

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): David W. Tyra SBN: 116218 Meredith Packer SBN: 253701 Kronick, Moskovitz, Tiedemann & Girard 400 Capitol Mall, 27th Floor, Sacramento, CA 95814 TELEPHONE NO.: (916) 321-4500 FAX NO. (Optional): (916) 321-4555 E-MAIL ADDRESS (Optional): dtyra@kmtg.com (SEE ATTACHED FOR CO-COUNSEL) ATTORNEY FOR (Name): Appellant/Defendant Schwarzenegger (See additional attached)	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA</b> STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME:	
PLAINTIFF/PETITIONER: Union of American Physicians and Dentists DEFENDANT/RESPONDENT: Arnold Schwarzenegger, et al.	
<b>APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)</b>	Superior Court Case Number: RG-09456684
RE: Appeal filed on (date): February 26, 2010	Court of Appeal Case Number (if known):
<b>Notice: Please read <i>Information on Appeal Procedures for Unlimited Civil Cases (form APP-001)</i> before completing this form. This form must be filed in the superior court, not in the Court of Appeal.</b>	

**RECORD OF THE DOCUMENTS FILED IN THE TRIAL COURT**

1. I elect to use the following method of providing the Court of Appeal with a record of the documents filed in the trial court (check a, b, c, d, or e and fill in any required information):
- a.  A clerk's transcript under rule 8.122 (You must check (1) or (2) and fill out the clerk's transcript section on page 2 of this form.)
- (1)  I will pay the trial court clerk for this transcript myself when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the Court of Appeal.
- (2)  I am asking that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have attached the following document (check (a) or (b)):
- (a)  An order granting a waiver of court fees and costs under rule 3.50 et seq.; or
- (b)  An application for a waiver of court fees and costs under rule 3.50 et seq. (Use Application for Waiver of Court Fees and Costs (form FW-001) to prepare and file this application.)
- b.  An appendix under rule 8.124.
- c.  The original superior court file under rule 8.128. (NOTE: Local rules in the Court of Appeal, First, Third, Fourth, and Fifth Appellate Districts, permit parties to stipulate to use the original superior court file instead of a clerk's transcript; you may select this option if your appeal is in one of these districts and all the parties have stipulated to use the original superior court file instead of a clerk's transcript in this case. Attach a copy of this stipulation.)
- d.  An agreed statement under rule 8.134 (You must complete item 2b(2) below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.134(a).)
- e.  A settled statement under rule 8.137. (You must complete item 2b(3) below and attach to your proposed statement on appeal copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.137(b)(3).)

**RECORD OF ORAL PROCEEDINGS IN THE TRIAL COURT**

2. I elect to proceed:
- a.  WITHOUT a record of the oral proceeding in the trial court. I understand that without a record of the oral proceeding in the trial court, the Court of Appeal will not be able to consider what was said during those proceedings in determining whether the trial court made an error.
- b.  WITH the following record of the oral proceeding in the trial court:
- (1)  A reporter's transcript under rule 8.130 (You must fill out the reporter's transcript section on page 3 of this form.)
- (2)  An agreed statement (Check and complete either (a) or (b) below.)
- (a)  I have attached an agreed statement to this notice.
- (b)  All the parties have agreed in writing (stipulated) to try to agree on a statement. (You must attach a copy of this stipulation to this notice.) I understand that, within 40 days after I file the notice of appeal, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.
- (3)  A settled statement under rule 8.137 (You must attach the motion required under rule 8.137(a) to this form.)

**ATTACHMENT TO APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL**

**ATTORNEY FOR**

ARNOLD SCHWARZENEGGER, in his capacity as Governor of the State of California;  
DAVID GILB, in his former capacity as Director of the Department of Personnel  
Administration; CINDY EHNES, CARRIE LOPEZ, TONY SAUER, DAVID MAXWELL-  
JOLLY, JOHN A. WAGNER, and KIMBERLY BELSHE

**CO-COUNSEL INFORMATION**

K. WILLIAM CURTIS, Chief Counsel, SBN 095753  
WARREN C. STRACENER, Dep. Chief Counsel, SBN 127921  
LINDA A. MAYHEW, Assistant Chief Counsel, SBN 155049  
WILL M. YAMADA, Labor Relations Counsel, SBN 226669  
DEPARTMENT OF PERSONNEL ADMINISTRATION  
1515 S Street, North Building, Suite 400  
Sacramento, CA 95811-7258  
Telephone: (916) 324-0512  
Facsimile: (916) 323-4723  
E-mail: [willyamada@dpa.ca.gov](mailto:willyamada@dpa.ca.gov)

CASE NAME: UAPD v. Arnold Schwarzenegger et al.

CASE NUMBER: RG-09456684

**NOTICE DESIGNATING CLERK'S TRANSCRIPT**

You must complete this section if you checked item 1.a. above indicating that you elect to use a clerk's transcript as the record of the documents filed in the trial court.

3. **Required documents.** The clerk will automatically include the following items in the clerk's transcript:

- a. Notice of appeal
- b. Notice designating record on appeal (*this document*)
- c. Judgment or order appealed from
- d. Notice of entry of judgment (*if any*)
- e. Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order (*if any*)
- f. Ruling on one or more of the items listed in e.
- g. Register of actions or docket

4. **Additional documents.** If you want any documents from the trial court proceeding in addition to the items listed above to be included in the clerk's transcript, you must identify those documents here.

I would like the clerk to include in the transcript the following documents from the trial court proceeding (*You must identify each document you want included by its title and provide the date it was filed, if you know it.*):

Document Title and Description	Date of Filing
h.	
i.	
j.	

See additional pages

5. **Exhibits to be included in clerk's transcript.** I would like the clerk to include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the trial court (*for each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit and indicate whether or not the court admitted the exhibit into evidence*):

Exhibit Number	Description	Admitted (Yes/No)
a.		
b.		
c.		

See additional pages

6. **Record of administrative proceeding to be transmitted to the reviewing court.** I would like the clerk to transmit to the reviewing court under rule 8.123 the record of the following administrative proceeding that was admitted into evidence, refused, or lodged in the trial court (give the title and date or dates of the administrative proceeding):

Title of Administrative Proceeding	Date or Dates
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CASE NAME: UAPD v. Schwarzenegger, et al.	CASE NUMBER: RG-09456684
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**NOTICE DESIGNATING REPORTER'S TRANSCRIPT**

You must complete this section if you checked item 2b(1) above indicating that you elect to use a reporter's transcript as the record of the oral proceedings in the trial court. Please remember that you must pay for the cost of preparing the reporter's transcript.

7.  I request that the reporter(s) provide my copy of the reporter's transcript in computer-readable format. (Code Civ. Proc., § 271; Cal. Rules of Court, rule 8.130(f)(4).)

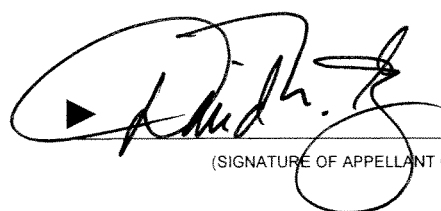
8.  **Proceedings.** I would like the following proceedings in the trial court to be included in the reporter's transcript (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings—for example the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions—and, if you know it, the name of the court reporter who recorded the proceedings.):

	Date	Department	Full/Partial Day	Description of Proceedings	Reporter's Name
a.	11/16/09	31	Partial	Hearing on the merits	
b.	2/22/10	31	Partial	Hearing on form of the judgment	Carol Gilbert
c.					
d.					
e.					
f.					
g.					
h.					
i.					
j.					

See additional pages

Date: February 26, 2010

David W. Tyra  
(TYPE OR PRINT NAME)

  
(SIGNATURE OF APPELLANT OR ATTORNEY)

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I, Sherry Ramirez, declare:

I am a citizen of the United States and employed in Sacramento County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 400 Capitol Mall, 27th Floor, Sacramento, California 95814. On February 26, 2010, I served a copy of the within document(s):

• **APPELLANT’S NOTICE DESIGNATING RECORD ON APPEAL**

- By transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- by placing the document(s) listed above in a sealed \_\_\_\_\_ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a \_\_\_\_\_ agent for delivery.
- by causing personal delivery by Messenger of the document(s) listed above to the person(s) at the address(es) set forth below.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Sacramento, California addressed as set forth below.
- by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

<p><b><u>Attorneys for Petitioner Union of American Physicians and Dentists</u></b>          Andrew J. Kahn          Adam Zapala          Davis, Cowell &amp; Bowe          595 Market Street, Suite 1400          San Francisco, CA 94105          Fax: (415) 597-7201          E-mail: <a href="mailto:ajk@dcbsf.com">ajk@dcbsf.com</a></p>	<p><b><u>Attorneys for Respondent/Defendant John Chiang</u></b>          Ross C. Moody, Esq.          STATE OF CALIFORNIA          ATTORNEY GENERAL’S OFFICE          455 Golden Gate Avenue, Suite 11000          San Francisco, CA 94102-7004          Fax: (415) 703-1234          E-mail: <a href="mailto:Ross.Moody@doj.ca.gov">Ross.Moody@doj.ca.gov</a></p>
<p>Will M. Yamada          DEPARTMENT OF PERSONNEL          ADMINISTRATION          1515 S Street, North Building, Suite 400          Sacramento, CA 95811-7258          Telephone: (916) 324-0512          Facsimile: (916) 323-4723          E-mail: <a href="mailto:willyamada@dpa.ca.gov">willyamada@dpa.ca.gov</a></p>	

I am readily familiar with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I

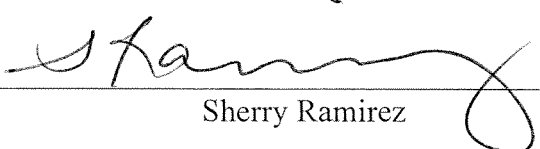
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am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on February 26, 2010, at Sacramento, California.

  
\_\_\_\_\_  
Sherry Ramirez