

WRITS OF MANDATE 101:

A Primer on Traditional and
Administrative Writs of Mandate

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EXHIBIT 1

CODE OF CIVIL PROCEDURE

SECTION 1084-1097

[1084.] Section Ten Hundred and Eighty-four. The writ of mandamus may be denominated a writ of mandate.

1085. (a) A writ of mandate may be issued by any court to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by that inferior tribunal, corporation, board, or person.

(b) The appellate division of the superior court may grant a writ of mandate directed to the superior court in a limited civil case or in a misdemeanor or infraction case. Where the appellate division grants a writ of mandate directed to the superior court, the superior court is an inferior tribunal for purposes of this chapter.

1085.5. Notwithstanding this chapter, in any action or proceeding to attack, review, set aside, void, or annul the activity of the Director of Food and Agriculture under Division 4 (commencing with Section 5001) or Division 5 (commencing with Section 9101) of the Food and Agricultural Code, the procedure for issuance of a writ of mandate shall be in accordance with Chapter 1.5 (commencing with Section 5051) of Part 1 of Division 4 of that code.

1086. The writ must be issued in all cases where there is not a plain, speedy, and adequate remedy, in the ordinary course of law. It must be issued upon the verified petition of the party beneficially interested.

1087. The writ may be either alternative or peremptory. The alternative writ must command the party to whom it is directed immediately after the receipt of the writ, or at some other specified time, to do the act required to be performed, or to show cause before the court at a time and place then or thereafter specified by court order why he has not done so. The peremptory writ must be in a similar form, except that the words requiring the party to show cause why he has not done as commanded must be omitted.

1088. When the application to the court is made without notice to the adverse party, and the writ is allowed, the alternative must be first issued; but if the application is upon due notice and the writ is allowed, the peremptory may be issued in the first instance. With the alternative writ and also with any notice of an intention to

apply for the writ, there must be served on each person against whom the writ is sought a copy of the petition. The notice of the application, when given, must be at least ten days. The writ cannot be granted by default. The case must be heard by the court, whether the adverse party appears or not.

1088.5. In a trial court, if no alternative writ is sought, proof of service of a copy of the petition need not accompany the application for a writ at the time of filing, but proof of service of a copy of the filed petition must be lodged with the court prior to a hearing or any action by the court.

1089. On the date for return of the alternative writ, or on which the application for the writ is noticed, or, if the Judicial Council shall adopt rules relating to the return and answer, then at the time provided by those rules, the party upon whom the writ or notice has been served may make a return by demurrer, verified answer or both. If the return is by demurrer alone, the court may allow an answer to be filed within such time as it may designate. Nothing in this section affects rules of the Judicial Council governing original writ proceedings in reviewing courts.

1089.5. Where a petition for writ of mandate is filed in the trial court pursuant to Section 1088.5, and where a record of the proceedings to be reviewed has been filed with the petition or where no record of a proceeding is required, the respondent shall answer or otherwise respond within 30 days after service of the petition. However, where a record of the proceeding to be reviewed has been requested pursuant to Section 11523 of the Government Code, or otherwise, and has not been filed with the petition, the party upon whom the petition has been served, including any real party in interest, shall answer or otherwise respond within 30 days following receipt of a copy of the record.

1090. If a return be made, which raises a question as to a matter of fact essential to the determination of the motion, and affecting the substantial rights of the parties, and upon the supposed truth of the allegation of which the application for the writ is based, the court may, in its discretion, order the question to be tried before a jury, and postpone the argument until such trial can be had, and the verdict certified to the court. The question to be tried must be distinctly stated in the order for trial, and the county must be designated in which the same shall be had. The order may also direct the jury to assess any damages which the applicant may have sustained, in case they find for him.

1091. On the trial, the applicant is not precluded by the return from any valid objection to its sufficiency, and may countervail it by proof either in direct denial or by way of avoidance.

1092. The motion for new trial must be made in the Court in which the issue of fact is tried.

1093. If no notice of a motion for a new trial be given, or if given, the motion be denied, the Clerk, within five days after rendition of the verdict or denial of the motion, must transmit to the Court in which the application for the writ is pending, a certified copy of the verdict attached to the order of trial; after which either party may bring on the argument of the application, upon reasonable notice to the adverse party.

1094. If no return be made, the case may be heard on the papers of the applicant. If the return raises only questions of law, or puts in issue immaterial statements, not affecting the substantial rights of the parties, the court must proceed to hear or fix a day for hearing the argument of the case.

If a petition for a writ of mandate filed pursuant to Section 1088.5 presents no triable issue of fact or is based solely on an administrative record, the matter may be determined by the court by noticed motion of any party for a judgment on the peremptory writ.

1094.5. (a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal, corporation, board, or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board, or officer may be filed with the petition, may be filed with respondent's points and authorities, or may be ordered to be filed by the court. Except when otherwise prescribed by statute, the cost of preparing the record shall be borne by the petitioner. Where the petitioner has proceeded pursuant to Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the Government Code and the Rules of Court implementing that section and where the transcript is necessary to a proper review of the administrative proceedings, the cost of preparing the transcript shall be borne by the respondent. Where the party seeking the writ has proceeded pursuant to Section 1088.5, the administrative record shall be filed as expeditiously as possible, and may be filed with the petition, or by the respondent after payment of the costs by the petitioner, where required, or as otherwise directed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, the expense shall be taxable as costs.

(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of, jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to

exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence. In all other cases, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) Notwithstanding subdivision (c), in cases arising from private hospital boards or boards of directors of districts organized pursuant to the Local Health Care District Law (Chapter 1 (commencing with Section 32000) of Division 23 of the Health and Safety Code) or governing bodies of municipal hospitals formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of the Government Code, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record. However, in all cases in which the petition alleges discriminatory actions prohibited by Section 1316 of the Health and Safety Code, and the plaintiff makes a preliminary showing of substantial evidence in support of that allegation, the court shall exercise its independent judgment on the evidence and abuse of discretion shall be established if the court determines that the findings are not supported by the weight of the evidence.

(e) Where the court finds that there is relevant evidence that, in the exercise of reasonable diligence, could not have been produced or that was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (f) remanding the case to be reconsidered in the light of that evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit the evidence at the hearing on the writ without remanding the case.

(f) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law, but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

(g) Except as provided in subdivision (h), the court in which proceedings under this section are instituted may stay the operation of the administrative order or decision pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever occurs first. However, no such stay shall be imposed or continued if the court is satisfied that it is against the public interest. The application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 4.5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty

imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of the proceedings.

(h) (1) The court in which proceedings under this section are instituted may stay the operation of the administrative order or decision of any licensed hospital or any state agency made after a hearing required by statute to be conducted under the Administrative Procedure Act, as set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, conducted by the agency itself or an administrative law judge on the staff of the Office of Administrative Hearings pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever occurs first. However, the stay shall not be imposed or continued unless the court is satisfied that the public interest will not suffer and that the licensed hospital or agency is unlikely to prevail ultimately on the merits. The application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 4.5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(2) The standard set forth in this subdivision for obtaining a stay shall apply to any administrative order or decision of an agency that issues licenses pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act. With respect to orders or decisions of other state agencies, the standard in this subdivision shall apply only when the agency has adopted the proposed decision of the administrative law judge in its entirety or has adopted the proposed decision but reduced the proposed penalty pursuant to subdivision (c) of Section 11517 of the Government Code; otherwise the standard in subdivision (g) shall apply.

(3) If an appeal is taken from a denial of the writ, the order or decision of the hospital or agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the hospital or agency is stayed pending the determination of the appeal unless the court to which the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of the proceedings.

(i) Any administrative record received for filing by the clerk of the court may be disposed of as provided in Sections 1952, 1952.2, and 1952.3.

(j) Effective January 1, 1996, this subdivision shall apply to state employees in State Bargaining Unit 5. For purposes of this section, the court is not authorized to review any disciplinary decisions reached pursuant to Section 19576.1 of the Government Code.

1094.6. (a) Judicial review of any decision of a local agency, other than school district, as the term local agency is defined in

Section 54951 of the Government Code, or of any commission, board, officer or agent thereof, may be had pursuant to Section 1094.5 of this code only if the petition for writ of mandate pursuant to such section is filed within the time limits specified in this section.

(b) Any such petition shall be filed not later than the 90th day following the date on which the decision becomes final. If there is no provision for reconsideration of the decision, or for a written decision or written findings supporting the decision, in any applicable provision of any statute, charter, or rule, for the purposes of this section, the decision is final on the date it is announced. If the decision is not announced at the close of the hearing, the date, time, and place of the announcement of the decision shall be announced at the hearing. If there is a provision for reconsideration, the decision is final for purposes of this section upon the expiration of the period during which such reconsideration can be sought; provided, that if reconsideration is sought pursuant to any such provision the decision is final for the purposes of this section on the date that reconsideration is rejected. If there is a provision for a written decision or written findings, the decision is final for purposes of this section upon the date it is mailed by first-class mail, postage prepaid, including a copy of the affidavit or certificate of mailing, to the party seeking the writ. Subdivision (a) of Section 1013 does not apply to extend the time, following deposit in the mail of the decision or findings, within which a petition shall be filed.

(c) The complete record of the proceedings shall be prepared by the local agency or its commission, board, officer, or agent which made the decision and shall be delivered to the petitioner within 190 days after he has filed a written request therefor. The local agency may recover from the petitioner its actual costs for transcribing or otherwise preparing the record. Such record shall include the transcript of the proceedings, all pleadings, all notices and orders, any proposed decision by a hearing officer, the final decision, all admitted exhibits, all rejected exhibits in the possession of the local agency or its commission, board, officer, or agent, all written evidence, and any other papers in the case.

(d) If the petitioner files a request for the record as specified in subdivision (c) within 10 days after the date the decision becomes final as provided in subdivision (b), the time within which a petition pursuant to Section 1094.5 may be filed shall be extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to the petitioner or his attorney of record, if he has one.

(e) As used in this section, decision means a decision subject to review pursuant to Section 1094.5, suspending, demoting, or dismissing an officer or employee, revoking, denying an application for a permit, license, or other entitlement, imposing a civil or administrative penalty, fine, charge, or cost, or denying an application for any retirement benefit or allowance.

(f) In making a final decision as defined in subdivision (e), the local agency shall provide notice to the party that the time within which judicial review must be sought is governed by this section.

As used in this subdivision, "party" means an officer or employee who has been suspended, demoted or dismissed; a person whose permit, license, or other entitlement has been revoked or suspended, or whose application for a permit, license, or other entitlement has been denied; or a person whose application for a retirement benefit or allowance has been denied.

(g) This section shall prevail over any conflicting provision in any otherwise applicable law relating to the subject matter, unless the conflicting provision is a state or federal law which provides a

shorter statute of limitations, in which case the shorter statute of limitations shall apply.

1094.8. (a) Notwithstanding anything to the contrary in this chapter, an action or proceeding to review the issuance, revocation, suspension, or denial of a permit or other entitlement for expressive conduct protected by the First Amendment to the United States Constitution shall be conducted in accordance with subdivision (d).

(b) For purposes of this section, the following definitions shall apply:

(1) The terms "permit" and "entitlement" are used interchangeably.

(2) The term "permit applicant" means both an applicant for a permit and a permit holder.

(3) The term "public agency" means a city, county, city and county, a joint powers authority or similar public entity formed pursuant to Section 65850.4 of the Government Code, or any other public entity authorized by law to issue permits for expressive conduct protected by the First Amendment to the United States Constitution.

(c) A public agency may, if it so chooses, designate the permits or entitlements to which this section applies by adopting an ordinance or resolution which contains a specific listing or other description of the permits or entitlements issued by the public agency which are eligible for expedited judicial review pursuant to this section because the permits regulate expressive conduct protected by the First Amendment to the United States Constitution.

(d) The procedure set forth in this subdivision, when applicable, shall supersede anything to the contrary set forth in this chapter.

(1) Within five court days after receipt of written notification from a permit applicant that the permit applicant will seek judicial review of a public agency's action on the permit, the public agency shall prepare, certify, and make available the administrative record to the permit applicant.

(2) Either the public agency or the permit applicant may bring an action in accordance with the procedure set forth in this section. If the permit applicant brings the action, the action shall be in the form of a petition for writ of mandate pursuant to Section 1085 or 1094.5, as appropriate.

(3) The party bringing the action pursuant to this section shall file and serve the petition on the respondent no later than 21 calendar days following the public agency's final decision on the permit. The title page of the petition shall contain the following language in 18-point type:

"ATTENTION: THIS MATTER IS ENTITLED TO PRIORITY AND SUBJECT TO THE EXPEDITED HEARING AND REVIEW PROCEDURES CONTAINED IN SECTION 1094.8 OF THE CODE OF CIVIL PROCEDURE."

(4) The clerk of the court shall set a hearing for review of the petition no later than 25 calendar days from the date the petition is filed. Moving, opposition, and reply papers shall be filed as provided in the California Rules of Court. The petitioner shall lodge the administrative record with the court no later than 10 calendar days in advance of the hearing date.

(5) Following the conclusion of the hearing, the court shall render its decision in an expeditious manner consistent with constitutional requirements in view of the particular facts and circumstances. In no event shall the decision be rendered later than 20 calendar days after the matter is submitted or 50 calendar days after the date the petition is filed pursuant to paragraph (4), whichever is earlier.

(e) If the presiding judge of the court in which the action is filed determines that, as a result of either the press of other court business or other factors, the court will be unable to meet any one or more of the deadlines provided within this section, the presiding judge shall request the temporary assignment of a judicial officer to hear the petition and render a decision within the time limits contained herein, pursuant to Section 68543.8 of the Government Code. Given the short time period involved, the request shall be entitled to priority.

(f) In any action challenging the issuance, revocation, suspension, or denial of a permit or entitlement, the parties to the action shall be permitted to jointly waive the time limits provided for herein.

1095. If judgment be given for the applicant, the applicant may recover the damages which the applicant has sustained, as found by the jury, or as may be determined by the court or referee, upon a reference to be ordered, together with costs; and a peremptory mandate must also be awarded without delay. Damages and costs may be enforced in the manner provided for money judgments generally. In all cases where the respondent is an officer of a public entity, all damages and costs, or either, which may be recovered or awarded, shall be recovered and awarded against the public entity represented by the officer, and not against the officer so appearing in the proceeding, and are a proper claim against the public entity for which the officer appeared and shall be paid as other claims against the public entity are paid; but in all such cases, the court shall first determine that the officer appeared and made defense in the proceeding in good faith. For the purpose of this section, "public entity" includes the state, a county, city, district or other public agency or public corporation. For the purpose of this section, "officer" includes officer, agent or employee.

1096. The writ must be served in the same manner as a summons in a civil action, except when otherwise expressly directed by order of the Court. Service upon a majority of the members of any Board or body, is service upon the Board or body, whether at the time of the service the Board or body was in session or not.

[1097.] Section Ten Hundred and Ninety-seven. When a peremptory mandate has been issued and directed to any inferior tribunal, corporation, Board, or person, if it appear to the Court that any member of such tribunal, corporation, or Board, or such person upon whom the writ has been personally served, has, without just excuse, refused or neglected to obey the same, the Court may, upon motion, impose a fine not exceeding one thousand dollars. In case of persistence in a refusal of obedience, the Court may order the party to be imprisoned until the writ is obeyed, and may make any orders necessary and proper for the complete enforcement of the writ.

CODE OF CIVIL PROCEDURE

SECTION 1102-1105

1102. The writ of prohibition arrests the proceedings of any tribunal, corporation, board, or person exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board, or person.

1103. (a) A writ of prohibition may be issued by any court to an inferior tribunal or to a corporation, board, or person, in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law. It is issued upon the verified petition of the person beneficially interested.

(b) The appellate division of the superior court may grant a writ of prohibition directed to the superior court in a limited civil case or in a misdemeanor or infraction case. Where the appellate division grants a writ of prohibition directed to the superior court, the superior court is an inferior tribunal for purposes of this chapter.

1104. The writ must be either alternative or peremptory. The alternative writ must command the party to whom it is directed to desist or refrain from further proceedings in the action or matter specified therein, until the further order of the court from which it is issued, and to show cause before such court at a time and place then or thereafter specified by court order why such party should not be absolutely restrained from any further proceedings in such action or matter. The peremptory writ must be in a similar form, except that the words requiring the party to show cause why he should not be absolutely restrained must be omitted.

1105. The provisions of the preceding Chapter, except of the first four sections thereof, apply to this proceeding.

CODE OF CIVIL PROCEDURE

SECTION 1107-1108

1107. When an application is filed for the issuance of any prerogative writ, the application shall be accompanied by proof of service of a copy thereof upon the respondent and the real party in interest named in such application. The provisions of Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 shall apply to the service of the application. However, when a writ of mandate is sought pursuant to the provisions of Section 1088.5, the action may be filed and served in the same manner as an ordinary action under Part 2 (commencing with Section 307). Where the real party in respondent's interest is a board or commission, the service shall be made upon the presiding officer, or upon the secretary, or upon a majority of the members, of the board or commission. Within five days after service and filing of the application, the real party in interest or the respondent or both may serve upon the applicant and file with the court points and authorities in opposition to the granting of the writ.

The court in which the application is filed, in its discretion and for good cause, may grant the application ex parte, without notice or service of the application as herein provided.

The provisions of this section shall not be applicable to applications for the writ of habeas corpus, or to applications for writs of review of the Industrial Accident or Public Utilities Commissions.

1108. Writs of review, mandate, and prohibition issued by the Supreme Court, a court of appeal, or a superior court, may, in the discretion of the court issuing the writ, be made returnable, and a hearing thereon be had at any time.

CODE OF CIVIL PROCEDURE

SECTION 1109-1110b

1109. Except as otherwise provided in this Title, the provisions of Part II of the Code are applicable to and constitute the rules of practice in the proceedings mentioned in this Title.

1110. The provisions of Part II of this Code relative to new trials and appeals, except in so far as they are inconsistent with the provisions of this Title, apply to the proceedings mentioned in this Title.

1110a. If an appeal be taken from an order or judgment directing the issuance of a writ of mandate commanding a party to deliver water, for irrigation purposes, such appeal shall not stay the operation of the order, judgment or writ as to the delivery of such water, but such water must until the final determination of said appeal be delivered as commanded by said writ; provided, that if any expense is necessary to be incurred by the defendant in connecting the water supply with the land to be irrigated, said defendant shall not be obliged to furnish water unless the plaintiff shall provide a bond in such sum as the court may fix, conditioned that in the event of the judgment being reversed, plaintiff will pay defendant the amount of the expense so incurred not exceeding the amount of said bond.

1110b. If an appeal be taken from an order or judgment granting a writ of mandate the court granting the writ, or the appellate court, may direct that the appeal shall not operate as a stay of execution if it is satisfied upon the showing made by the petitioner that he will suffer irreparable damage in his business or profession if the execution is stayed.

EXHIBIT 2

8 Witkin, Cal. Proc. 5th (2008) Writs, § 88, p. 976

Supplement

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Witkin
California Procedure, Fifth Edition
B.E. Witkin and Members of the Witkin Legal Institute
Chapter XII. Extraordinary Writs
IV. CONDITIONS FOR ISSUANCE OF MANDAMUS
A. Petitioner's Right and Respondent's Duty.
5. Illustrations: Acts of Administrative Agencies.
a. Ministerial Acts.
4. [§ 88] Other Local Officials.

The ministerial acts of local administrative boards and officers that can be compelled by mandamus are virtually unlimited in number, for they arise under a wide variety of statutes and ordinances. (See *People v. El Dorado* (1971) 5 C.3d 480, 491, 96 C.R. 553, 487 P.2d 1193; *Holt v. Kelly* (1978) 20 C.3d 560, 564, 143 C.R. 625, 574 P.2d 441, *infra*, §91; 10 Pacific L. J. 548; 8 *Summary* (10th), *Constitutional Law*, §1201.)

The following cases, therefore, are merely illustrative and not readily classifiable:

Williams v. Stockton (1925) 195 C. 743, 747, 235 P. 986 [mandamus to compel mayor to sign contract voted by city council].

Golden Gate Bridge & Highway Dist. v. Felt (1931) 214 C. 308, 318, 5 P.2d 585 [mandamus to compel public corporation to determine validity of bonds or contracts].

Consolidated Printing & Publishing Co. v. Allen (1941) 18 C.2d 63, 66, 112 P.2d 884 [mandamus to compel award of contract for publication of delinquent tax list to low bidder].

Board of Supervisors of Los Angeles v. Simpson (1951) 36 C.2d 671, 675, 227 P.2d 14 [mandamus to compel district attorney to institute proceedings to abate public nuisance].<<* p.977>>

Housing Authority of Los Angeles v. Los Angeles (1952) 38 C.2d 853, 869, 243 P.2d 515 [mandamus to compel city officials to perform acts, such as vacating and closing streets, under agreement with its Housing Authority, pursuant to state law].

Metropolitan Water Dist. of Southern Calif. v. Marquardt (1963) 59 C.2d 159, 170, 28 C.R. 724, 379 P.2d 28 [mandamus to compel secretary of water district to perform contract for delivery of water].

California Housing Finance Agency v. Elliott (1976) 17 C.3d 575, 579, 131 C.R. 361, 551 P.2d 1193 [mandamus to compel public officer to issue bonds, incidentally determining constitutionality of law authorizing bonds].

Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 C.4th 525, 538, 28 C.R.2d 617, 869 P.2d 1142, 3 *Summary* (10th), *Agency and Employment*, §579, 1 *Cal. Proc. (5th), Attorneys*, §147 [mandamus to compel county to bargain in good faith with public employee association, as required by Myers-Milias-Brown Act].

Solvang Mun. Imp. Dist. v. Jensen (1952) 111 C.A.2d 237, 238, 244 P.2d 492, *infra*, §123 [mandamus to compel secretary of municipal improvement district to publish notice for sale of bonds].

Palmer v. Fox (1953) 118 C.A.2d 453, 456, 258 P.2d 30 [mandamus to compel city engineer to issue building permit for residence].

Terminal Plaza Corp. v. San Francisco (1986) 186 C.A.3d 814, 830, 230 C.R. 875 [mandamus to compel zoning administrator to enforce planning commission resolution].

Nasir v. Sacramento County Office of the Dist. Attorney (1992) 11 C.A.4th 976, 990, 15 C.R.2d 694, 7 Summary (10th), *Constitutional Law*, §678 [mandamus to compel district attorney to commence judicial forfeiture action after giving defective notice of administrative forfeiture, even after disposing of forfeited vehicle].

Residents for Adequate Water v. Redwood Valley County Water Dist. (1995) 34 C.A.4th 1801, 1806, 1807, 41 C.R.2d 123, 9 Cal. Proc. (5th), *Appeal*, §201, citing the text [mandamus to compel county water district to halt connection of new residential water service as required by Safe Drinking Water Act].

Bradley v. Lacy (1997) 53 C.A.4th 883, 888, 61 C.R.2d 919 [mandamus to compel county district attorney to serve and prosecute grand jury accusation for removal of elected official from office under Govt.C. 3063 (see 3 Cal. Crim. Law (3d), *Punishment*, §107)].

Kreeft v. Oakland (1998) 68 C.A.4th 46, 52, 80 C.R.2d 137 [mandamus to compel city to include overtime premium pay in calculating firefighters' pensions].<<* p.978>>

Transdyn/Cresci JV v. San Francisco (1999) 72 C.A.4th 746, 753, 85 C.R.2d 512 [following *Williams*; mandamus to compel city official to execute contract voted by city commission, but then rescinded].

Lazan v. Riverside (2006) 140 C.A.4th 453, 459, 44 C.R.3d 394 [mandamus to compel county to file application for disability retirement benefits for county employee].

A resolution of necessity adopted by the governing body of a public entity prior to the commencement of an eminent domain proceeding is reviewed by ordinary mandamus under C.C.P. 1085, not by administrative mandamus. (C.C.P. 1245.255; see *Anaheim Redevelopment Agency v. Dusek* (1987) 193 C.A.3d 249, 258, 239 C.R. 319 [reviewing legislative history of C.C.P. 1245.255].)

****SUPPLEMENT****

8 Witkin, Cal. Proc. 5th (2015 supp.) Writs, § 88, p. 117

4. [§ 88] Other Local Officials.

See *Doe v. Albany Unified School Dist.* (2010) 190 C.A.4th 668, 682, 118 C.R.3d 507 [mandamus was available to compel school<<*Supp. p.118>> district to comply with statute requiring 200 minutes of physical education every 10 school days].

p. 977:

Bradley case:

Cross-Reference: 2 Cal. Crim. Law (4th), *Crimes Against Governmental Authority*, §118 (Govt.C. 3063).

Contents Index and Tables

EXHIBIT 3

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[Exempt From Filing Fees,
Gov. Code §6103]

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LOS ANGELES
SUPERIOR COURT

6 Attorneys for Petitioners
City of Alhambra, et al.
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES

10 CITY OF ALHAMBRA, CITY OF ARCADIA,
11 CITY OF ARTESIA, CITY OF BALDWIN PARK,
CITY OF BELL GARDENS, CITY OF
12 BELLFLOWER, CITY OF BRADBURY, CITY
OF BURBANK, CITY OF CALABASAS, CITY
13 OF CARSON, CITY OF CERRITOS, CITY OF
COMMERCE, CITY OF COVINA, CITY OF
14 CULVER CITY, CITY OF DIAMOND BAR,
CITY OF GARDENA, CITY OF GLENDALE,
15 CITY OF GLENDORA, CITY OF HAWAIIAN
GARDENS, CITY OF HAWTHORNE, CITY OF
16 HUNTINGTON PARK, CITY OF INDUSTRY,
CITY OF IRWINDALE, CITY OF LA HABRA
17 HEIGHTS, CITY OF LA MIRADA, CITY OF
LAKEWOOD, CITY OF LAWNSDALE, CITY OF
18 LOMITA, CITY OF LONG BEACH, CITY OF
LYNWOOD, CITY OF MONTEBELLO, CITY
19 OF MONTEREY PARK, CITY OF NORWALK,
CITY OF PARAMOUNT, CITY OF PICO
20 RIVERA, CITY OF POMONA, CITY OF
REDONDO BEACH, CITY OF ROSEMEAD,
21 CITY OF SAN DIMAS, CITY OF SANTA
CLARITA, CITY OF SANTA FE SPRINGS,
22 CITY OF SIERRA MADRE, CITY OF SIGNAL
HILL, CITY OF SOUTH EL MONTE, CITY OF
23 SOUTH GATE, CITY OF WEST COVINA, AND
CITY OF WHITTIER,

CASE NO.: BS 116375

[Unlimited Jurisdiction]

FIRST AMENDED PETITION FOR WRIT
OF MANDATE AND RELATED RELIEF

24 Petitioners,

25 v.

26 COUNTY OF LOS ANGELES; LOS ANGELES
27 COUNTY AUDITOR-CONTROLLER; WENDY
WATANABE, in her official capacity; and DOES
28 1-10, inclusive,

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Respondents.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to Code of Civil Procedure Section 1085.

2. Venue is proper in this court as all petitioners are cities located within the County of Los Angeles and the acts and events giving rise to the claims occurred in the County of Los Angeles.

PARTIES

3. Petitioner CITY OF ALHAMBRA is and at all times mentioned herein was a charter city organized under the laws of the State of California and located in the County of Los Angeles, California.

4. Petitioner CITY OF ARCADIA is and at all times mentioned herein was a charter city organized under the laws of the State of California and located in the County of Los Angeles, California.

5. Petitioner CITY OF ARTESIA is and at all times mentioned herein was a general law city organized under the laws of the State of California and located in the County of Los Angeles, California.

6. Petitioner CITY OF BALDWIN PARK is and at all times mentioned herein was a general law city organized under the laws of the State of California and located in the County of Los Angeles, California.

7. Petitioner CITY OF BELL GARDENS is and at all times mentioned herein was a general law city organized under the laws of the State of California and located in the County of Los Angeles, California.

8. Petitioner CITY OF BELLFLOWER and at all times mentioned herein was a general law city organized under the laws of the State of California and located in the County of Los Angeles, California.

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1 9. Petitioner CITY OF BRADBURY is and at all times mentioned herein was a general
2 law city organized under the laws of the State of California and located in the County of Los
3 Angeles, California.

4 10. Petitioner CITY OF BURBANK and at all times mentioned herein was a charter city
5 organized under the laws of the State of California and located in the County of Los Angeles,
6 California.

7 11. Petitioner CITY OF CALABASAS is and at all times mentioned herein was a general
8 law city organized under the laws of the State of California and located in the County of Los
9 Angeles, California.

10 12. Petitioner CITY OF CARSON is and at all times mentioned herein was a general law
11 city organized under the laws of the State of California and located in the County of Los Angeles,
12 California.

13 13. Petitioner CITY OF CERRITOS is and at all times mentioned herein was a charter
14 city organized under the laws of the State of California and located in the County of Los Angeles,
15 California.

16 14. Petitioner CITY OF COMMERCE is and at all times mentioned herein was a general
17 law city organized under the laws of the State of California and located in the County of Los
18 Angeles, California.

19 15. Petitioner CITY OF COVINA is and at all times mentioned herein was a general law
20 city organized under the laws of the State of California and located in the County of Los Angeles,
21 California.

22 16. Petitioner CITY OF CULVER CITY is and at all times mentioned herein was a
23 charter city organized under the laws of the State of California and located in the County of Los
24 Angeles, California.

25 17. Petitioner CITY OF DIAMOND BAR is and at all times mentioned herein was a
26 general law city organized under the laws of the State of California and located in the County of Los
27 Angeles, California.

28 18. Petitioner CITY OF GARDENA is and at all times mentioned herein was a general

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1 law city organized under the laws of the State of California and located in the County of Los
2 Angeles, California.

3 19. Petitioner CITY OF GLENDALE is and at all times mentioned herein was a charter
4 city organized under the laws of the State of California and located in the County of Los Angeles,
5 California.

6 20. Petitioner CITY OF GLENDORA is and at all times mentioned herein was a general
7 law city organized under the laws of the State of California and located in the County of Los
8 Angeles, California.

9 21. Petitioner CITY OF HAWAIIAN GARDENS is and at all times mentioned herein
10 was a general law city organized under the laws of the State of California and located in the County
11 of Los Angeles, California.

12 22. Petitioner CITY OF HAWTHORNE is and at all times mentioned herein was a
13 general law city organized under the laws of the State of California and located in the County of Los
14 Angeles, California.

15 23. Petitioner CITY OF HUNTINGTON PARK is and at all times mentioned herein was
16 a general law city organized under the laws of the State of California and located in the County of
17 Los Angeles, California.

18 24. Petitioner CITY OF INDUSTRY is and at all times mentioned herein was a charter
19 city organized under the laws of the State of California and located in the County of Los Angeles,
20 California.

21 25. Petitioner CITY OF IRWINDALE is and at all times mentioned herein was a charter
22 law city organized under the laws of the State of California and located in the County of Los
23 Angeles, California.

24 26. Petitioner CITY OF LA HABRA HEIGHTS is and at all times mentioned herein was
25 a general law city organized under the laws of the State of California and located in the County of
26 Los Angeles, California.

27 27. Petitioner CITY OF LA MIRADA is and at all times mentioned herein was a general
28 law city organized under the laws of the State of California and located in the County of Los

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1 Angeles, California.

2 28. Petitioner CITY OF LAKEWOOD is and at all times mentioned herein was a general
3 law city organized under the laws of the State of California and located in the County of Los
4 Angeles, California.

5 29. Petitioner CITY OF LAWDALE is and at all times mentioned herein was a general
6 law city organized under the laws of the State of California and located in the County of Los
7 Angeles, California.

8 30. Petitioner CITY OF LOMITA is and at all times mentioned herein was a general law
9 city organized under the laws of the State of California and located in the County of Los Angeles,
10 California.

11 31. Petitioner CITY OF LONG BEACH is and at all times mentioned herein was a
12 charter city organized under the laws of the State of California and located in the County of Los
13 Angeles, California.

14 32. Petitioner CITY OF LYNWOOD is and at all times mentioned herein was a general
15 law city organized under the laws of the State of California and located in the County of Los
16 Angeles, California.

17 33. Petitioner CITY OF MONTEBELLO is and at all times mentioned herein was a
18 general law city organized under the laws of the State of California and located in the County of Los
19 Angeles, California.

20 34. Petitioner CITY OF MONTEREY PARK is and at all times mentioned herein was a
21 general law city organized under the laws of the State of California and located in the County of Los
22 Angeles, California.

23 35. Petitioner CITY OF NORWALK is and at all times mentioned herein was a general
24 law city organized under the laws of the State of California and located in the County of Los
25 Angeles, California.

26 36. Petitioner CITY OF PARAMOUNT is and at all times mentioned herein was a
27 general law city organized under the laws of the State of California and located in the County of Los
28 Angeles, California.

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1 37. Petitioner CITY OF PICO RIVERA is and at all times mentioned herein was a
2 general law city organized under the laws of the State of California and located in the County of Los
3 Angeles, California.

4 38. Petitioner CITY OF POMONA is and at all times mentioned herein was a charter city
5 organized under the laws of the State of California and located in the County of Los Angeles,
6 California.

7 39. Petitioner CITY OF REDONDO BEACH is and at all times mentioned herein was a
8 charter city organized under the laws of the State of California and located in the County of Los
9 Angeles, California.

10 40. Petitioner CITY OF ROSEMBAD is and at all times mentioned herein was a general
11 law city organized under the laws of the State of California and located in the County of Los
12 Angeles, California.

13 41. Petitioner CITY OF SAN DIMAS is and at all times mentioned herein was a general
14 law city organized under the laws of the State of California and located in the County of Los
15 Angeles, California.

16 42. Petitioner CITY OF SANTA CLARITA is and at all times mentioned herein was a
17 general law city organized under the laws of the State of California and located in the County of Los
18 Angeles, California.

19 43. Petitioner CITY OF SANTA FE SPRINGS is and at all times mentioned herein was a
20 general law city organized under the laws of the State of California and located in the County of Los
21 Angeles, California.

22 44. Petitioner CITY OF SIERRA MADRE is and at all times mentioned herein was a
23 general law city organized under the laws of the State of California and located in the County of Los
24 Angeles, California.

25 45. Petitioner CITY OF SIGNAL HILL is and at all times mentioned herein was a charter
26 city organized under the laws of the State of California and located in the County of Los Angeles,
27 California.

28 46. Petitioner CITY OF SOUTH EL MONTE is and at all times mentioned herein was a

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1 general law city organized under the laws of the State of California and located in the County of Los
2 Angeles, California.

3 47. Petitioner CITY OF SOUTH GATE is and at all times mentioned herein was a
4 general law city organized under the laws of the State of California and located in the County of Los
5 Angeles, California.

6 48. Petitioner CITY OF WEST COVINA is and at all times mentioned herein was a
7 general law city organized under the laws of the State of California and located in the County of Los
8 Angeles, California.

9 49. Petitioner CITY OF WHITTIER is and at all times mentioned herein was a charter
10 city organized under the laws of the State of California and located in the County of Los Angeles,
11 California.

12 50. The Petitioners identified in paragraphs 3 through 46 above, inclusive, are
13 collectively referred to herein, unless otherwise specified, as "PETITIONERS".

14 51. Respondent COUNTY OF LOS ANGELES is, and at all times mentioned herein was,
15 a political subdivision of the state of California.

16 52. Respondent OFFICE OF LOS ANGELES COUNTY AUDITOR-CONTROLLER is,
17 and at all times mentioned herein had, responsibility for the administration and oversight of the
18 distribution of property taxes to the local government agencies within the County of Los Angeles
19 entitled to a portion of such property tax proceeds, including PETITIONERS.

20 53. Respondent WENDY WATANABE is the acting Auditor-Controller for the County
21 of Los Angeles. In her capacity as the acting Auditor-Controller, she has responsibilities concerning
22 the oversight of the distribution of property taxes to the agencies within the County of Los Angeles
23 entitled to a portion of such property tax proceeds. Respondent WATANABE is sued herein in her
24 official capacity.
25

26 54. Respondents COUNTY OF LOS ANGELES, OFFICE OF LOS ANGELES
27 COUNTY AUDITOR-CONTROLLER and WENDY WATANABE are collectively referred to
28

Case No. BS 116375

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1 herein, unless otherwise specified, as "RESPONDENTS".

2 55. The true names and capacities of the Respondents identified as DOES 1-10, inclusive,
3 are unknown to PETITIONERS, and PETITIONERS will amend this Petition to insert the true
4 names and capacities of those fictitiously named Respondents when they are ascertained.

5 PETITIONERS are informed and believe, and on that basis alleges, that at all times relevant to this
6 action each of the RESPONDENTS, including those fictitiously named, was the agent or employee
7 of each of the other RESPONDENT or RESPONDENTS, and while acting within the course and
8 scope of such employment or agency, either took part in the acts or omissions alleged in this
9 Petition.

10 GENERAL ALLEGATIONS

11
12 56. RESPONDENTS, and each of them, are responsible for, among other duties,
13 administering the distribution of property taxes revenues collected based on assessed property within
14 Los Angeles County. As part of the administration of the property tax system, RESPONDENTS
15 calculate and distribute to the various local government agencies within Los Angeles County each
16 agency's share of the property tax revenue.

17 57. The fee a county may charge an agency, including PETITIONERS; within the county
18 for administering the property tax system is commonly termed the Property Tax Administration Fee
19 ("PTAF"). Each agency's annual PTAF is withheld by RESPONDENTS, and each of them, from
20 the property tax distributions made by RESPONDENTS to PETITIONERS during any given fiscal
21 year.

22 58. Effective July 1, 2004, Revenue & Taxation Code § 97.68 reduced the Bradley-Burns
23 Sales and Use Tax rate paid to cities and counties by ¼-cent, and the ¼-cent is retained by the State
24 of California to repay State-issued economic recovery bonds. Section 97.68 provides that, in lieu of
25 the ¼-cent sales tax, cities and counties receive property taxes that otherwise would have been
26 allocated to the county's Educational Revenue Augmentation Fund (ERAF) for the benefit of
27 schools and, ultimately, the State which bears constitutional responsibility to fund public education.
28 This revenue swap, known commonly as the "Triple Flip," was adopted as a temporary measure to

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1 fund repayment of the economic recovery bonds.

2 59. Effective July 1, 2004, Revenue & Taxation Code § 97.70 reduced the amount of
3 vehicle license fees (VLF) paid to cities and counties from 2% to 0.65% of a vehicle's assessed
4 value. Section 97.70 provides that each city and county shall receive in-lieu payments of property
5 taxes equal to the lost VLF. This substitution is commonly known as "the VLF Swap." The VLF
6 Swap is a permanent feature of state-local finance relationship in that it has no legislatively provided
7 sunset date.

8 60. Pursuant to Sections 97.68 and 97.70, RESPONDENTS have a duty to annually
9 allocate and distribute to cities within Los Angeles County the appropriate in-lieu payments from
10 property tax revenues to equal the revenue each city loses as a result of the Triple Flip and the VLF
11 Swap.

12 61. Revenue & Taxation Code Section 97.75 mandates that counties may not charge for
13 such services for the 2004/2005 and 2005/2006 fiscal years. Section 97.75 further mandates that
14 although counties may charge for such services beginning in the 2006/2007 fiscal year, "the fee,
15 charge, or other levy shall not exceed the actual cost of providing these services."

16 62. PETITIONERS are informed and believe, and on that basis allege, that beginning in
17 or about the fiscal year 2006/2007 and continuing through the present, RESPONDENTS, and each
18 of them, have charged, and continue to charge, PETITIONERS fees in excess of those permitted by
19 Revenue & Taxation Code § 97.75. In particular, PETITIONERS are informed and believe, and on
20 that basis allege, that RESPONDENTS have charged, and continue to charge, PETITIONERS more
21 than the actual, incremental costs associated with RESPONDENTS' administration of the in-lieu
22 payments for the VLF Swap and Triple Flip. Instead, RESPONDENTS have charged, and continue
23 to charge, each Petitioner a share of PTAF based on the increased distribution of property tax
24 proceeds due to the Triple Flip and the VLF Swap rather than the each Petitioner's proportionate
25 share of the actual, incremental cost to administer the Triple Flip and VLF Swap. PETITIONERS
26 are informed and believe, and on that basis allege that, the PTAF actually charged to each Petitioner
27 and retained by RESPONDENTS, and each of them, is far in excess of that permitted by Revenue &
28 Taxation Code § 97.75 and that net result of this illegal action has been to transfer approximately

1 \$13.5 million per year in PTAF charges from the County to the 88 cities within it, including
2 PETITIONERS as to which the amount in issue exceeds \$4 million per year..

3 63. PETITIONERS are informed and believe, and on that basis allege, that the amount of
4 PTAF fees RESPONDENTS have wrongfully withheld from property tax revenue distributions to
5 PETITIONERS to date is, collectively, no less than \$8 million.

6 64. As to each individual City, each Petitioner has been damaged to date in an amount
7 according to proof, but believed to be no less than the following:

- 8 a. As to Petitioner City of Alhambra, \$129,817 per year;
- 9 b. As to Petitioner City of Arcadia, \$86,548 per year;
- 10 c. As to Petitioner City of Artesia, \$25,476 per year;
- 11 d. As to Petitioner City of Baldwin Park, \$103,671 per year;
- 12 e. As to Petitioner City of Bell Gardens, \$52,240 per year;
- 13 f. As to Petitioner City of Bellflower, \$98,068 per year;
- 14 g. As to Petitioner City of Bradbury, \$845 per year;
- 15 h. As to Petitioner City of Burbank, \$205,573 per year;
- 16 i. As to Petitioner City of Calabasas, \$44,988 per year;
- 17 j. As to Petitioner City of Carson, \$155,664 per year;
- 18 k. As to Petitioner City of Cerritos, \$151,699 per year;
- 19 l. As to Petitioner City of Commerce, \$67,617 per year;
- 20 m. As to Petitioner City of Covina, \$80,248 per year;
- 21 n. As to Petitioner City of Culver City, \$106,583 per year;
- 22 o. As to Petitioner City of Diamond Bar, \$69,512 per year;
- 23 p. As to Petitioner City of Gardena, \$88,600 per year;
- 24 q. As to Petitioner City of Glendale, \$308,959 per year;
- 25 r. As to Petitioner City of Glendora, \$73,821 per year;
- 26 s. As to Petitioner City of Hawaiian Gardens, \$20,542 per year;
- 27 t. As to Petitioner City of Hawthorne, \$129,939 per year;
- 28 u. As to Petitioner City of Huntington Park, \$95,255 per year;

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- 1 v. As to Petitioner City of Industry, \$126,828 per year;
2 w. As to Petitioner City of Irwindale, \$21,104 per year;
3 x. As to Petitioner City of La Habra Heights, \$6,059 per year;
4 y. As to Petitioner City of La Mirada, \$83,760 per year;
5 z. As to Petitioner City of Lakewood, \$126,715 per year;
6 aa. As to Petitioner City of Lawndale, \$44,867 per year;
7 bb. As to Petitioner City of Lomita, \$27,014 per year;
8 cc. As to Petitioner City of Long Beach, \$653,999 per year;
9 dd. As to Petitioner City of Lynwood, \$83,039 per year;
10 ee. As to Petitioner City of Montebello, \$105,179 per year;
11 ff. As to Petitioner City of Monterey Park, \$79,931 per year;
12 gg. As to Petitioner City of Norwalk, \$147,494 per year;
13 hh. As to Petitioner City of Paramount, \$86,869 per year;
14 ii. As to Petitioner City of Pico Rivera, \$97,465 per year;
15 jj. As to Petitioner City of Pomona, \$239,189 per year;
16 kk. As to Petitioner City of Redondo Beach, \$98,890 per year;
17 ll. As to Petitioner City of Rosemead, \$68,899 per year;
18 mm. As to Petitioner City of San Dimas, \$57,442 per year;
19 nn. As to Petitioner City of Santa Clarita, \$283,068 per year;
20 oo. As to Petitioner City of Santa Fe Springs, \$115,054 per year;
21 pp. As to Petitioner City of Sierra Madre, \$11,943 per year;
22 qq. As to Petitioner City of Signal Hill, \$51,142 per year;
23 rr. As to Petitioner City of South El Monte, \$36,067 per year;
24 ss. As to Petitioner City of South Gate, \$128,315 per year;
25 tt. As to Petitioner City of West Covina, \$162,719 per year;
26 uu. As to Petitioner City of Whittier, \$121,208 per year; and,
27 vv. As to all 43 PETITIONERS in aggregate, \$4,758,172 per year.

28 65. PETITIONERS are informed and believe, and on that basis allege, that

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1 RESPONDENTS intend to continue to withhold PTAF from each city's property tax distribution an
2 amount in excess of that permitted by Section 97.75.

3 66. Each Petitioner has exhausted all available administrative remedies required to be
4 pursued by it. While PETITIONERS do not concede that they were required to do so, each
5 Petitioner has filed a claim with the Respondent County of Los Angeles for damages in the amount
6 of PTAF wrongfully withheld by the Respondent County of Los Angeles. To date, Respondent
7 County of Los Angeles has refused to pay or otherwise credit any Petitioner for the PTAF
8 wrongfully withheld.

9 FIRST CAUSE OF ACTION

10 FOR WRIT OF MANDATE

11 (All Petitioners Against All Respondents)

12 67. PETITIONERS reallege paragraphs 1 through 66 above as though set forth fully
13 herein.

14 68. RESPONDENTS, and each of them, are under a clear, present duty pursuant to
15 Revenue & Taxation Code Section 97.75 to charge PETITIONERS no more than their proportionate
16 share of the actual, incremental costs to administer the Triple Flip and VLF Swap as distinguished
17 from the costs to operate the property tax system that existed prior to the legislation of these two
18 fiscal devices and that would exist in the absence of those two devices.

19 69. RESPONDENTS, and each of them, have failed to perform that duty and, in fact, as
20 more specifically alleged above, have wrongfully charged PTAF to PETITIONERS in excess of the
21 amounts permitted by Revenue & Taxation Code Section 97.75.

22 70. PETITIONERS have each been harmed by RESPONDENTS' failure to comply with
23 their duty in that PETITIONERS have had their property tax distributions reduced by more than as
24 permitted by law.

25 71. PETITIONERS are informed and believe, and on that basis allege, that
26 RESPONDENTS, and each of them, intend to continue to withhold from each Petitioner's property
27 tax distribution amounts in excess of those permitted by Revenue & Taxation Code Section 97.75.
28 Therefore, unless otherwise directed by this Court, RESPONDENTS will continue to violate, and

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1 refuse to comply with, Revenue & Taxation Code Section 97.75, thereby continuing to annually
2 harm PETITIONERS by withholding PTAF from the property tax distributions in excess of that
3 permitted by Revenue & Taxation Code Section 97.75.

4 72. PETITIONERS have no plain, speedy, and adequate remedy at law, other than the
5 relief sought in this Petition. A Writ of Mandate is the only method available to obtain review of
6 RESPONDENTS' actions in violation of their duty under Revenue & Taxation Code Section 97.75.

7 73. Accordingly, PETITIONERS are entitled to Writ of Mandate to issue as specified
8 more fully below in the Prayer for Relief.

9 74. Additionally, PETITIONERS are entitled to payment of the PTAF withheld in excess
10 of the amount authorized by Revenue & Taxation Code Section 97.75 as more fully detailed in
11 Paragraph 66 above.

12 SECOND CAUSE OF ACTION FOR
13 DAMAGES PURSUANT TO C.C.P. § 1095
14 (All Petitioners Against All Respondents)

15 75. PETITIONERS reallege paragraphs 1 through 66 above as though set forth fully
16 herein.

17 76. RESPONDENTS, and each of them, have withheld PTAF from each Petitioner's
18 property tax distribution in excess of the amount authorized by Section 97.75.

19 77. Pursuant to Code of Civil Procedure Section 1095, PETITIONERS are entitled to
20 recover the amounts wrongfully withheld by RESPONDENTS, and each of them, in an amount
21 according to proof, but believed to be no less than the amounts specified for each Petitioner in
22 Paragraph 63 above.

23 78. Pursuant to Civil Code Section 3287, PETITIONERS are each entitled to recover
24 prejudgment interest on the amounts wrongfully withheld in an amount according to proof.

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THIRD CAUSE OF ACTION
FOR DECLARATORY RELIEF

(All Petitioners Against All Respondents)

79. PETITIONERS reallege paragraphs 1 through 66 above as though set forth fully herein.

80. An actual and present controversy has arisen and now exists between PETITIONERS, on the one hand, and RESPONDENTS, on the other. PETITIONERS contend that the formula used by RESPONDENTS to calculate the PTAF for each Petitioner is contrary to limitations of Revenue and Taxation Code Section 97.75 and that RESPONDENTS intend to continue utilizing the improper formula and, further, intend to continue to charge PETITIONERS fees in excess of the amount permitted by law. RESPONDENTS, on the other hand, contend that the formula they have used to calculate PTAF is correct and that they are entitled to charge PETITIONERS fees in excess of the actual, incremental costs associated with administering the in-lieu payments for the VLF Swap and the Triple Flip.

81. PETITIONERS have no plain, speedy, and adequate remedy at law in that, in the absence of this Court's declarative and injunctive relief, RESPONDENTS will continue to utilize the incorrect formula and, as a result, PETITIONERS will not receive the annual property tax distributions to which they are entitled under law.

82. RESPONDENTS' refusal to comply with Revenue and Taxation Code Section 97.75 imposes and has created a present hardship to each Petitioner in that each Petitioner has not received the property tax distributions to which they are entitled as RESPONDENTS have withheld more in PTAF than permitted under law. The amount each Petitioner has been harmed to date is detailed in paragraph 63 above.

83. PETITIONERS desire and are entitled to a judicial declaration that RESPONDENTS' method of calculating the PTAF each Petitioner owes for services related to implementing the in-lieu payments for the VLF and Triple Flip swap is contrary to law and violates the limitations imposed by Revenue and Taxation Code Section 97.75.

84. Such declaratory relief is necessary and appropriate at this time, inasmuch as

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1 PETITIONERS anticipate that RESPONDENTS, and each of them, will continue to withhold from
2 each Petitioner's property tax distribution fees in excess of the limitations imposed by Revenue and
3 Taxation Code Section 97.75. A declaration as detailed more fully in the prayer below will avoid
4 subjecting PETITIONERS to the yearly unlawful reduction of their share of the property tax
5 distributions made by RESPONDENTS.

6 85. Therefore, PETITIONERS pray for declaratory relief as more particularly described
7 in the Prayer below.

8 FOURTH CAUSE OF ACTION

9 FOR INJUNCTIVE RELIEF

10 (All Petitioners Against All Respondents)

11 86. PETITIONERS reallege paragraphs 1 through 66 above as though set forth fully
12 herein.

13 87. PETITIONERS have exhausted their administrative remedies.

14 88. Unless PETITIONERS are granted injunctive relief, and unless RESPONDENTS are
15 enjoined from continuing to utilize a formula for calculating the PTAF that charges PETITIONERS
16 more than their proportionate share of the actual, incremental costs to RESPONDENTS for
17 administering the payments, PETITIONERS will suffer irreparable harm in that the PETITIONERS
18 will continue to receive less property tax revenue than they are entitled to by law.

19 89. PETITIONERS lack an adequate remedy at law inasmuch the continued, improper
20 reduction of their property tax revenue distributions will force each PETITIONER to pursue relief
21 against the RESPONDENTS each of the four times per year that property taxes are distributed and
22 PTAF is withheld, *ad infinitum*, to correct the unlawful imposition of PTAF in excess of that
23 permitted by Revenue and Taxation Section 97.75.

24 90. Therefore, PETITIONERS pray for injunctive relief as more particularly described in
25 the Prayer below.

26 ///

27 ///

28 ///

Colantuono & Levin, PC
555 West 5th Street, 31st Floor
Los Angeles, CA 90013

1 WHEREFORE, PETITIONERS pray for relief as more fully set forth below:
2

3 PRAYER FOR RELIEF

4 1. As to the First Cause of Action, the Court issue a peremptory writ of mandate
5 directed RESPONDENTS, and each of them, to:

6 a. Comply with Revenue & Taxation Code Section 97.75 by utilizing a formula to
7 calculate each Petitioner's proportionate share of the actual, incremental costs to
8 RESPONDENTS to implement the VLF Swap and Triple Flip in-lieu payments
9 excluding costs RESPONDENTS have incurred and will incur to operate the basic
10 property tax system that existed prior to the adoption of Revenue & Taxation Code
11 §§ 97.68 and 97.70 and that RESPONDENTS would incur if those Code sections had
12 never been adopted;

13 b. Re-calculate each Petitioner's PTAF for the fiscal years after 2006/2007,
14 2007/2008, 2008/2009 and each fiscal year that transpires while this action is pending
15 based on such formula as developed in subsection (a) above; and,

16 c. Refund to each Petitioner the difference between the PTAF actually charged and
17 the corrected PTAF based on the calculations in sub-sections (a) and (b) above;

18 2. As to the Second Cause of Action, damages in an amount according to proof for each
19 Petitioner, plus pre-judgment interest pursuant to Civil Code § 3287;

20 3. As to the Third Cause of Action, the Court to enter declaratory judgment as follows:

21 a. A declaration that the method used by RESPONDENTS to calculate the PTAF for
22 Petitioners for the fiscal years 2006/2007, 2007/2008, 2008/2009 and each fiscal year
23 that transpires while this action is pending is contrary to the limitation imposed by
24 Revenue & Taxation Code Section 97.75; and,

25 b. A declaration that RESPONDENTS may not charge fees to Petitioners for
26 administering the VLF Swap and Triple Flip in-lieu payments in excess of each
27 Petitioner's proportionate share of the actual, incremental costs to RESPONDENTS
28 to implement the VLF Swap and Triple Flip in-lieu payments, excluding costs

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Los Angeles, CA 90013

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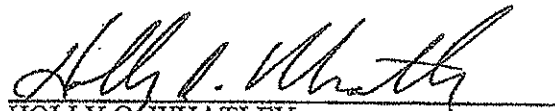
RESPONDENTS have incurred and will incur to operate the basic property tax system that existed prior to the adoption of Revenue & Taxation Code §§ 97.68 and 97.70 and that RESPONDENTS would incur if those Code sections had never been adopted; and,

c. A declaration that PETITIONERS are entitled to credit for PTAF withheld by RESPONDENTS in amounts in excess of each Petitioner's proportionate share of the actual, incremental costs to RESPONDENTS to implement the VLF Swap and Triple Flip in-lieu payments, excluding costs RESPONDENTS have incurred and will incur to operate the basic property tax system that existed prior to the adoption of Revenue & Taxation Code §§ 97.68 and 97.70 and that RESPONDENTS would incur if those Code sections had never been adopted.

4. As to the Fourth Cause of Action, the Court to issue a temporary restraining order and preliminary and permanent injunction, restraining RESPONDENTS from charging PETITIONERS property tax administration fees in excess of each PETITIONER'S proportionate share of the actual, incremental costs associated with administering Revenue & Taxation Code §§ 97.68 and 97.70, excluding costs RESPONDENTS have incurred and will incur to operate the basic property tax system that existed prior to the adoption of Revenue & Taxation Code §§ 97.68 and 97.70 and that RESPONDENTS would incur if those Code sections had never been adopted.

DATED: November 18, 2008

COLANTUONO & LEVIN, PC



HOLLY O. WHATLEY
Attorneys for Petitioners
City of Alhambra, et al.

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PROOF OF SERVICE
City of Alhambra, et al., v. County of Los Angeles, et al.
Case No. Case # BS 116375

I, Martha C. Rodriguez, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 555 West 5th Street, 31st Floor, Los Angeles, California 90013. On November 18, 2008, I served the document(s) described as [Document(s) Served] on the interested parties in this action as follows:

By placing a true copy thereof enclosed in a sealed envelope addressed as follows:


Scott D. Bertzyk, Esq.
Charlene L. Oh, Esq.
GREENBERG TRAURIG, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

Raymond G. Fortner, Jr., County Counsel
Elizabeth M. Cortez, Assistant County Counsel
Thomas M. Tyrrell, Principal Deputy County Counsel
4648 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012-2713

BY MAIL: The envelope was mailed with postage thereon fully prepaid. 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 at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after service 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 November 18, 2008, at Los Angeles, California.



Martha C. Rodriguez

Colantuono & Levin, PC
555 West 5th Street, 31st Floor
Los Angeles, CA 90013

EXHIBIT 4

1 KAMALA D. HARRIS
Attorney General of California
2 MARC A. LEFORESTIER
Supervising Deputy Attorney General
3 NANCY J. DOIG
Deputy Attorney General
4 State Bar No. 226593
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 323-8230
Fax: (916) 324-8835
7 E-mail: Nancy.Doig@doj.ca.gov
Attorneys for Respondent and Defendant Michael
8 Cohen in his Official Capacity as the Director of the
Department of Finance

FILED
ENDORSED
MAR 11 2015
By M. GARCIA
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SACRAMENTO

14 CITY OF GRASS VALLEY and GRASS
VALLEY REDEVELOPMENT AGENCY
15 SUCCESSOR AGENCY,
16
Petitioner and Plaintiff,
17
v.
18 ANA MATOSANTOS, in her official
19 capacity as California State Director of
Finance; MARCIA L. SALTER, in her
20 official capacity as Nevada County Auditor-
Controller; JOHN CHIANG, in his official
21 capacity as California State Controller, and
DOES 1-10, inclusive,
22
Respondents and
23 Defendants,
24 COUNTY OF NEVADA; et al.
25
Real Parties in Interest,
26

Case No. 34-2013-80001580
[PROPOSED] WRIT OF MANDATE
Date: January 9, 2015
Time: 1:30 p.m.
Dept: 42
Judge: The Honorable Allen H. Sumner
Action Filed: July 29, 2013

1 TO MICHAEL COHEN, HAVING SUCCEEDED RESPONDENT ANA
2 MATOSANTOS, IN HIS OFFICIAL CAPACITY AS CALIFORNIA DIRECTOR OF THE
3 DEPARTMENT OF FINANCE ("Department of Finance"):

4 On January 13, 2015, the Court GRANTED IN PART and DENIED IN PART the
5 Petition for Writ of Mandate filed by Petitioners City of Grass Valley and Grass Valley
6 Redevelopment Agency Successor Agency ("Petitioners"), as stated in the Judgment, entered on
7 _____, 2015.

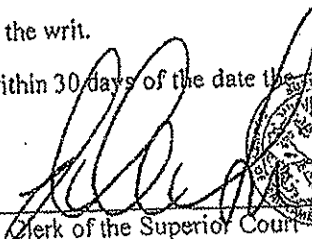

8 NOW, THEREFORE, by ORDER of this Court, Michael Cohen, having succeeded
9 Respondent Ana Matosantos, in his official capacity as Director of the California Department
10 Finance, is hereby commanded to:

11 1. Consider, via a meet and confer process with the Petitioners, the question of whether
12 \$307,161 in payments made by the former Grass Valley Redevelopment Agency to the City of
13 Grass Valley were payments for "goods or services" within the contemplation of Health & Safety
14 Code section 34179.5, subdivision (b)(3). This writ does not limit the Department of Finance's
15 discretion to decide (1) whether it can or will consider the City of Grass Valley and Successor
16 Agency's late argument regarding goods and services or (2) whether the challenged transfers
17 were for goods or services within the meaning of Health and Safety Code section 34179.5 and
18 thus exempt from clawback.

19 3. Make a return on this writ to the Court within 90 days of the date the writ is issued,
20 informing the Court that Respondent has complied with the writ.

21 4. Any objection to the return shall be filed within 30 days of the date the return is
22 filed.

23 DATED: 3/11/2015

By:  
Clerk of the Superior Court

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Approved as to form:

DATED: _____, 2015

COLANTUONO, HIGHSMITH &
WHATLEY, PC

MICHAEL G. COLANTUONO
JENNIFER L. PANCAKE
Attorneys for Petitioners/Plaintiffs
CITY OF PARAMOUNT and PARAMOUNT
REDEVELOPMENT AGENCY SUCCESSOR
AGENCY

DATED: 2/18, 2015

OFFICE OF THE ATTORNEY GENERAL

MARC A. LEFORESTIER
NANCY J. DOIG
Attorneys for Respondent/Defendant
MICHAEL COHEN, in his official capacity as
Director of the California Department of
Finance

SA2013112277

EXHIBIT 5

1 MICHAEL B. MONTGOMERY #34310
2 City Attorney/City of Walnut
3 2627 Mission Street, Suite 1
4 San Marino, CA 91108-1639
5 Telephone: (626) 799-0550
6 Facsimile: (626) 799-0050
7
8 Attorney for Defendant
9 CITY OF WALNUT
10

GOVERNMENT ENTITY EXEMPT FOR
FILING FEE PURSUANT TO
GOVERNMENT CODE SECTION 6103

11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF LOS ANGELES
13

14 FAITH CENTER MINISTRIES, a California)
15 non-profit religious corporation,)
16 Plaintiff,)
17 vs.)
18 CITY OF WALNUT; and DOES 1-10,)
19 inclusive,)
20 Defendants.)

CASE No. BS131577
Assigned to Department 85
Hon. James Chalfont
Complaint filed April 15, 2011

RETURN TO WRIT OF MANDATE

Trial Date: Concluded

21 TO THE COURT AND TO PLAINTIFF:

22 Judgment having been entered in this action that a Writ of Mandate issue from this Court,
23 and a Writ having issued:


24 1. Defendant CITY OF WALNUT has complied and did on April 26, 2012, issue a
25 Certificate of Compliance for Lot 7 of Final Tract No. 41048 (APN 8709-068-016) stating only such
26 restrictions on the property's use that appear on the face of final Tract No. 41048 and. Pursuant to
27 Government Code section 66499.35, subdivision (a) and cause this Certificate of Complaint to be
28 recorded with the recorder of the County of Los Angeles.

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2. A true and correct copy of said certificate is attached here to as an exhibit.

Dated: June 13, 2012


MICHAEL B. MONTGOMERY
Attorney for Defendant
CITY OF WALNUT

06/15/2012 12:12 FAX RECEIVED 06/15/2012 12:18 2135425710
6267990050 MONTGOMERY-LAW-OFFICE

COLANTUONO & LEVIN
004/008

EXHIBIT A

RECORDING REQUESTED BY:
City of Walnut

WHEN RECORDED MAIL THIS DEED
AND TAX STATEMENTS TO:

City Clerk
City of Walnut
21201 La Puente Road
Walnut, CA 91789

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Certificate of Compliance No. 12-01

I/we, the undersigned owner(s) of record of the following described real property within the City of Walnut, County of Los Angeles, hereby request the City of Walnut to determine if said real property complies with the provisions of the Subdivision Map Act, (Sec. 66411 et seq., Government Code of the State of California) and any local subdivision ordinances of the City of Walnut.

See attached Exhibit "A" for legal description.

PARCEL A:

Assessor's Parcel Number (APN): 8709-068-016

Owner's Name: Faith Center Ministries

Owner's Address: 20470 Yellow Brick Road, #A

Walnut, CA 91789

Signature <must be notarized>

Signature <must be notarized>

Note: Owners name(s) and signature(s) must match deeds- see instructions.

Corporation Note: Compliance with Corp Code Section 313 is required if the entity on whose behalf this document is signed is a corporation.

06/15/2012 12:18 FAX RECEIVED 06/15/2012 12:18 2135425718
6267990050 MONTGOMERY-LAW-OFFICE

COLANTUONO & LEVIN
007/008

Certificate of Compliance
No. 12-01
Exhibit "A"

Real property in the City of Walnut, County of Los Angeles, State of California, described as follows:

Lot 7 of Tract No. 41048, in the City of Walnut, County of Los Angeles, State of California, as per plat recorded in Book 1047, Pages 22 and 23 of Maps, records of said County.

EXHIBIT 6

California Administrative Mandamus »

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David M. Snow

Sonali S.

Jandial

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Rochelle Browne

T. Peter Pierce

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Susan A. Ruff

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EXHIBIT 8

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

(2) Reassignment/Transfer to Another Department. Upon a timely and proper section 170.6 challenge, the Supervising Judge of the Juvenile Division will reassign the case if it should be assigned to a juvenile court. An adoptions case will be transferred to the Stanley Mosk Courthouse for the Presiding Judge to reassign. In either instance, the reassigning court does not act as a true master calendar court and the challenge to the reassigned court must be made within 15 days of notice of the all-purpose assignment or, if the party has not yet appeared, within 15 days of the party's first appearance, as extended by Code of Civil Procedure section 1013.

(Rule 2.5 [7/1/2011, 5/17/2013] amended and effective January 1, 2014)

2.6 **RESERVED**

(Rule 2.6 [as DESIGNATION OF DEPARTMENTS TO HANDLE SPECIFIC TYPES OF MATTERS 7/1/2011] **REPEALED** and effective May 17, 2013)

2.7 **ASSIGNMENT OF MATTERS TO CENTRAL DISTRICT DEPARTMENTS**

Subject to the authority of the Presiding Judge to apportion the work of the court, the following actions, proceedings, and procedures are assigned in the Central District as follows:

(a) APPELLATE DIVISION:

Appeals from judgments and orders in misdemeanor, Appellate Division infraction, and limited civil cases (except small claims cases), from anywhere in the County. Petitions for writs of mandate, prohibition and review, in misdemeanor, infraction and limited civil cases, from anywhere in the County.

Habeas corpus petitions filed in conjunction with Department 70 misdemeanor, infraction or limited civil appeals. Evidentiary hearings may be assigned to the Criminal Division by the Criminal Division Supervising Judge upon request of Department 70.

(b) CIVIL DIVISION:

(1) General Unlimited Civil Cases and Proceedings:

(A) *Attachment and Writ of Possession Matters*: Department 82, 85, or 86
. See Local Rule 2.7(b)(1)(G)

- Writs of attachment, application for and other proceedings in connection with,

- Writs of possession, application for and other proceedings in connection with,

Hearing fees required by the court's Schedule of Fees must be paid in Room 102, Mosk Courthouse before filing papers in the pertinent department.

(B) *Civil Harassment Petitions*:

Civil Harassment Petitions Department 75

(C) *Eminent Domain*:

All eminent domain or Direct Calendar Courts inverse condemnation cases will be assigned to a direct calendar court for "all purposes," including post-judgment motions to enforce the

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

judgment and applications to withdraw funds on deposit after the case has been closed.

(D) *Guardian ad Litem appointments:*

Guardian *ad litem* appointments for a particular case check the court's website
Petitions for general guardianships and not for a particular case Probate Division

(E) *Long Cause Cases:*

A "long cause case" is defined as a trial that will take at least twenty court days, excluding jury selection and jury deliberation. Long cause cases are the primary responsibility of the direct calendar judge or other judge initially assigned to try the case. If that judge cannot try the case due to its length, it may be transferred to the Supervising Judge of the Civil Division for assignment to a long cause trial judge sitting in the Central District.

(F) *Supplemental and Miscellaneous Proceedings:*

Enforcement of Judgment Proceedings:

All enforcement of judgment proceedings except check the court's website
contempt proceedings and appointment of receiver after judgment.

Examples of enforcement of judgment proceedings include:

- Application for post-judgment examination hearings
- Charging orders
- Claim of exemption hearings
- Court order of sale for real property dwelling pursuant to a writ of execution
- Debtor examination hearings
- Hearing on third party claims pursuant to writ of execution
- Motions for assignment orders
- Third party examination hearings
- *See also*, Code of Civil Procedure sections 680.010 through 720.800

Escheat, hearings on petitions for relief check the court's website

Ex parte orders shortening time in Department 1 check the court's website

In forma pauperis applications for civil limited and check the court's website
unlimited actions (except family law and probate)
and for appeals to the appellate court

In forma pauperis applications for small claims check the court's website

Name change, petitions and hearings check the court's website

Newspaper, petition to establish standing check the court's website

Publication of summons, application and orders for check the court's website

Service on Secretary of State of summons on corporation, check the court's website
application and orders for

Voter information, petition to declare confidential check the court's website
(Elections Code, § 2166)

(G) *Writs and Receivers Matters and Special Proceedings:*

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

Matters assigned to Department 82, 85 or 86 (the "writs and receivers departments") for all purposes pursuant to this rule will be assigned by the clerk at the time of filing, using a random system to insure that no party or person can control or determine in advance to which department a case is assigned.

Matters assigned for all purposes to an unlimited civil trial department, in which certain applications/motions (provisional remedies) are to be heard in a writs and receivers department pursuant to this rule, will be heard in Department 85 if the case number ends in 1, 2, 3, or 4, in Department 86 if the case number ends in 5, 6, or 7, and in Department 82 if the case number ends in 8, 9, or 0. Where two or more cases have been ordered related pursuant to Local Rule 3.3(f), the writs and receivers department assigned to the lowest numbered case will hear the provisional remedies application/motions for the related cases.

Ex parte matters are heard daily in all three departments at 8:30 a.m.

(i) Injunctive Relief, Unlimited Civil Cases:

In all unlimited civil cases, except for Personal Injury Actions as defined in Rule 2.3(a)(1)(A), the following matters are to be heard in the direct calendar court:

- A noticed motion for a preliminary injunction, no matter when made;
- An *ex parte* application for an order shortening time for hearing on a motion for a preliminary injunction, made after an initial status conference or case management conference has been held;
- An *ex parte* application for a temporary restraining order, or an application for an order to show cause re preliminary injunction, made after an initial status conference or case management conference has been held;
- Any noticed motion or *ex parte* application to dissolve or modify a preliminary injunction made after an initial status conference or case management conference has been held;

In all unlimited civil cases, the following matters are heard in the writs and receivers departments:

- An *ex parte* application for a temporary restraining order, or an application for an order to show cause re preliminary injunction, made before an initial status conference or case management conference has been held in the direct calendar court;
- An *ex parte* application for an order shortening time for hearing on a motion for a preliminary injunction, made before an initial status conference or case management conference has been held in the direct calendar court. If the application for shortened time is granted, the motion for preliminary injunction shall also be heard in the pertinent writs and receivers department;
- An *ex parte* application or noticed motion for injunctive relief or appointment of a receiver in a Personal Injury Action whenever made;
- A demurrer or motion heard while an application for a preliminary injunction or motion for the appointment of a receiver is pending in a writs and receivers department.

(ii) Receivers:

- A motion for the appointment of a receiver (and all matters pertaining to the receivership) is assigned to the writs and receivers departments;

(iii) Special Proceedings Heard in Writs and Receivers Departments

The following special proceedings, when filed in or transferred to the Central District, are assigned to the writs and receivers departments for all purposes:

- Cemetery, petition to replat or vacate (Health and Safety Code, §§ 8701-8715);

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

- Common interest development, petition to reduce votes required to amend declaration of covenants and restrictions (Civil Code, §1356);
- Contempt, order to show cause and trial (*see* Local Rule 3.11);
- Corporations, petition to take jurisdiction over voluntary winding up (Corp. Code, § 1904), involuntary winding up of corporation (Corp. Code, § 1806), after a decree or stipulation of winding up, and petition to fix value of shares (Corp. Code, § 2000);
- Declaratory relief, only when joined with a petition for a writ of review, mandate or prohibition;
- Director, petition to appoint provisional director (Corp. Code, § 308);
- Director, petition to determine election (Corp. Code, §§ 709, 5617, 7616 and 9418);
- Insurance company, insolvency proceedings;
- Late claim proceeding (Gov. Code, § 946.6), unless the underlying case has been filed and is pending, in which case the petition is to be heard in the direct calendar court to which the underlying case is assigned;
- Law practice, assumption of jurisdiction over (Bus. & Prof. Code, §§ 6126.3, 6180.2 and 6190)
- Limited liability company, petition ordering winding up (Corp. Code, §§ 17352(b), 17353(b));
- ~~Limited partnership, petition ordering winding up (Corp. Code, § 15683);~~
- Mandate, petition for writ of (except where assigned to the Appellate Division by these rules);
- Partnership, application for judicial supervision of winding up (Corp. Code, § 16803);
- Prohibition, petition for writ of (except where assigned to the Appellate Division by these rules);
- Review, petition for writ of (except where assigned to the Appellate Division by these rules);

(2) Limited Civil and Small Claims Cases and Proceedings

(Including Small Claims Appeals and Unlawful Detainer Cases):

- Appeals of administrative hearings (including parking appeals) check the court's website
- Assignment orders, application for check the court's website
- Claim of exemption check the court's website
- Non-unlawful detainer default prove-ups Department 77
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- Writs of possession, application for and Department 82, 85 or 86. *See* Local Rule 2.7(b)(1)(G) other proceedings in connection with

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

(c) CRIMINAL DIVISION and MENTAL HEALTH MATTERS:

(1) Criminal matters:

- Arraignments, felony complaints Division 30 CJC
Division 69 Metro
Division 5 East LA
- Arraignments, misdemeanor complaints All courts
Metropolitan Branch:
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- Certificate of rehabilitation and pardon, petition for Department 100
- Corum nobis, petition for writ of Department where case is or was
last pending
- Exhume a body for criminal investigation Department 100
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- Expungements - misdemeanor cases CJC only Department 56
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- Firearm return, all other Department where case is or was
last pending
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- Habeas corpus under the Hague Convention on
International Child Abduction Department 2 Mosk
- Habeas corpus, all other See Local Rules 2.7(a) and 8.33.
- Insanity and mental competence trials and hearings, felony cases:
prior to holding order Department 95
after holding order Department where case assigned
- Insanity and mental competence trials and hearings,
misdemeanor and infraction cases Department 95
- Mandate or prohibition in felony cases,
- prior to holding order Department 100
- after holding order Court of Appeal
- Mandate or prohibition
- in misdemeanor and infraction cases Appellate Division
- Mentally disordered sex offender proceedings under former
(Welf. & Inst. Code, § 6300) Department 100
- *Pro per* privileges at variance with policy Department where case pending
- (2) Mental health matters
(A) Civil commitment proceedings - not LPS
- Developmental disability commitments Department 95
(*In Re Hop*, Welf. & Inst. Code, § 6500)

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- *In Re Roger S.* pre-commitment hearing Department 95
 - (B) Civil commitment proceedings - LPS
- Accountings, conservatorship Department 95
- Appeal of medication capacity findings and order
 - (*de novo* hearing) (Welf. & Inst. Code, § 5334(e)(1)) Department 95
- Conservatorship
 - (Welf. & Inst. Code, § 5350) Department 95
- ECT capacity hearing
 - (Welf. & Inst. Code, §§ 5326.7, 5326.75) Department 95
- *Ex parte* petition for temporary conservatorship
 - by County Mental Health Director/Public Guardian Department 95
- Mentally disordered person dangerous to others
 - proceedings (Welf. & Inst. Code, § 5300) Department 95
- Site-based certification review hearings
 - (*Doe vs. Gallinot*), (Welf. & Inst. Code, § 5256) Department 95
- Site-based medication capacity hearings
 - (Welf. & Inst. Code, § 5332) Department 95
- (C) Criminally-related proceedings
 - Commitment, judicial review Department 95
 - Continued involuntary treatment,
 - mentally disordered offenders (Pen. Code, § 2972) Department 95
 - Extensions of commitment and re-commitment to California Youth Authority
 - (Welf. & Inst. Code, § 1800) Department 95
 - Firearm return/restoration of right to own, etc.
 - (Welf. & Inst. Code, §§ 8100, 8103) Department 95
 - Insanity and mental competence trials and hearings,
 - felony cases: prior to holding order Department 95
 - after holding order Court where case assigned
 - Insanity and mental competence trials and hearings,
 - misdemeanor and infraction cases Department 95
 - Mentally disordered sex offenders proceedings
 - (former Welf. & Inst. Code, § 6300) Department 95
 - Narcotic addiction (Welf. & Inst. Code, §§ 3050, 3051) Department 95
 - Petition to extend commitment and
 - re-commitment of defendant found not guilty by reason of insanity
 - (Pen. Code, § 1026.5(b)) Department 95
 - Petition to release following restoration to sanity
 - (Pen. Code, § 1026.2) Department 95
 - Sexually violent predator, pre-trial and post-trial issues Department 95B
 - Sexually violent predator trial Department 100,
for assignment to a trial court

(d) FAMILY LAW DIVISION:

Any matter arising under the Family Code, excluding emancipation of minors and adoption, and other matters specifically assigned to other departments by these rules or order of court, is assigned

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to the Family Law Division. Family Law Division courts in the Central District are direct calendar courts, with the following exceptions:

- Child support cases *See also* Local Rule 5.25
- Defaults Department 2
- Domestic violence restraining orders Department 8
- Habeas corpus under the Hague Convention on International Child Abduction Department 2
- Guardianship of minors when related to a family law child custody proceeding
are also assigned to the Family Law Division *See also* Local Rule 5.2

(e) **JUVENILE DIVISION:**

Any matter arising under the Juvenile Court Law is assigned to the Juvenile Division, including:

- Emancipation of minors, petition for
- Habeas corpus, petition for writ of, minor under 18, under arrest
- Medical treatment for minor, petition to provide
- Parental custody and control, petition to free a minor from, filed by Department of Adoptions, and proceedings to determine the necessity of parental consent directly related thereto

(f) **PROBATE DIVISION:**

Any matter arising under the Probate Code, and any other action, proceeding or procedure which by statute is to be heard by a judge hearing probate matters is assigned to the Probate Division. (*See, e.g.*, proceedings to establish record of birth, death or marriage under Health & Safety Code, § 10550 *et seq.*)

Compromise of a minor's claim prior to trial in a civil case is assigned to the Probate Division, if the direct calendar judge who participated in a conference at which the compromise was accomplished is unavailable. If an application is made to the direct calendar judge for a special needs trust for the benefit of a minor or an incompetent person under Probate Code section 3602 or 3611, the terms of the trust shall be reviewed and approved by the Probate Division.

Any proceeding to make a withdrawal from an account blocked for the benefit of a minor or an incapacitated person is assigned to the Probate Division.

A mental health proceeding will be heard as specified in subdivision 2.7(c).

(Rule 2.7 [7/1/2011, 12/21/2011, 1/1/2012, 7/1/2012, 5/17/2013, 7/1/2014]
amended and effective July 1, 2015)

- 2.8 **RESERVED**
- 2.9 **RESERVED**
- 2.10 **RESERVED**
- 2.11 **RESERVED**
- 2.12 **RESERVED**
- 2.13 **RESERVED**