IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

KIRNPAL GREWAL, et al.,

Defendants and Appellants.

Case no. S217896

Fifth District Court of Appeal case nos. F065450, F065451, F065689

Kern County Superior Court case nos. CV-276959, CV-276961; Honorable William D. Palmer presiding

APPLICATION AND PROPOSED *AMICUS CURIAE* BRIEF ON BEHALF OF GTECH CORPORATION

ELLIOT L. BIEN (SB # 90744)
JOCELYN S. SPERLING (SB # 211714)
BIEN & SUMMERS
829 Las Pavadas Avenue
San Rafael, CA 94903
Telephone: (415) 472-1500
Facsimile: (415) 472-1515

MATTHEW J. GEYER (SB # 121481)
1750 Montgomery Street
San Francisco, CA 94111
Telephone: (415) 956-0100
Facsimile: (415) 381-907

Attorneys for *Amicus Curiae*
GTECH CORPORATION

TO THE HONORABLE TANI GORRE CANTIL-SAKAUYE, CHIEF JUSTICE OF CALIFORNIA:

GTECH Corporation, the prime contractor for the California State Lottery since 1986 ("GTECH"), respectfully applies pursuant to Rule of Court 8.520(f) for leave to file the accompanying *amicus curiae* brief. GTECH is one of the world's largest operators and technology suppliers for public lotteries, including Italy's national lottery. (Please see further discussion in "Interest of Amicus Curiae" section of proposed brief.)

While the California State Lottery (hereafter, "Lottery") has been extraordinarily successful in its mission to help fund California's public schools, the briefing in this case poses a serious threat to its continued success. In defense of their unlawful "Internet cafés," petitioners Kirnpal Grewal et al. (together, "Grewal") contend that California's slot machine statutes apply equally to the Lottery and themselves. On that premise, Grewal claims the Legislature could not possibly have intended to harm the Lottery, too, by applying the slot machine statutes as the Court of Appeal held below.

Grewal's major premise, that the Lottery is subject *at all* to the slot machine statutes, flies in the face of the intended primacy of the Lottery Act itself in determining the Lottery's authorized activities. Nor is this some abstract doctrinal concern. If this Court or any other were to endorse Grewal's premise, or even lend tacit support to it, the Lottery could find its activities significantly curtailed by a variety of gaming laws,

not only the slot machine statutes. And the inevitable result would be a significant drop in the Lottery's annual contributions to the State's public schools.

That is the primary purpose and focus of GTECH's proposed brief, because no party has adequately explained the intended primacy of the Lottery Act in response to Grewal's argument. But for similar reasons, GTECH concludes its brief with a precautionary discussion of the merits of the Court of Appeal's opinion below. In the unlikely event this Court lends any support to Grewal's major premise, thereby exposing the Lottery to *any* curtailment under the slot machine statutes, the Court should limit such curtailment for reasons not addressed by the parties.

CONCLUSION

For the foregoing reasons, more fully set forth in its accompanying brief, GTECH respectfully requests leave to participate as *amicus curiae* in this case by filing its brief.

DATED: March 23, 2015

Respectfully submitted,

BIEN & SUMMERS
MATTHEW J. GEYER

By: /S/
ELLIOT L. BIEN
Attorneys for *Amicus Curiae*,
GTECH CORPORATION

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

KIRNPAL GREWAL, et al.,

Defendants and Appellants.
_____/

Case no. S217896

Fifth District Court of Appeal case nos. F065450, F065451, F065689

Kern County Superior Court case nos. CV-276959, CV-276961; Honorable William D. Palmer presiding

PROPOSED *AMICUS CURIAE* BRIEF FOR GTECH CORPORATION

ELLIOT L. BIEN (SB # 90744)
JOCELYN S. SPERLING (SB # 211714)
BIEN & SUMMERS
829 Las Pavadas Avenue
San Rafael, CA 94903
Telephone: (415) 472-1500
Facsimile: (415) 472-1515

MATTHEW J. GEYER (SB # 121481)
1750 Montgomery Street
San Francisco, CA 94111
Telephone: (415) 956-0100
Facsimile: (415) 381-907

Attorneys for *Amicus Curiae*
GTECH CORPORATION

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

CASES

STATUTES AND CONSTITUTIONAL PROVISIONS

I.

INTEREST OF *AMICUS CURIAE*

In fiscal year 2013-14, the voter-approved California State Lottery ("Lottery") contributed nearly $1.35 billion to California public schools. (2014 Comprehensive Annual Financial Report, p. 19)[1] This was the fourteenth consecutive year its contribution exceeded $1 billion. (*Id.*)

Amicus curiae GTECH Corporation ("GTECH") helps the Lottery succeed in that mission, serving as its prime contractor since 1986. It is one of the world's largest operators and technology suppliers for public lotteries. It operates Italy's national lottery, the world's largest, and provides lottery infrastructure and related operational services to a number of similar ventures on six continents. It brings to California a vast store of experience and expertise in the necessary technology, operations, and governmental issues in this sensitive field. And its own compensation, just like the funding for California's public schools, rises or falls based on the Lottery's success.

GTECH participates as *amicus curiae* in appropriate cases (e.g., *Confederated Tribes & Bands of Yakama Indian Nation v. Locke* (9th Circ. 1999) 176 F.3d 467; *State of West Virginia v. Mountaineer Park, Inc.* (1993) 438 S.E.2d 308) and this is such a case. The Lottery's continued success faces a significant threat from the briefs for the

---

[1] The report appears at http://static.www.calottery.com/~/media/Publications/Financial_Reports/2014%20California%20State%20Lottery%20Comprehensive%20Annual%20Financial%20Report.pdf

petitioners: private parties who ran "Internet cafés" of doubtful legality at the time and doubtless illegality now, given recent legislation. (*Post*, p. 10) They raise a spirited but vain defense casting the Lottery as a fellow violator of California's slot machine statutes. Because this defense attacks the intended primacy of the Lottery's own authorizing statutes, and could significantly curtail its activities, the Court should expressly reject this defense no matter how else it resolves this case.

II.

INTRODUCTION

While the Penal Code's definition of a slot machine is the ultimate question before this Court, petitioners Kirnpal Grewal et al. (together, "Grewal") have drawn the Lottery deeply into that debate with far-reaching consequences. Claiming the Lottery is subject to the slot machine statutes as much as he is, Grewal insists the Lottery would suffer grievously if the Court were to approve the slot machine definition adopted below. Claiming the definition was never intended to restrict the *Lottery* that much, Grewal urges a similar result for himself. (Grewal Opn. Br. at 1, 3, 37-39; Reply Br. at 2-3, 15, 20; Stidman Opn. Br. at 38, Reply Br. at 23-25)

Grewal's thesis about the Lottery is indefensible. As this brief will demonstrate, the California State Lottery Act of 1984 (Govt. Code §§ 8880 et seq.) (hereafter, "the Lottery Act") was intended to be the exclusive determinant of the Lottery's permissible activities. (*Post*, pp. 5-

9) It unequivocally subordinates any other law that might otherwise restrict the Lottery's activities. Accordingly, Grewal cannot fairly defend his own activities by abducting the Lottery as a shield or hostage. No matter how broad a definition of slot machines the Legislature intended, it does not compromise the Lottery Act's primacy as to permissible Lottery activities.

The importance of this issue, however, extends well beyond the slot machine statutes. Grewal's warning of dire consequences for the Lottery would become serious if this Court, or any other, lent even tacit support to Grewal's thesis. If the Lottery Act lost its intended primacy over the slot machine statutes, the Lottery could find itself hamstrung by other statutes as well.

Given the public importance of this issue, the Court should address it no matter how else it resolves this case. To begin with, it should reject Grewal's argument about the Lottery no matter what definition of a slot machine the Court might approve. Because Grewal's argument on that question relies significantly on the purported consequences for the Lottery, the Court's response to that point would plainly qualify as a holding.

It is possible, though, that the Court will elect not to reach the slot machine definition, finding the question has become moot or no longer "an important question of law." (Rule of Court 8.500(b)(1)) Indeed, several considerations suggest that outcome is distinctly possible, such as

the recent legislation expressly outlawing Internet cafés. (*Post*, p. 10) In that event, the Court should still reject or at least question Grewal's thesis to avoid any claims of tacit support for it.

Caution nonetheless prompts GTECH to address the slot machine definition briefly. (*Post*, pp. 12-16) The parties fail to cite a fatal flaw in the primary holding below: its reliance on an expansive definition of the word "apparatus" as used in Penal Code § 330b. The opinion deems the word broad enough to include Grewal's "complex of networked terminals, software gaming programs and computer servers." (*People v. Grewal* (2014) 168 Cal.Rptr.3d 749, 764) But "apparatus" appears in a series of words, and must therefore be construed in harmony with those that surround it: "machine" and "device." (Penal Code § 330b, subd. (d)) The plain meaning of the surrounding words — and the most natural sense of "apparatus" as well — has already been identified by this Court in *Hotel Employees & Restaurant Employees Intl. Union v. Davis* (1999) 21 Cal.4th 585. The opinion explains that the slot machine statutes as a whole target only "stand-alone gaming device[s]." (*Id.* at 593)

As stated above, however, the main purpose of this brief is to urge the Court to protect the intended primacy of the Lottery Act by rejecting Grewal's contrary thesis. We turn to that subject now.

III.

THE LOTTERY ACT CONTROLS OVER ANY OTHER LAW RESTRICTING STATE LOTTERY ACTIVITIES

A.

THE LOTTERY ACT EXPRESSLY SUBORDINATES ANY CONFLICTING STATE OR LOCAL LAW

The Lottery Act, as approved by Proposition 37 in 1984, unmistakably evidences the voters' intent to make it the exclusive determinant of permissible State Lottery activities.[2] Two statutes make this point unambiguously.

First, § 8880.70 provides in relevant part:

> Any other State or local law providing any penalty, disability, restriction, or prohibition for the . . . distribution . . . . or sale of any lottery tickets or shares shall not apply to the tickets or shares of the California State Lottery.

That language expressly subordinates any other law, including but not limited to the slot machine statutes, that might otherwise restrict the way the Lottery may distribute or sell its tickets or shares.

To the same effect is § 8880.2. It provides in full:

> *Except for the state-operated lottery established by this Chapter*, nothing in this Chapter shall be construed to repeal or modify existing State law with respect to the prohibition of casino gambling, punch boards, slot

---

[2] We cite the original language of the relevant provisions unless otherwise noted.

> machines, dog racing, video poker or blackjack machines paying prizes, or any other forms of gambling. (Italics added)

The most obvious import of that language is to assure readers — and ensure in fact — that the great bulk of California's existing gambling prohibitions would remain intact. But the language conveys another intent with equal clarity: that the new Lottery Act *shall* be construed to repeal or modify any existing law to the extent required to maintain the new State Lottery. That is the plain meaning of the introductory "Except for" clause in conjunction with the balance of the sentence.

A third statute in the Lottery Act points to the same conclusion, though not as obviously. § 8880.69 provides:

> It is the intent of this Chapter that all matters related to the operation of the State Lottery as established hereby *be governed solely pursuant to this Chapter* and be free from regulation or legislation of local governments including a city, city and county, or county. (Italics added)

The italicized clause makes the Lottery Act exclusive on all matters of operation, not only distribution and sale as in § 8880.70.

One might argue that the second clause (and title) of this statute restricts it to the preemption of local laws, not the subordination of other state laws. But the two clauses are independent of each other, as confirmed by the conjunctive "and" used in the sentence. The plain

meaning that emerges is an intent to subordinate both state and local laws that might otherwise conflict with the Lottery Act.

In sum, all three of these statutes — all enacted by the voters in the original Lottery Act — expressly declare the primacy of the Lottery Act over any contrary implication of other state laws.

B.

THE LOTTERY ACT CONTROLS OVER THE SLOT MACHINE STATUTES AS A LATER AND MORE SPECIFIC ENACTMENT

Familiar rules of statutory construction point to the same conclusion independently. A specific provision prevails over a general one (Code Civ. Proc., § 1859; *Collection Bureau of San Jose v. Rumsey* (2000) 24 Cal.4th 301, 310; *Fuentes v. Workers' Comp. Appeals Bd.* (1976) 16 Cal.3d 1, 8), and a later-enacted statute prevails over an earlier one. (*Collection Bureau of San Jose, supra*, 24 Cal.4th 301, 310; *Fuentes, supra*, 16 Cal.3d 1, 7)

As applied here, the Lottery Act is not only far more recent than the slot machine statutes, but also infinitely more specific on the subject at hand: the permissible activities of the State Lottery. Indeed, *Stone Street Capital, LLC v. California State Lottery Com.* (2008) 165 Cal.App. 4th 109 held that, notwithstanding the later enactment of a Uniform Commercial Code section, a conflicting Lottery Act section prevailed because it is "a special act dealing with a single subject: the California State Lottery." (*Id.* at 119)

Moreover, several original and subsequent provisions of the Lottery Act specifically address the Lottery's permissible activities. Accordingly, these provisions further support the Act's primacy over other laws as stated in §§ 8880.2, 8880.69, and 8880.70. (*Ante*, pp. 5-7)

For example, § 8880.12 defines a "Lottery Game" to mean "any procedure authorized by the Commission" as long as it conforms to specified criteria. This broad grant of authority, taken together with the enumerated criteria, plainly manifest an intent to make § 8880.12 exclusive authority on this point.

In similar fashion, § 8880.33 provides that "[t]he Commission shall promulgate rules and regulations specifying the manner of distribution, dissemination or sale of lottery tickets or shares . . . ." This provision echoes the point made by § 8880.70: that the Commission's decisions, within its authority, are the sole determinant of permissible methods of distribution or sale.

Finally, the Legislature added § 8880.335 to the Lottery Act in 1997 (Stats.1997, c. 226 (A.B.197), § 1, eff. Aug. 5, 1997) with the explicit intent to protect the Lottery's "Scratchers" vending machines from any claim they were unlawful slot machines (*id.* at § 8880. 335 (a)(1)), so long as the machine itself does not determine who wins. (*Id.* at § 8880.335(b)) And the same is true of the Lottery's draw game ticket vending machines. (*Id.* at § 8880.335(a)(2) and (c)-(d)) By expressly

authorizing both types of machines for the Lottery, the Legislature plainly precluded any contrary application of the slot machine statutes to these particular devices.[3]

More generally, though, the later enactment and specificity of *all* the foregoing provisions in the Lottery Act foreclose a contrary reading of the slot machine statutes — especially because those statutes themselves contain no hint of an intent to restrict the Lottery.

To the contrary, it would take a strained expansion of the slot machine definition to perceive any support in it for a restriction of the Lottery. And such a reading of those statutes would render the entirety of § 8880.335 surplusage. This Court has long stood against such readings of two separate statutes or codes. (E.g., *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 778-779 [one must not be read so as to nullify the other, but instead they "must be read together and so construed as to give effect, when possible, to all the provisions thereof"]; see also *San Leandro Teachers Assn. v. Governing Bd. of San Leandro Unified School Dist.* (2009) 46 Cal.4th 822, 836 [same].)

---

[3] An uncodified section stated that any *other* types of ticket selling devices — that is, "*in addition to* those specified in Section 8880.335" — are permissible so long as they are in conformity with both the Lottery Act and the slot machine statutes. (Stats.1997, c. 226 (A.B.197), § 2, italics added) But even this section indicates that Scratchers vending machines and draw-game ticket selling machines that conform to the statutes as codified have been specifically approved by the Legislature.

IV.

THE COURT SHOULD CONFIRM THE PRIMACY OF THE LOTTERY ACT EVEN IF IT DOES NOT RESOLVE THE DEFINITION OF A SLOT MACHINE

As noted earlier, several considerations might prompt the Court not to resolve the dispute regarding the definition of a slot machine in this case. The Court might deem that question either moot or no longer "an important question of law." (Rule of Court 8.500(b)(1)) In either event, the Court should still vindicate the intent of the voters in 1984, and the public interest in education funding, by confirming the primacy of the Lottery Act. This will avoid claims of tacit support for Grewal's contrary thesis.

First, the Court might deem the slot machine statutes no longer relevant or important on the subject of Internet cafés now that the Legislature has expressly outlawed them. (Bus. & Prof. Code § 17539.1) As Grewal concedes: "the Legislature, being fully aware of this Court's grant of review in this case, directly prohibited Appellants' machines. . . ." (Grewal's Reply Br. at 18; fn. omitted; see also Stidman's Reply Br. at 8 [the statute "directly prohibit[s] the types of sweepstakes promotions offered by Internet cafés"].) "[S]ubsequent legislation [] may render moot the issues in a pending appeal." (*Jordan v. Los Angeles County* (1968) 267 Cal.App.2d. 794, 799)

Second, the Court might decline to pass judgment on the Court of Appeal's holding below if it agrees with Grewal's "lenity" argument

claiming reliance on prior case law. (E.g., Grewal's Opening Br. at 29-34 & Reply Br. at 20-21) If the Court agrees Grewal relied on *Trinkle v. California State Lottery* (2003) 105 Cal.App.4th 1401; review den., and therefore cannot be penalized under a subsequent change in the case law, the Court might find it unnecessary to review the propriety of that change.

Finally, the Court might deem it unnecessary to resolve the definition of a slot machine in this case because Grewal's activities, all along, were more accurately described as unlawful private lotteries rather than slot machines. The People presented a substantial illegal lottery claim and argument to the Court of Appeal, based on Penal Code § 319 and Cal. Const., art IV § 19(a) (RB 27-32), and cited an illegal lottery case supporting their analysis of the consideration issue in this Court. (RAB at 27 & n. 10, citing *People v. Shira* (1976) 62 Cal.App.3d 442, 459; *see also California Gas. Retailers v. Regal Petro. Corp.* (1958) 50 Cal.2d 844, 851-63) Although the opinion below barely mentions the unlawful lottery claim, this Court might elect to remand on that issue to the Court of Appeal without reaching the slot machine question.

If the Court concludes it need not resolve the slot machine issue for any of these reasons, it should still confirm the Lottery Act's primacy. Grewal's false thesis about the Lottery plays a significant role in the briefing and is readily accessible to the world. Even a short comment by this Court could prevent significant expense and harm to the Lottery

from a curtailment of activities expressly authorized by the voters and Legislature.

V.

IF THE COURT DOES REACH THE SLOT MACHINE DEFINITION, IT SHOULD CONSIDER SIGNIFICANT FACTORS THE PARTIES HAVE NOT IDENTIFIED

Out of caution, we conclude with a brief discussion of the slot machine definition. If the Court does reach that issue, or considers restoring the opinion below to precedential status, GTECH is concerned that the parties have failed to identify significant flaws in that opinion. Assuming arguendo the slot machine statutes restrict the Lottery's activities *at all*, the Court of Appeal's holding below would restrict them far more than the Legislature intended.

This Court captured the essence of the matter in *Hotel Employees & Restaurant Employees Intl. Union v. Davis, supra,* 21 Cal.4th 585, in a comprehensive review of California's gaming law. In a passage no party in this case has cited, the Court stated that "[t]he Penal Code's broad definitions of slot machines include virtually every kind of *stand-alone* gaming device." (*Id.* at 593, italics added)

Despite that plain statement, the opinion below adopts a contrary construction of Penal Code § 330b, subd.(d) (hereafter, "§ 330") by selecting the broadest possible sense of one word, "apparatus." Here is the key passage in the Court of Appeal's opinion to that effect:

> As defined in dictionaries, the ordinary meaning for the term "apparatus" includes "a group or combination of instruments, machinery, tools, or materials having a particular function" (Random House Webster's College Dict. (1992) p. 66), as well as "[t]he totality of means by which a designated function is performed or a specific task executed" (Webster's II New College Dict. (2001) p. 54). (168 Cal.Rptr.3d 764)

Based on that reasoning, the opinion concludes that a prohibited slot machine "is not limited to an isolated or stand-alone piece of physical hardware" (*id.*), but encompasses a "complex of networked terminals, software gaming programs and computer servers" as used by Grewal. (*Id.*) But the statutory language actually compels a contrary conclusion.

Neither the opinion below nor the parties' briefs consider the *context* of the word "apparatus" in § 330b. It appears in a series of three words: "a machine, apparatus, or device . . . ." Given that circumstance, a narrower construction of "apparatus" is compelled by this Court's holding in *Grafton Partners L.P. v. Superior Court* (2005) 36 Cal.4th 944, 960:

> Under [a] canon of statutory construction, known as *noscitur a sociis*, ... "the meaning of a word may be ascertained by reference to the meaning of other terms which the Legislature has associated with it in the statute, and . . . its scope may be enlarged or restricted to accord with those terms." (*People v. Rogers* (1971) 5 Cal.3d 129,

> 142. . . (conc. & dis. opn. of Mosk, J.); see also *People v. Jones* (2003) 112 Cal.App.4th 341, 354, . . . (conc. & dis. opn. of Kolkey, J.) ["'a word takes meaning from the company it keeps'"]; *Blue v. Bontá* (2002) 99 Cal.App.4th 980, 990 . . . .

Grafton applied this rule where "five of the six subsections" of a statute limited the waiver of a jury trial to a party's "own act or failure to act after the litigation begins." (*Id.*) The predominant thrust of these associated provisions compelled the rejection of a competing construction whereby "the opposing party in the lawsuit unilaterally can precipitate his or her opponent's loss of the right to a jury trial. . . ." (*Id.*) The predominant thrust of associated provisions must govern.

Grafton applies here because two of the three words used in a series in § 330b unambiguously signify what the Court of Appeal called "an isolated or stand-alone piece of physical hardware." (168 Cal.Rptr. 3d at 764) Indeed, this presumably explains the court's reliance on the word "apparatus." The other words in the series do not fairly encompass a "complex of networked terminals, software gaming programs and computer servers." (*Id.*) And only the most expansive definition of "apparatus" would. But under *Grafton*, the two surrounding words require a narrower definition of "apparatus" to preserve the Legislature's predominant intent.

Moreover, this Court's authoritative statement in *Hotel Employees* confirms the dominant thrust of the series of words in question. And the

history of § 330b and other slot machine statutes evidences the Legislature's agreement with *Hotel Employees* on this point. That case came down in 1997, and the Legislature retained the same definitional language while repeatedly amending § 330b and others.[4] Accordingly, the Legislature presumptively approved this Court's view that the slot machine statutes prohibit only "stand-alone" gaming devices. (E.g., *People v. Lewis* (1993) 21 Cal.App.4th 243, 249; rev. denied)

It only remains to point out that, while the Lottery's Scratchers vending machines are stand-alone devices, they are not *gaming* devices under the Penal Code for two reasons. (*Trinkle v. California State Lottery, supra,* 105 Cal.App.4th 1401; review den.) First, as the Court of Appeal below aptly stated, "a vending machine that simply dispenses California State Lottery tickets in the sequential order that they were loaded into the machine is not an unlawful slot machine." (168 Cal.Rptr. 3d 762)

Second, the Lottery's vending machines are not gaming devices under the fundamental distinction this Court drew in *Western Telcon v. California State Lottery* (1996) 13 Cal.4th 475. In that leading exposition of the Lottery's authority, the Court explained that "California

---

[4] Penal Code § 330a was amended in 2010 (Stats.2010, c. 577 (A.B.1753), § 1); § 330b in 2003, 2004 and 2010 (Stats.2003, c. 264 (A.B.360), § 1; Stats.2004, c. 183 (A.B.3082), § 267; Stats.2010, c. 577 (A.B.1753), § 2); and § 330.1 in 2010 and 2011. (Stats.2010, c. 577 (A.B.1753), § 3; Stats.2011, c. 296 (A.B.1023), § 202)

law, historically and currently, distinguishes between the operation of lotteries (chapter 9) and other forms of illegal gaming (chapter 10)." (*Id.* at 484) As the People state in their merits brief in this case, "lotteries are separate and distinct things in law and fact from other forms of illegal gaming." (RAB at 27, citing *Western Telcon*)

VI.

CONCLUSION

For all the foregoing reasons, the Court should reject a contention advanced by petitioners Grewal et al. that would significantly curtail the activities and intended public benefits of the Lottery. The Court should confirm that the Lottery Act controls over any other law that might otherwise restrict the Lottery's activities, including but not limited to the slot machine statutes at issue here. Alternatively, if the Court reaches the slot machine definition without expressly excluding the Lottery from its application, the Court should adopt the construction urged in this brief to protect the Lottery and its intended benefits at least that much.

DATED: March 23, 2015

Respectfully submitted,

BIEN & SUMMERS
MATTHEW J. GEYER

By: /S/
ELLIOT L. BIEN
Attorneys for *Amicus Curiae*,
GTECH CORPORATION

CERTIFICATE OF LENGTH OF BRIEF

The undersigned, counsel for *amicus curiae* GTECH Corporation, hereby certifies pursuant to Rule 8.204(c)(1), California Rules of Court, that the foregoing brief is proportionately spaced, has a 13-point typeface, and contains 3,641 words as computed by the word processing program (WordPerfect X5) used to prepare the brief.

DATED: March 23 , 2015

/S/

ELLIOT L. BIEN

CERTIFICATE OF SERVICE

The undersigned declares:

I am over the age of 18 years and am not a party to or interested in the above entitled cause. My work address for this matter is 829 Las Pavadas Avenue, San Rafael CA 94903. On the date stated below I caused to be served:

APPLICATION AND PROPOSED *AMICUS CURIAE* BRIEF ON BEHALF OF GTECH CORPORATION

by enclosing copies in a postage-prepaid envelopes addressed to:

Lisa S. Green, Esq., District Attorney — Attorneys for Respondent
Gregory A. Pulskamp, Esq., Supervising Deputy
Kern County District Attorney's Office
1215 Truxtun Avenue, 4th Floor
Bakersfield, CA 93301

John H. Weston, Esq.
G. Randall Garou, Esq.
Weston, Garrou & Mooney — Attorneys for Appellant Grewal
12121 Wilshire Boulevard, Suite 525
Los Angeles, CA 90025

Tory E. Griffin, Esq. — Attorney for Appellant Stidman
Hunt Jeppson & Griffin LLP
1478 Stone Point Dr., Suite 100
Roseville, CA 95661

Office of the Clerk
Fifth District Court of Appeal
2424 Ventura Street
Fresno, CA 93721

Clerk, Kern County Superior Court
for Honorable William D. Palmer
1415 Truxtun Avenue
Bakersfield, CA 93301

and causing them to be delivered by the United States Postal Service in my usual manner.

The foregoing is true and correct. Executed under penalty of perjury at Novato, California.

DATED: March 23, 2015

/S/
LaRae K. Pearson