLICY”  
CONCERNING MISDEMEANOR DEFENDANTS.**

It is an important and valuable part of the legal system to join numerous claims into a single action against a defendant that allegedly caused harm. Its an efficient resolution.

Olney v. Municipal Court (1982) 133 Cal.App.3d 455 established both a class and a benefit. The only factual distinction between Olney and this case is the policy here is unwritten. This is a more insidious and dangerous practice because the policy is unpublished, cannot be attacked, and can be arbitrarily employed without notice, in violation of Code of Civil Procedure Section 575.1 (See Hall v. Superior Court (2005) 133 Cal.App.4<sup>th</sup> 908.)

The legislature established the relevant class here, those wishing to appear by counsel at critical stages within the process. Here, Ms. Harris, like the petitioner in Olney, is confronted by a policy (written or unwritten) which undermines, PC §977. Such undermining by the lower court is of course a separation of powers issue. The lower court wishes to legislate attendance without notice or good cause in direct contradiction to the law – PC §977.

A written policy would not stand because of Olney, so an unwritten policy has been admittedly adopted (See statement by Judge Kirkman & DDA Tag).

This violates State and Federal procedural Due Process requiring fair notice and hearing of the policy requiring attendance. In this case, the policy was effected **after** the hearing was held – ex parte by Judge Mills. (See transcript of hearing and contrast with court docket of hearing). Further there was no Due Process determination hearing of the need for Ms. Harris' presence at trial. Thus she and all those persons similarly situated are in effect denied the opportunity to be heard. (See In re Allison (1967) 66 Cal2d 282,288-289; Reaves v. Superior Court (Patterson) (1971) 22 Cal.App. 3<sup>rd</sup> 587; Goldberg v. Kelly (1970) 297 US 254.)

Olney recognized the benefit of this type of litigation toward upholding these rights established by the legislature under PC §977 to the persons in the class presently and in the future contemplated by the statute – similarly situated. So, both the class and the benefit beyond Ms. Harris' case are clearly established within this record.

Therefore, the actual statute, PC §977 creates a valid community of interest that extends presently (to Ms. Harris) and to all current and future filings in similarly situated cases. (Reaves v. Superior Court (1971) 22 CalApp 3d 587; Chance v. Superior Court (1962) 58 Cal2d 275, 291 (a Mandamus Petitioner may file a class action)).

Respondent is attempting to unfairly redefine the well established problems here. For example, Respondent discounts the class that is established – previously defined by the legislature under PC §977. Respondent attempts to discount the benefit, which was previously defined by **Olney**. For example, a

lengthy civil certification process of the class is unnecessary within the scope of PC §977 as Petitioner had no plain, speedy or adequate remedy other than this Mandamus Prohibition Petition since the appeal process is not timely where the protection of statutory and constitutional rights are involved. (United Farm Workers etc. Committee v. Superior Court (1967) 254 Cal App2d 768, 769; Reaves v. Superior Court, supra)

Moreover, here the Petitioner was subject to a warrant for her arrest and \$25,000.00 bail imposed upon her after Judge Kirkman's hearing in this matter, **without** notice to her – again in violation of her State and Federal Due Process Rights (See the new transcript Exhibits A – C) and compare with the docket and bail schedule). This was done after this honorable Court issued the stay, and notice was received by the Respondent court. This was done despite that Petitioner has never unlawfully failed to appear, has no prior record, and all in violation of the current bail schedule (\$5,000.00 – a committee chaired by Judge Kirkman) and without articulating any facts or reasoning why such ex parte action was taken. Hence, Petitioner has established she is entitled to reasonable attorney fees and costs pursuant to Code of Civil Procedure Section 1021.5, as she has achieved her litigation objectives for herself and those similarly situated now and in the future.

### **CONCLUSION**

Wherefore, based on the foregoing:

A Writ by this court is warranted vacating the arrest warrant and the bail of \$25,000.00, and ordering the respondent Court to **cease and desist** any

unlawful bail and appearance policies, allowing Petitioner and those similarly situated to appear through counsel now and in the future.

Respondent Superior Court has failed to provide facts, arguments, statutory or case authority in support of its position. It merely attempts to take a legal position that the legislature presently occupies.

Issuing this Writ as prayed will respect the will of the people established by the legislature and restore the rule of law within our judicial system.

Respondent is a member of a group of Defendants who attempted to assert statutory and constitutional rights conferred upon those persons under and thru PC §977. Respondent Court attempts to undermine such a right with an unstated “blanket policy” to arbitrarily and without any good cause stated, ex-parte thwart such rights. Petitioner litigated this issue for herself and those admittedly similarly situated now and in the future. As such, she confers a benefit upon such a class of persons within PC §977. Therefore, she meets the criteria under Olney and well established law. Hence, Petitioner requests that her Writ be granted and her attorney fees and costs be granted.

Respectfully submitted.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Richard L. Duquette  
Attorney for Petitioner  
CHRISTINA HARRIS