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7 CALIFORNIA PUBLIC RECORDS  
8 RESEARCH, INC.

**FILED**  
**Superior Court Of California,**  
**Sacramento**

**11/22/2011**

**Prover**

**By \_\_\_\_\_, Deputy**

**Case Number:**

**34-2011-80001008**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

DEPARTMENT 35

FOR THE COUNTY OF SACRAMENTO

9 CALIFORNIA PUBLIC RECORDS  
10 RESEARCH, INC., a California cor-  
11 poration, individually and on behalf  
12 of all others similarly situated and in  
13 the public interest,

Petitioner,

vs.

14 COUNTY OF SACRAMENTO, a  
15 municipal corporation; CRAIG A.  
16 KRAMER, County Clerk/Recorder,  
17 County of SACRAMENTO, in his  
18 official capacity and not as an  
19 individual; and DOES 1 through 10,

Respondents.

No. \_\_\_\_\_

VERIFIED PETITION FOR WRIT OF  
MANDATE & DECLARATORY RELIEF

20 COMES NOW Petitioner CALIFORNIA PUBLIC RECORDS RESEARCH, INC.

21 ("Petitioner") and alleges as follows:

22 **INTRODUCTION**

23 1. As more fully set forth below, Petitioner alleges that (1) the fees charged for  
24 paper copies of recorded documents which are produced from digitized images of the  
25 document (\$13.00 for the first page and \$3.00 for each subsequent page of a document)  
26 exceed the fees permitted by law (First and Second Causes of Action), and (2) the fees  
27 charged for paper copies of public records(\$3.00 for the first page and \$1.00 for each  
28 subsequent page of a document) exceed the fees permitted by law (Third and Fourth  
Causes of Action).

1           2.       California Government Code section 27366 mandates that fees for copies of  
2 recorded documents shall not exceed the direct and indirect costs of providing the copy.  
3 The California Public Records Act (Govt.C. §6250, *et seq.*) mandates that fees for for copies  
4 of public records shall be limited to the direct costs of duplication.

5                                       **JURISDICTION**

6           3.       This Court has jurisdiction over Respondents and this action pursuant to  
7 Code of Civil Procedure sections 410.10, 1060 and 1085 and Government Code sections  
8 6258 & 6259.

9           4.       Petitioner seeks extraordinary and declaratory relief.

10          5.       Prior to filing this action, Petitioner presented a timely, formal claim to  
11 Respondents pursuant to section 910 of the Government Code, which was rejected, and  
12 otherwise sought to resolve the matter without litigation.

13                                       **PARTIES**

14          6.       Petitioner is a California corporation with a principal place of business  
15 within the County of Los Angeles, State of California. It is engaged in the business, *inter*  
16 *alia*, of locating and retrieving public records and has, in the course of its business,  
17 located and obtained copies of public records throughout the State of California  
18 including records maintained by Respondents. It has lobbied for wider access by the  
19 public to public records and otherwise sought to promote the interests of the general  
20 public regarding access to public information and the fees charged therefor.

21          7.       Petitioner is a member of the public and a party beneficially interested in  
22 the outcome of these proceeding; has a clear, present and substantial right to the relief  
23 sought herein and acts individually and in the public interest.

24          8.       Respondent COUNTY OF SACRAMENTO ("County"), is a charter county  
25 of the State of California ("County").

26          9.       Respondent CRAIG A. KRAMER is the County Clerk-Recorder of  
27 Respondent County.  
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1           10     Plaintiff does not know the true names and identities of the Respondents  
2 sued herein by the fictitious names DOES 1-10, and will amend its petition at the time  
3 they become known to it. Said fictitiously named Respondents participated in and/or  
4 performed the acts hereinafter alleged.

5           11     When not referred to individually, said Respondents are hereinafter  
6 referred to, collectively, as "Respondents".

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8                                     **FIRST CAUSE OF ACTION**  
9           **Petition for Writ of Mandamus vs. All Respondents Re Violation of Government**  
                                   **Code Section 27366**  
                                   **(Code of Civil Procedure Section 1085)**

10           12.     Petitioner hereby incorporates by reference, the same as though fully set  
11 forth herein, paragraphs 1 through 11, above.

12           13.     Petitioner and the public have a beneficial interest in the amount of copy  
13 fees charged by Respondents for copies of recorded documents, in ensuring that the  
14 statutes of this State are enforced and obeyed by those to whom they apply, and in  
15 limiting fees charged by Respondents to those permitted by law.

16           14.     Since the office was created by the first California legislature in 1850,  
17 Respondents, and all California Counties and their Recorders, have had the mandatory  
18 duty to record (by copying) properly presented and fee-paid documents affecting title to  
19 real property (*inter alia*), to make a General Index to them, and to make the documents  
20 and index open to inspection by the public without charge

21           15.     Since 1919 the Recorders have had the duty of providing copies of recorded  
22 documents to the public upon request and payment of lawful user fees.

23           16.     At all times mentioned herein Respondents and all governmental agencies  
24 have had the duty to restrict user fees to recoupment of costs.

25           17.     Prior to 1993 the fees which Respondents could demand and collect for  
26 copies of recorded documents was set by the Legislature at \$1.00 for the first page of a  
27 document and 50¢ for each subsequent page.

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1           18.    In 1993 the statute (Govt.C. §27366) was amended to allow the fees to be set  
2 by the Counties.

3           19.    In granting this authority to the Counties, and to protect the public from  
4 the imposition of unlawful fees, the Legislature specifically mandated that, in exercising  
5 the discretion given to them to set copy fees, the fees set shall be limited to recoupment  
6 of the direct and indirect costs of producing copies.

7           20.    At all times mentioned herein, Respondents' direct and indirect costs for  
8 producing copies of recorded documents did not and do not exceed 10 cents per page.

9           21.    At all times mentioned herein, Respondents have charged Petitioner and  
10 members of the public \$13.00 for the first page of a copy of a recorded document and  
11 \$3.00 per page for each subsequent page and have, thereby, violated Government Code  
12 section 27366 on numerous occasions and are continuing to do so.

13           22.    On July 14, 2011, Petitioner requested copies of recorded documents from  
14 Respondents, received them, and paid Respondents \$44.00 for them, the amount  
15 demanded by Respondents (which was computed by Respondents at the rate of \$13.00  
16 for the first page of each document and \$3.00 for each subsequent page).

17           23.    The amount demanded for the copies by Respondents and paid by  
18 Petitioner exceeded Respondents' direct and indirect costs by \$59.70, and Respondents  
19 violated Government Code section 27366.

20           24.    Respondents continue to demand excessive and illegal fees from Petitioner  
21 and the public, and continue to fail to comply with their statutory duty to set their copy  
22 fees at an amount that does not exceed the direct and indirect costs of providing copies.

23           25.    Petitioner and the public have no plain, speedy, and adequate remedy in  
24 the ordinary course of the law to compel Respondents to comply with their statutory  
25 duty other than the issuance by this Court of a writ of mandamus.

26           26.    Petitioner and the public will continue to be charged excessive fees if the

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1 writ is not issued.  
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3 **SECOND CAUSE OF ACTION**  
4 **Declaratory Relief vs. All Respondents Re Violation of Government Codes Section**  
5 **27366**  
6 **(Code of Civil Procedure Section 1060)**

7 27. Petitioner hereby incorporates by reference, the same as though fully set  
8 forth herein, paragraphs 1 through 11 and 13 through 21, above.

9 28. An actual controversy exists between Petitioner and Respondents in that:

10 (a) Respondents assert and contend that their direct and indirect costs for  
11 paper copies of recorded documents are \$13.00 for the first page of a document and \$3.00  
12 per page for each subsequent page.

13 (b) Petitioner denies Respondents' contentions and contends that  
14 Respondents direct and indirect costs for paper copies of recorded documents do not  
15 exceed, approximately, 10 cents per page.

16 29. Petitioner seeks a declaration of its rights and the right of the public to  
17 obtain copies of recorded documents from Respondents for a fee that does not exceed the  
18 direct and indirect costs of Respondents to make copies and a declaration by the court  
19 that Respondents' direct and indirect costs do not exceed 10 cents per page.

20 **THIRD CAUSE OF ACTION**  
21 **Petition for Writ of Mandamus vs. County Re Violation of Government Code Section**  
22 **6253(b)**  
23 **(Code of Civil Procedure Section 1085)**

24 30. Petitioner hereby incorporates by reference, the same as though fully set  
25 forth herein, paragraphs 1 through 8, 10, 11, 25, and 26, above.

26 31. Petitioner and the public have a beneficial interest in the amount of copy  
27 fees charged by Respondents for copies of public records as defined by the California  
28 Public Records Act ("the Act"), in ensuring that the statutes of this State are enforced  
and obeyed by those to whom they apply, and in limiting fees charged by Respondents  
to those permitted by law.

32. The Act mandates that fees of copies of public records be limited to

1 recoupment of the "direct costs of duplication".

2 33 At all times mentioned herein, Respondents' direct costs for duplication of  
3 public records did not exceed 10 cents per page

4 34. At all times mentioned herein, Respondents have charged Petitioner and  
5 members of the public \$3.00 for the first page of a copy of a public record and \$1.00 per  
6 page for each subsequent page and have, thereby, violated Government Code section  
7 6253(b) on numerous occasions and are continuing to do so.

8 35. On July 18, 2011, Petitioner requested copies of three pages of public  
9 records from Respondents, received them, and paid Respondents \$7.10 for them, the  
10 amount demanded by Respondents (which was computed by Respondents at the rate of  
11 \$3.00 for the first page of each document and \$1.00 for each subsequent page).

12 36. The amount demanded for the copies by Respondents and paid by  
13 Petitioner exceeded Respondents' direct costs by \$6.80, and Respondents violated the  
14 Act.

15 37. Respondents continue to demand excessive and illegal fees from Petitioner  
16 and the public for copies of public records and continue to fail to comply with their  
17 statutory duty to set their copy fees at an amount that does not exceed the direct costs of  
18 duplication.

19 38 Petitioner and the public have no plain, speedy, and adequate remedy in  
20 the ordinary course of the law to compel Respondents to comply with their statutory  
21 duty other than the issuance by this Court of a writ of mandamus.

22 39. Petitioner and the public will continue to be charged excessive fees if the  
23 writ is not issued.

24 **FOURTH CAUSE OF ACTION**  
25 **Declaratory Relief vs. County Re Violation of Government Code Section 6253(b)**  
**(Code of Civil Procedure Section 1060)**

26 40. Petitioner hereby incorporates by reference, the same as though fully set  
27 forth herein, paragraphs 1 through 8, 10, and 11, above.

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1           36.    An actual controversy exists between Petitioner and Respondents in that:

2                   (a) Respondents assert and contend that their lawful direct costs for copies  
3 of public records are \$3.00 for the first page of a document and \$1.00 per page for each  
4 subsequent page.

5                   (b)    Petitioner denies Respondents' contentions and contends that  
6 Respondents lawful direct costs for copies of public records do not exceed 10 cents per  
7 page.

8           37.    Petitioner seeks a declaration of its rights, the rights of all others similarly  
9 situated, and the right of the public to obtain copies of public records from Respondents  
10 for a fee that does not exceed the direct costs of duplication and a declaration that  
11 Respondents' direct costs do not exceed 10 cents per page.

12           WHEREFORE, Petitioner, for itself and on behalf of the general public, prays for  
13 judgment against Respondents, and each of them, as follows:

14           A.    On the First and Second Causes of Action

15                   1.    For a writ of mandate compelling Respondents to:

16                           (a) Collect fees for paper copies of recorded documents that do not  
17 exceed 10 cents per page,;

18                           (b) Provide an accounting of all copies of recorded documents sold  
19 by them and the number of pages of each and an accounting of all monies which they  
20 have received therefor; and,

21                           (c) Restore to the class the overcharges collected by Respondents for  
22 paper copies of recorded documents.

23                   2.    For a Declaration that Respondents' fees for a paper copy of an 8.5 x  
24 11 inch recorded document produced from a digitized image exceeds the legal limit and  
25 a declaration of the allowable fee that Respondents may charge for an 8.5 x 11 inch paper  
26 copy of a recorded real estate record produced from a digital image of the document.

27                   3.    For an incentive award to Petitioner; and,  
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4. For Petitioner's attorney's fees and costs.

B. On the Third and Fourth Causes of Action:

1. For a writ of mandate compelling Respondents to:

(a) Collect fees for copies of public records, as defined by the California Public Records Act, that do not exceed 10 cents per page;

(b) Provide an accounting of all copies of public records sold by them and the number of pages of each and an accounting of all monies which they have received therefor; and,

(c) Restore to the class the overcharges collected by Respondents for paper copies of public records.

2. For a Declaration that Respondents' fees for a paper copy of an 8.5 x 11 inch public record produced from a digitized image exceeds the legal limit and a finding of the allowable fee that Respondents may charge for an 8.5 x 11 inch paper copy of a public record produced from a digital image of the document.

5. For an incentive award to Petitioner; and,

6. For Petitioner's attorney's fees and costs.

DATED: November 18, 2011



DONALD W. RICKETTS  
Attorney for Petitioner  
CALIFORNIA PUBLIC RECORDS  
RESEARCH, INC.

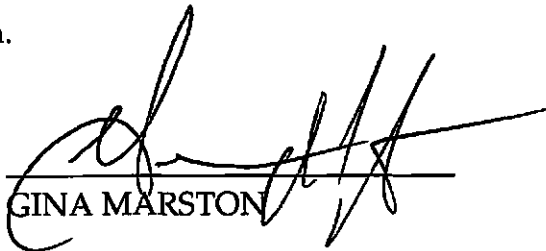


VERIFICATION

GINA MARSTON declares as follows:

1. I am an officer of California Public Records Research, Inc. ("CPRR") a California corporation. The following matters are within my personal knowledge and, if called as a witness herein, I would be competent and qualified to and would testify thereto.
2. I have read the foregoing Petition for Writ of Mandate and Declaratory Relief.
3. The facts set forth in the foregoing petition regarding CPRR, its activities, conduct and knowledge are true and correct. I am informed that all other matters are true and correct and I believe they are.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed this \_\_\_\_ day of November, 2011, at Pasadena, California.

  
GINA MARSTON