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**Court of Appeal**

STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION TWO

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December 6, 2010

**NOTICE**

Dear Counsel:

Enclosed is the tentative opinion of the panel hearing the case. It is intended to assist you in deciding whether to request oral argument and, if so, to help you focus your argument. It is also designed to enable the court to reduce delay and to conserve judicial resources.

The court is not unalterably bound by the tentative opinion and is willing to amend or discard the tentative opinion if counsel's arguments persuade the court that the tentative opinion is incorrect in any way. *However, at present, in this case the court believes that the record and briefs thoroughly present the facts and legal arguments such that the court is prepared to rule as set forth in the tentative opinion without oral argument.*

If, after reviewing the tentative opinion counsel has one or more arguments that might persuade the court that the tentative opinion is incorrect in any way, counsel should request oral argument. If, however, counsel concludes that oral argument will not persuade the court that the tentative opinion is incorrect, counsel may waive oral argument. It is an administrative reality that scheduling oral argument may require up to 90 days, and counsel's waiver will assist the court in conserving its limited resources. Therefore,

- (1) **ORAL ARGUMENT WILL BE DEEMED WAIVED UNLESS:**
  - (a) **COUNSEL PROPERLY COMPLETES AND SIGNS THE ATTACHED FORM, AND**
  - (b) **THE BOX REQUESTING ORAL ARGUMENT IS CHECKED, AND**

**(c) THE CLERK OF THIS COURT RECEIVES THE FORM  
ON OR BEFORE 12 DAYS AFTER THE DATE OF THIS  
NOTICE. (THE FIVE-DAY EXTENSION FOR SERVICE BY  
MAIL (Code Civ. Proc., § 1013, subd. (a)) DOES NOT APPLY.)**

- (2) Since the tentative opinion focuses oral argument, no more than 15 minutes of oral argument will be allowed for each side, except for good cause. (Cal. Rules of Court, rule 8.256(c); Ct. App., Fourth Dist., Div. Two, Misc. Order 10-6.)
- (3) Counsel should respond to the tentative opinion and avoid unreasonable repetition of arguments raised in counsel's briefs.
- (4) No supplemental briefing will be accepted because counsel may raise those issues during oral argument. Counsel should refrain from raising new issues not briefed. (*People v. Pena* (2004) 32 Cal.4th 389, 403.)
- (5) No continuances will be permitted except for good cause shown.