

1 Kevin D. Siegel (SBN 194787)  
E-mail: ksiegel@bwslaw.com  
2 J. Leah Castella (SBN 205990)  
E-mail: lcastella@bwslaw.com  
3 Tamar M. Burke (SBN 328724)  
E-mail: tburke@bwslaw.com  
4 Eileen L. Ollivier  
E-mail: eollivier@bwslaw.com  
5 BURKE, WILLIAMS & SORENSEN, LLP  
1 California Street, Suite 3050  
6 San Francisco, CA 94111-5432  
Tel: 415.655.8100 Fax: 415.655.8099  
7

8 Hydee Feldstein Soto, City Attorney (SBN 106866)  
9 Scott Marcus, Chief Assist. City Attorney  
(SBN 184980)  
10 Valerie L. Flores, Chief Assist. City Attorney  
(SBN 138572)  
11 Daniel Whitley, Deputy City Attorney  
(SBN 175146)  
12 Email: Daniel.Whitley@lacity.org  
OFFICE OF THE CITY ATTORNEY  
200 North Main Street, 920 City Hall East  
13 Los Angeles, CA 90012  
Tel: 213.978.7786 Fax: 213.978.7711

14 Attorneys for Defendant  
15 CITY OF LOS ANGELES

16 UNITED STATES DISTRICT COURT  
17 CENTRAL DISTRICT OF CALIFORNIA

18 NEWCASTLE COURTYARDS, LLC,  
19 a California limited liability company;  
20 JONATHAN BENABOU, as Trustee  
21 on behalf of THE MANI BENABOU  
22 FAMILY TRUST; and ROES 1  
23 through 500,

24 Plaintiffs and Petitioners,

25 v.

26 CITY OF LOS ANGELES; COUNTY  
27 OF LOS ANGELES; COUNT OF  
28 LOST ANGELES RECORDER'S  
OFFICE; DOES 1 through 500; and  
ALL PERSONS INTERESTED IN  
THE MATTER of the ULA and all  
proceedings related thereto,

Defendants and Respondents.

Case No. 2:23-CV-00104-JAK-AS

**DEFENDANT CITY OF LOS ANGELES' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF RULE 12(B)(1) MOTION TO DISMISS FIRST AMENDED COMPLAINT OR, ALTERNATIVELY, TO STAY**

Date: May 1, 2023  
Time: 8:30 AM  
JFP: Honorable John A. Kronstadt  
1st St, CH – "10B"

Action Filed: January 6, 2023  
Trial Date: TBD

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**

	<b>Page</b>
I. INTRODUCTION.....	7
II. STATEMENT OF FACTS.....	8
A. The City’s Voters Approve Measure ULA to Fund Affordable Housing and Tenant Assistance Programs, and to Combat Homelessness.....	8
B. HJTA Files a Reverse Validation Action in the Los Angeles County Superior Court; the Superior Court Secures Jurisdiction on February 15, 2023. ....	9
C. Newcastle Files Duplicative State and Federal Actions, and Does Not Timely or Properly Endeavor to Publish Summons in Its Federal Court Action.....	10
II. MOTION TO DISMISS STANDARDS.....	11
III. DISCUSSION .....	12
A. The Tax Injunction Act and Comity Principles Bar this Action. ....	12
1. The Tax Injunction Act and Comity Preclude Challenges to State and Local Taxes.....	12
2. Newcastle’s Federal Action Is Barred by the TIA and Comity. ....	14
B. The Colorado River Doctrine also Bars this Action.....	17
1. The Colorado River Doctrine Bars Federal Court Actions that Raise Claims Already at Issue in State Court, Particularly Where the State Court First Acquired Jurisdiction.....	17
2. This Court Should Dismiss or, Alternatively, Stay this Action.....	18
C. In addition, this Court Should Dismiss Under the Validation Proceeding Statutes.....	20
1. Newcastle Was Obligated to Timely Publish Summons, file Proof of Publication, and Secure Jurisdiction.....	20
2. Newcastle Did Not Timely Act to Secure Jurisdiction in this Court. ....	21
IV. CONCLUSION .....	22

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF AUTHORITIES**

**Page(s)**

**Federal Cases**

*40235 Washington St. Corp. v. Lusardi*,  
976 F.2d 587 (9th Cir. 1992) ..... 17, 18, 19

*Am. Int’l Underwriters (Philippines), Inc. v. Cont’l Ins. Co.*,  
843 F.2d 1253 (9th Cir. 1988) ..... 18, 19

*ANR Pipeline Co. v. Louisiana Tax Comm’n*,  
646 F.3d 940 (5th Cir. 2011) ..... 13, 16

*Chapman v. Deutsche Bank Nat. Tr. Co.*,  
651 F.3d 1039 (9th Cir. 2011) ..... 17, 18, 19

*Colorado River Water Conservation Dist. v. United States*,  
424 U.S. 800 (1976) ..... 17

*Dillon v. State of Mont.*,  
634 F.2d 463 (9th Cir. 1980) ..... 14

*Fair Assessment in Real Est. Ass’n, Inc. v. McNary*,  
454 U.S. 100 (1981) ..... 12, 13

*Fireman’s Fund Ins. Co. v. Quackenbush*,  
87 F.3d 290 (9th Cir. 1996) (Aug. 14, 1996) ..... 18

*California v. Grace Brethren Church*,  
457 U.S. 393 (1982) ..... 12, 13, 16

*Hyatt v. Yee*,  
871 F.3d 1067 (9th Cir. 2017) ..... 13, 14, 16

*Jerron W., Inc. v. State of Cal., State Bd. of Equalization*,  
129 F.3d 1334 (9th Cir. 1997) ..... 13

*Kadva Patidar 42 Gam Samaj v. Cnty. of Riverside*,  
777 F. App’x 215 (9th Cir. 2019) ..... 13, 16

*Levin v. Com. Energy, Inc.*,  
560 U.S. 413 (2010) ..... 12

1 *Lowe v. Washoe Cnty.*,  
 2 627 F.3d 1151 (9th Cir. 2010) ..... 12, 14

3 *Mandel v. Hutchinson*,  
 4 494 F.2d 364 (9th Cir. 1974) ..... 14

5 *May Trucking Co. v. Oregon Dep't of Transp.*,  
 6 388 F.3d 1261 (9th Cir. 2004) ..... 14

7 *Montanore Mins. Corp. v. Bakie*,  
 8 867 F.3d 1160 (9th Cir. 2017), (Oct. 18, 2017) ..... 17, 18, 19, 20

9 *Nakash v. Marciano*,  
 882 F.2d 1411 (9th Cir. 1989) ..... 19

10 *Outdoor Media Group, Inc. v. City of Beaumont*,  
 11 506 F.3d 895 (9th Cir. 2007) ..... 12

12 *Qwest Corp. v. City of Surprise*,  
 13 434 F.3d 1176 (9th Cir. 2006) ..... 12

14 *R.R. St. & Co. Inc. v. Transp. Ins. Co.*,  
 15 656 F.3d 966 (9th Cir. 2011) ..... 19, 20

16 *United States v. Ritchie*,  
 17 342 F.3d 903 (9th Cir. 2003) ..... 12

18 *State Eng'r of State of Nevada v. S. Fork Band of Te-Moak Tribe of W.*  
 19 *Shoshone Indians of Nevada*,  
 339 F.3d 804 (9th Cir. 2003) ..... 18, 19

20 **State Cases**

21 *616 Croft Ave., LLC v. City of W. Hollywood*,  
 22 3 Cal.App.5th 621 (2016) ..... 16

23 *All. for Responsible Plan. v. Taylor*,  
 24 63 Cal.App.5th 1072 (2021) ..... 16

25 *Barclays Bank Internat., Ltd. v. Franchise Tax Bd.*,  
 26 2 Cal.4th 708 (1992) ..... 16

27 *Borikas v. Alameda Unified Sch. Dist.*,  
 28 214 Cal.App.4th 135 (2013) ..... 16

1 *California Bldg. Indus. Assn. v. City of San Jose*,  
 2 61 Cal.4th 435 (2015)..... 16

3 *City & Cnty. of San Francisco v. All Persons Interested in Matter of*  
 4 *Proposition C*,  
 5 51 Cal.App.5th 703 (2020)..... 20

6 *City of Berkeley v. Cukierman*,  
 7 14 Cal.App.4th 1331 (1993)..... 16

8 *City of Berkeley v. Oakland Raiders*,  
 9 143 Cal.App.3d 636 (1983)..... 16

10 *City of San Jose v. Donohue*  
 11 (1975) 51 Cal.App.3d 40..... 16

12 *Coachella Valley Water Dist. v. Superior Ct. of Riverside Cnty.*,  
 13 61 Cal.App.5th 755 (2021)..... 15

14 *Dan Clark Fam. Ltd. P’ship v. Miramontes*,  
 15 193 Cal.App.4th 219 (2011)..... 17

16 *Embarcadero Mun. Improvement District v. Cnty. of Santa Barbara*,  
 17 88 Cal.App.4th 781 (2001)..... 15

18 *Friedland v. City of Long Beach*,  
 19 62 Cal.App.4th 835 (1998)..... 9, 15

20 *Harley-Davidson, Inc. v. Franchise Tax Bd.*,  
 21 237 Cal.App.4th 193 (2015)..... 16

22 *Howard Jarvis Taxpayers Ass’n v. City & Cnty. of San Francisco*,  
 23 60 Cal.App.5th 227, (2021), (Feb. 22, 2021)..... 20

24 *Katz v. Campbell Union High Sch. Dist.*,  
 25 144 Cal.App.4th 1024 (2006)..... 21, 22

26 *Millbrae Sch. Dist. v. Superior Ct.*,  
 27 209 Cal.App.3d 1494 (1989)..... 15

28 *N.T. Hill Inc. v. City of Fresno*  
 (1999) 72 Cal.App.4th 977..... 15

1 *Park 'N Fly of San Francisco, Inc. v. City of S. San Francisco,*  
 2 188 Cal.App.3d 1201 (1987)..... 16

3 *Plan. & Conservation League v. Dep’t of Water Res.,*  
 4 17 Cal.4th 264..... 20

5 *Protect Agric. Land v. Stanislaus Cnty. Loc. Agency Formation Com.,*  
 6 223 Cal.App.4th 550 (2014)..... 22

7 *Volkswagen Pac., Inc. v. City of Los Angeles,*  
 8 7 Cal.3d 48 (1972)..... 16

9 **Federal Statutes**

10 Tax Injunction Act (28 U.S.C. § 1341) .....*passim*

11 **State Statutes**

12 Cal. Civ. Proc. Code

13 § 860 ..... 9, 20

14 § 860 et seq. .... 9, 21

15 § 861 ..... 10, 21

16 § 861.1 ..... 10, 21

17 § 862 ..... 10

18 § 863 .....*passim*

19 § 865 ..... 18

20 § 867 ..... 16

21 § 870(a)..... 15

22 Cal. Gov. Code

23 § 6063 ..... 10, 21

24 § 50077.5 ..... 9, 21

25 § 50077.5(a)..... 20

26 **Other Authorities**

27 Cal. Const. art. 13A, § 4 ..... 9, 19

28 Cal. Const. art. 13C, § 1(d)..... 9

Fed. Rule Civ. Proc., Rule 12(b)(1)..... 12

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**I. INTRODUCTION**

At the November 8, 2022 election, the City’s voters exercised their inherent, legislative power of initiative to adopt Measure ULA, a citizen-sponsored initiative imposing taxes to fund affordable housing and tenant assistance programs, and thereby to prevent and remedy homelessness. Measure ULA passed with nearly 58% voter approval.

Having lost at the ballot box, Plaintiffs Newcastle Courtyards, LLC and Jonathan Benabou (collectively, “Newcastle”) seek to use this Court to undo the voters’ will and prevent the City from addressing the needs of tens of thousands of Angelenos who lack any housing, as well as those who lack adequate housing.

None of the alleged violations of law claimed by Newcastle has any merit. But this Court need not, indeed must not, consider Newcastle’s unfounded claims. The reason is plain: Newcastle lacks any basis to seek to invoke this Court’s jurisdiction.

First, the Tax Injunction Act (28 U.S.C. § 1341) and comity principles prohibit challenges to state and local taxes in federal court, irrespective of whether the challenger claims violations of federal or state law. A narrow, inapplicable exception applies if the state courts do not provide an adequate forum to litigate the challenge.

Here, Newcastle and other opponents of Measure ULA are already pursuing litigation in the Los Angeles County Superior Court, seeking to invalidate Measure ULA – on the very same grounds as Newcastle alleges herein. The Superior Court has already obtained jurisdiction over the parties and the subject matter.<sup>1</sup>

The Superior Court provides a more-than-adequate forum – indeed, the only proper forum – for the challengers to seek to litigate their claims. And the City

---

<sup>1</sup> The two pending state court cases are currently pending before the Honorable Curtis Kin, who deemed them related at a March 10, 2023 Status Conference.



1 looks forward to demonstrating in the state court proceedings that the challengers’  
2 contentions lack merit, thereby defeating the challengers’ efforts to eviscerate the  
3 voters’ exercise of their inherent, legislative power of initiative and to interfere with  
4 the City’s provision of housing-support services the voters have chosen to fund.

5 Thus, this Court should dismiss this case under the Taxpayer Injunction Act  
6 and comity principles.

7 Second, under Supreme Court precedent commonly known as the *Colorado*  
8 *River Doctrine*, Newcastle may not invoke this Court’s jurisdiction to litigate  
9 claims for which the Superior Court already has jurisdiction. Given the pending  
10 Superior Court proceedings and other relevant factors – including Newcastle’s  
11 blatant forum shopping – this Court should dismiss this case (or, alternatively, issue  
12 a stay).

13 Third, Newcastle has failed to comply with statutory requirements, which  
14 Newcastle invoke, for commencing litigation seeking to invalidate Measure ULA,  
15 including requirements to provide notice that persons interested in the subject  
16 matter may join this suit, either to defend or challenge Measure ULA. Thus, the  
17 Court can and should dismiss this case on this additional ground.

18 For each of these independently dispositive reasons, this Court should grant  
19 the City’s motion to dismiss Newcastle’s suit (or to stay, a secondary, alternative  
20 remedy under the *Colorado River Doctrine*).

21 **II. STATEMENT OF FACTS**

22 **A. The City’s Voters Approve Measure ULA to Fund Affordable Housing**  
23 **and Tenant Assistance Programs, and to Combat Homelessness.**

24 On November 8, 2022, the City’s voters approved a citizen-sponsored  
25 initiative, Measure ULA, imposing real property transfer taxes (AKA documentary  
26 transfer taxes) on conveyances of real property interests over \$5,000,000, effective  
27 April 1, 2023. Measure ULA taxes may only be used to fund affordable housing  
28 and tenant assistance programs, and will help address the lack of adequate housing



1 for tens of thousands of Angelenos. First Amended Complaint (“FAC”) (Dkt. 14),  
2 ¶¶ 16, 17, 18, 109.

3 **B. HJTA Files a Reverse Validation Action in the Los Angeles County**  
4 **Superior Court; the Superior Court Secures Jurisdiction on February**  
5 **15, 2023.**

6 On December 21, 2022, the Howard Jarvis Taxpayers Association and the  
7 Apartment Association of Greater Los Angeles (collectively, “HJTA”) filed suit in  
8 Los Angeles County Superior Court challenging the validity of Measure ULA.  
9 Specifically, HJTA filed a “reverse validation” action pursuant to California Code  
10 of Civil Procedure sections 860 – 870.5 (“Validation Proceeding Statutes”) and  
11 California Government Code section 50077.5. HJTA’s principal claim is that  
12 Measure ULA is an unlawful “special tax” under Article XIII A, section 4 of the  
13 California Constitution (added by Proposition 13 in 1979).<sup>2</sup> Request for Judicial  
14 Notice (“RJN”), Exh. 1 (Complaint in *Howard Jarvis Taxpayers Association et al.*  
15 *v. City of Los Angeles and All Persons Interested in the Matter of Measure ULA.*,  
16 Los Angeles Cnty. Super. Ct. Case No. 22STCV39662).

17 As discussed below, a validation action is an *in rem* proceeding which can be  
18 initiated either by a public agency or an interested person. Cal. Civ. Proc. Code  
19 §§ 860, 863. Through the validation proceeding, the public agency and interested  
20 persons can conclusively determine, in “ ‘a single dispositive final judgment,’ ” the  
21 legality of certain governmental actions. *Friedland v. City of Long Beach*, 62  
22 Cal.App.4th 835, 842 (1998) (quoting *Committee for Responsible Planning v. City*  
23 *of Indian Wells*, 225 Cal.App.3d 191, 197-98 (1990)). Interested persons may  
24 appear either to defend the validity of the subject matter, or to pursue constitutional  
25 and/or non-constitutional challenges, as well as various remedies, *e.g.*, writ of  
26 mandate or declaratory relief. *See* Section III-A-2 below.

27 <sup>2</sup> The California Constitution defines as “special tax” as “any tax imposed for  
28 specific purposes, including a tax imposed for specific purposes, which is placed  
into a general fund.” Cal. Const. art. 13C, § 1(d).

1 Early in the validation proceedings, the court secures jurisdiction over the  
2 subject matter – the *res* – after (1) the plaintiff satisfies service and publication of  
3 summons requirements for providing notice to any interested persons, and (2) the  
4 deadline specified in the summons for interested persons to answer has passed.  
5 Cal. Civ. Proc. Code §§ 861, 861.1, 862, 863.<sup>3</sup>

6 Where a “reverse validation” action is brought by a challenger, the plaintiff  
7 shall name the public agency as a defendant and serve it with a standard summons.  
8 Cal. Civ. Proc. Code § 863.

9 In the HJTA case, HJTA served the City and published the summons  
10 providing notice to any and all interested persons that the deadline to answer was  
11 February 15, 2023 (whether they answer for or against Measure ULA). The City  
12 answered on February 10, 2023. RJN, Exh. 2. The Superior Court secured  
13 jurisdiction over Measure ULA as of February 15, 2023, the deadline for interested  
14 persons to respond, pursuant to sections 861, 861.1, 862, and 863 of the California  
15 Code of Civil Procedure. RJN, Exh. 3.

16 **C. Newcastle Files Duplicative State and Federal Actions, and Does Not**  
17 **Timely or Properly Endeavor to Publish Summons in Its Federal Court**  
18 **Action.**

19 Meanwhile, on January 6, 2023, Newcastle filed duplicate reverse validation  
20 actions, one in this Court (Dkt. 1) and one in the same Los Angeles County  
21 Superior Court where the HJTA case is pending. RJN, Exh. 4 (Complaint in  
22 *Newcastle Courtyards, LLC, et. al. v. City of Los Angeles, et. al and All Persons*  
23 *Interested in the Matter of the ULA*, Los Angeles Cnty. Super. Ct. Case

---

24 <sup>3</sup> To secure the court’s jurisdiction, (1) the plaintiff must publish summons  
25 pursuant to California Government Code section 6063 (Cal Civ. Proc. Code § 861),  
26 (2) the summons must be “directed to ‘all persons interested in the matter’ ” (Cal.  
27 Civ. Proc. Code §§ 861.1, 863), (3) the summons must specifically state the  
28 deadline for any interested persons to answer, which “shall be 10 or more days after  
completion of publication of the summons” (Cal. Civ. Proc. Code § 861.1), and  
(4) the plaintiff must file proof of completion of publication within 60 days of filing  
suit (Cal. Civ. Proc. Code § 863). “Jurisdiction shall be complete after the date  
specified in the summons.” Cal. Civ. Proc. Code § 862.

1 No. 23STCV00352). Like HJTA, Newcastle alleges, in its duplicative complaints,  
 2 that Measure ULA is an unlawful special tax. *E.g.*, Dkt. 1, ¶¶ 100-103, 109; RJN,  
 3 Exh. 4, ¶¶ 100-103, 109. Newcastle also includes additional claims for relief, *e.g.*,  
 4 equal protection, due process, and takings claims. *See* Dkt. 1, ¶ 57 et seq., ¶ 134 et  
 5 seq., and ¶ 216; RJN, Exh. 4, ¶ 57 et seq., ¶ 134 et seq., and ¶ 216.<sup>4</sup>

6 In Newcastle’s Superior Court action, City answered on February 21, 2023.  
 7 RJN, Exh. 6. That same day, Newcastle commenced publication of summons,  
 8 which specified that March 14, 2023, was the last day for any interested person to  
 9 appear and answer their complaint. RJN, Exh. 7.

10 In this action, Newcastle never served the City with their original complaint.  
 11 Instead, on February 10 and 22, Newcastle filed and served, respectively, their First  
 12 Amended Complaint (Dkt. 14). The FAC re-alleges that Measure ULA is an  
 13 unlawful special tax (¶¶ 127-131, 137), re-alleges Newcastle’s other claims for  
 14 relief, *e.g.*, equal protection, due process, and takings claims (¶¶ 68-105, 162-216,  
 15 225-228), and adds a Commerce Cause claim (¶¶ 236-39).

16 On February 10, 2023 (35 days after filing suit), Newcastle applied *ex parte*  
 17 in this Court for an order authorizing publication of summons. Dkt. 15. On  
 18 February 21 and 24, this Court authorized publication and issued the summons,  
 19 which identifies March 27, 2023, as the last day to answer. Dkt. 22, 26. Newcastle  
 20 did not file proof of service of completion of publication within 60 days of filing  
 21 suit (that is, by March 7, 2023), as required by Cal. Civ. Proc. Code § 863.

## 22 II. MOTION TO DISMISS STANDARDS

23 When ruling on a motion to dismiss, the Court generally considers only those

24 \_\_\_\_\_  
 25 <sup>4</sup> In the Notice of Related Case Newcastle filed in the Superior Court,  
 26 Newcastle admitted that “[t]he related federal and state actions involve all or a  
 27 material part of the subject matter of this proceeding, as the causes of action herein  
 28 [Newcastle’s state court action] are substantially the same as the claims for relief at  
 issue in the related state and federal proceedings, and involve essentially the same  
 legal issues, transactions, and occurrences, and arise out of the same set of  
 operative facts.” RJN, Exh. 5, Attachment 1h-2h.

1 allegations contained in the pleadings, exhibits attached to the complaint, and  
 2 matters properly subject to judicial notice. *Outdoor Media Group, Inc. v. City of*  
 3 *Beaumont*, 506 F.3d 895, 899-900 (9th Cir. 2007). A court may consider matters of  
 4 judicial notice without converting the motion to dismiss into a motion for summary  
 5 judgment. *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003).

6 A defendant may move to dismiss under Federal Rule of Civil Procedure  
 7 Rule 12(b)(1) when the Court lacks subject matter jurisdiction.

### 8 III. DISCUSSION

#### 9 A. The Tax Injunction Act and Comity Principles Bar this Action.

##### 10 1. The Tax Injunction Act and Comity Preclude Challenges to State 11 and Local Taxes.

12 The Tax Injunction Act (“TIA”) commands that “[t]he district courts shall  
 13 not enjoin, suspend or restrain the assessment, levy or collection of any tax under  
 14 State law where a plain, speedy and efficient remedy may be had in the courts of  
 15 such State.” 28 U.S.C. § 1341. This prohibition includes challenges to local taxes.  
 16 *Qwest Corp. v. City of Surprise*, 434 F.3d 1176, 1184 (9th Cir. 2006) (dismissing  
 17 challenge to city taxes); *Lowe v. Washoe Cnty.*, 627 F.3d 1151, 1153 (9th Cir.  
 18 2010) (dismissing challenge to county taxes).

19 This statutory prohibition encompasses claims for injunctive and declaratory  
 20 relief, which advances “the principal purpose of the Tax Injunction Act: ‘to limit  
 21 drastically federal district court jurisdiction to interfere with so important a local  
 22 concern as the collection of taxes.’ ” *California v. Grace Brethren Church*, 457  
 23 U.S. 393, 408 (1982) (“*Grace Brethren Church*”).

24 Damage claims are also barred, pursuant to common law comity principles,  
 25 which are reflected in the TIA and provide an independent, further-reaching  
 26 proscription against challenges to the validity of state taxes. *Levin v. Com. Energy,*  
 27 *Inc.*, 560 U.S. 413, 424, 432 (2010); *see also Fair Assessment in Real Est. Ass’n,*  
 28 *Inc. v. McNary*, 454 U.S. 100, 107 (1981).

1           The prohibition further applies to federal constitutional claims challenging  
2 state and local taxes (or any other claims, for that matter). *Hyatt v. Yee*, 871 F.3d  
3 1067, 1074 (9th Cir. 2017); *see also Kadva Patidar 42 Gam Samaj v. Cnty. of*  
4 *Riverside*, 777 F. App'x 215, 216 (9th Cir. 2019) (citing *Jerron W., Inc. v. State of*  
5 *Cal., State Bd. of Equalization*, 129 F.3d 1334, 1337 (9th Cir. 1997)); *ANR Pipeline*  
6 *Co. v. Louisiana Tax Comm'n*, 646 F.3d 940, 947 (5th Cir. 2011).

7           The proscription is based, in part, on legislative and judicial recognition that  
8 federal courts should not intrude upon or disrupt a state's enforcement of its tax  
9 system. *Fair Assessment in Real Est.*, 454 U.S. at 113-14; *Jerron W., Inc. v. State*  
10 *of Cal., State Bd. of Equalization*, 129 F.3d 1334, 1337 (9th Cir. 1997), *as amended*  
11 (Jan. 29, 1998)). The proscription is also based on the Supreme Court's recognition  
12 that "federal constitutional issues" a plaintiff may raise in a challenge to state and  
13 local taxes " 'are likely to turn on questions of state tax law, which, like issues of  
14 state regulatory law, are more properly heard in the state courts.' " *Grace Brethren*  
15 *Church*, 457 U.S. at 410 (quoting Justice Brennan's concurring opinion in *Perez v.*  
16 *Ledesma*, 401 U.S. 82, 128, n. 17 (1971)).

17           The proscription is rarely breached.

18           The courts "must construe narrowly the 'plain, speedy and efficient'  
19 exception to the Tax Injunction Act." *Grace Brethren Church*, 457 U.S. at 413.  
20 The Ninth Circuit succinctly summarized the exception test:

21                   For a remedy to be "plain," "the procedures available in  
22 state court must be certain." [fn.] A remedy is "efficient"  
23 "unless it imposes an 'unusual hardship ... requiring  
24 ineffectual activity or an unnecessary expenditure of time  
25 or energy.' " [fn.] A remedy is "speedy" "if it does not  
26 entail a significantly greater delay than a corresponding  
27 federal procedure." [fn.] To satisfy these requirements, a  
28 remedy "need not necessarily be the best remedy

1 available or even equal to or better than the remedy which  
2 might be available in the federal courts.”[fn.]

3 *Hyatt*, 871 F.3d at 1073 (omitting footnotes containing citations).<sup>5</sup>

4 The courts regularly reject exception claims under this narrowly-construed  
5 exception. *Id.* at 1078 (state requirement to pay taxes as prerequisite to suit  
6 satisfies plain-speedy-and-efficient-remedy standard, even when it is uncertain  
7 whether or how a challenger can raise federal constitutional claims); *Lowe*, 627  
8 F.3d at 1155 (exception inapplicable, even though federal courts might provide a  
9 more efficient remedy); *Mandel v. Hutchinson*, 494 F.2d 364, 366-67 (9th Cir.  
10 1974) (availability of right to sue in California courts to seek refund after paying  
11 tax under protest, or potentially to seek writ of mandate if suit for refund not  
12 available, provides sufficient state court remedy); *May Trucking*, 388 F.3d at 1272-  
13 74 (state courts provided opportunity to challenge taxes, including on constitutional  
14 grounds, even if payment required as prerequisite to suit for refund).

15 **2. Newcastle’s Federal Action Is Barred by the TIA and Comity.**

16 Under the TIA and comity principles discussed above, there is no basis for  
17 federal subject matter jurisdiction over the validity of Measure ULA. Instead, the  
18 Los Angeles County Superior Court is the proper forum for any (presumptively)  
19 interested person, including Newcastle, to seek invalidation of Measure ULA.

20 Indeed, by pursuing a duplicative state court action, Newcastle has admitted  
21 it may pursue its claims in state court. They pleads the same claims in both courts,  
22 and conceded in the Notice of Related Case they filed in state court that their  
23 “federal and state actions involve all or a material part of the subject matter of this  
24 proceeding, as the causes of action herein [their state court action] are substantially

25 \_\_\_\_\_  
26 <sup>5</sup> Likelihood of success in state court is not a factor. *May Trucking Co. v.*  
27 *Oregon Dep’t of Transp.*, 388 F.3d 1261, 1272 (9th Cir. 2004); *see also Dillon v.*  
28 *State of Mont.*, 634 F.2d 463, 468 (9th Cir. 1980) (“Remedial certainty does not  
require that state courts have previously confronted similar facts and rendered  
therein the relief a plaintiff now seeks”).



1 the same as the claims for relief at issue in the related state and federal proceedings,  
 2 and involve essentially the same legal issues, transactions, and occurrences, and  
 3 arise out of the same set of operative facts.” RJN, Exh. 5, Attachment 1h-2h.

4 Moreover, Newcastle’s state court case is further along than the instant  
 5 action. The City has answered the Complaint. In addition, through the publication-  
 6 of-summons process, Newcastle sought Superior Court jurisdiction over Measure  
 7 ULA before endeavoring to do so in this Court (which it has not accomplished, as  
 8 discussed in Section III-C-2 below). RJN, Exhs. 5, 6. Meanwhile, before  
 9 Newcastle sought in either court to publish summons and seek jurisdiction over the  
 10 *res* – Measure ULA – HJTA secured Superior Court jurisdiction, on February 15,  
 11 2023, over Measure ULA. RJN, Exhs. 2, 3.

12 Accordingly, Newcastle has admitted, and could not reasonably dispute, that  
 13 the Superior Court is the proper forum to litigate their challenge to Measure ULA,  
 14 and that the proscription against their federal court case, established by the TIA and  
 15 comity principles, applies.

16 Nor could Newcastle show that they lack a plain, speedy, and efficient  
 17 remedy in state court.

18 Newcastle may pursue their challenges to Measure ULA in state court based  
 19 on alleged violations of state and/or federal law, including constitutional law, and  
 20 irrespective of the remedy they seek. *See, e.g., Friedland*, 62 Cal.App.4th at 846-  
 21 47; *Millbrae Sch. Dist. v. Superior Ct.*, 209 Cal.App.3d 1494 (1989); *Embarcadero*  
 22 *Mun. Improvement District v. Cnty. of Santa Barbara*, 88 Cal.App.4th 781 (2001).<sup>6</sup>

23 California law requires validation actions to be promptly and efficiently

24 \_\_\_\_\_  
 25 <sup>6</sup> The theories of liability, or titles affixed to the claims for relief in state  
 26 court, are irrelevant. “Any challenges to the validity of the governmental action  
 27 must be raised in the validation proceeding.” *N.T. Hill Inc. v. City of Fresno* (1999)  
 28 72 Cal.App.4th 977, 991, n. 10. The judgment is conclusive “as to all matters  
 therein adjudicated or which at that time could have been adjudicated ....” Cal.  
 Civ. Proc. Code § 870(a); *see also Coachella Valley Water Dist. v. Superior Ct. of*  
*Riverside Cnty.*, 61 Cal.App.5th 755, 768 (2021).



1 resolved. “Actions brought pursuant to this chapter [Validation Proceeding  
 2 Statutes] shall be given preference over all other civil actions before the court in the  
 3 matter of setting the same for hearing or trial, and in hearing the same, to the end  
 4 that such actions shall be speedily heard and determined.” Cal. Civ. Proc. Code  
 5 § 867. Indeed, it is in City’s interest to ensure timely and efficient confirmation of  
 6 the voters’ inherent power of initiative to impose taxes, and their decision to  
 7 provide funds to support affordable housing and tenant assistance programs, and  
 8 thereby to prevent and remedy homelessness.

9 That Newcastle or any other challenger seeks to invalidate Measure ULA  
 10 based on alleged violations of the United States Constitution is immaterial. *See,*  
 11 *e.g., Grace Brethren Church*, 457 U.S. at 410; *Hyatt*, 871 F.3d at 1074; *Kadva*  
 12 *Patidar*, 777 F. App’x at 216; *ANR Pipeline*, 646 F.3d at 947. California courts  
 13 regularly decide cases in which plaintiffs allege equal protection, due process, and  
 14 takings challenges to taxes and other charges. *See, e.g., Volkswagen Pac., Inc. v.*  
 15 *City of Los Angeles*, 7 Cal.3d 48, 58 (1972) (whether tax violated rights to equal  
 16 protection and due process); *Borikas v. Alameda Unified Sch. Dist.*, 214  
 17 Cal.App.4th 135, 139-40 (2013) (same); *City of Berkeley v. Cukierman*, 14  
 18 Cal.App.4th 1331, 1344 (1993) (same); *City of Berkeley v. Oakland Raiders*, 143  
 19 Cal.App.3d 636, 638 (1983) (same); *Park ‘N Fly of San Francisco, Inc. v. City of S.*  
 20 *San Francisco*, 188 Cal.App.3d 1201, 1209 (1987) (whether tax violated equal  
 21 protection); *City of San Jose v. Donohue* (1975) 51 Cal.App.3d 40, 45 (whether  
 22 exemption of public entities from tax violated equal protection); *California Bldg.*  
 23 *Indus. Assn. v. City of San Jose*, 61 Cal.4th 435, 454-58 (2015) (whether fee  
 24 constituted a taking under *Nollan / Dolan* unconstitutional exactions doctrine); *All.*  
 25 *for Responsible Plan. v. Taylor*, 63 Cal.App.5th 1072, 1075 (2021) (same); *616*  
 26 *Croft Ave., LLC v. City of W. Hollywood*, 3 Cal.App.5th 621, 625-28 (2016) (same).

27 The same is true for Commerce Clause claims. *Barclays Bank Internat., Ltd.*  
 28 *v. Franchise Tax Bd.*, 2 Cal.4th 708, 712 (1992); *Harley-Davidson, Inc. v.*

1 *Franchise Tax Bd.*, 237 Cal.App.4th 193, 198 (2015); *Dan Clark Fam. Ltd. P’ship*  
 2 *v. Miramontes*, 193 Cal.App.4th 219, 234 (2011).

3 Accordingly, Newcastle may continue to seek to prove in the Superior Court  
 4 that Measure ULA is invalid, but may not, pursuant to the TIA and comity  
 5 principles, challenge the validity of Measure ULA in this Court.

6 **B. The *Colorado River* Doctrine also Bars this Action.**

7 **1. The *Colorado River* Doctrine Bars Federal Court Actions that**  
 8 **Raise Claims Already at Issue in State Court, Particularly Where**  
 9 **the State Court First Acquired Jurisdiction.**

10 Under the *Colorado River* Doctrine, district courts determine whether to  
 11 dismiss, stay, or remand a case where there is a concurrent state court proceeding  
 12 regarding the same subject matter. *Montanore Mins. Corp. v. Bakie*, 867 F.3d  
 13 1160, 1165-66 (9th Cir. 2017), *as amended on denial of reh’g and reh’g en banc*  
 14 (Oct. 18, 2017). It is not, strictly speaking, an abstention doctrine, but is based on  
 15 principles of “wise judicial administration, giving regard to conservation of judicial  
 16 resources and comprehensive disposition of litigation.” *Colorado River Water*  
 17 *Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976) (citation and internal  
 18 quotation marks omitted).

19 District courts generally evaluate six factors: “(1) whether either the state or  
 20 federal court has exercised jurisdiction over a *res*; (2) the inconvenience of the  
 21 federal forum; (3) the desirability of avoiding piecemeal litigation; [] (4) the order  
 22 in which the forums obtained jurisdiction ... (5) whether federal or state law  
 23 controls the decision on the merits; and (6) whether the state court can adequately  
 24 protect the rights of the parties.” *40235 Washington St. Corp. v. Lusardi*, 976 F.2d  
 25 587, 588 (9th Cir. 1992).

26 The first factor is dispositive where a *res* is at issue, and the state court is the  
 27 first to acquire jurisdiction over the *res*. “[I]t is legal error for a district court not to  
 28 remand, dismiss, or stay federal proceedings on account of the state court’s prior  
 exercise of jurisdiction, and any decision on the merits must be vacated.” *Chapman*

1 *v. Deutsche Bank Nat. Tr. Co.*, 651 F.3d 1039, 1044, n. 1 (9th Cir. 2011). Remand,  
 2 dismissal, or stay is required because the state court has exclusive jurisdiction. *Id.*  
 3 at 1043-45; *see also State Eng’r of State of Nevada v. S. Fork Band of Te-Moak*  
 4 *Tribe of W. Shoshone Indians of Nevada*, 339 F.3d 804, 808 (9th Cir. 2003) (trial  
 5 court properly remanded); *40235 Washington St. Corp.*, 976 F.2d at 589 (district  
 6 court properly stayed case); *Montanore*, 867 F.3d at 1166 (district court abused its  
 7 discretion by not abstaining).<sup>7</sup>

8 In addition, the courts consider whether the plaintiff is forum shopping.  
 9 *Fireman’s Fund Ins. Co. v. Quackenbush*, 87 F.3d 290, 297 (9th Cir. 1996), *as*  
 10 *amended* (Aug. 14, 1996). If the plaintiff is forum shopping, dismissal, rather than  
 11 a stay, is proper. *Am. Int’l Underwriters (Philippines), Inc. v. Cont’l Ins. Co.*, 843  
 12 F.2d 1253, 1259 (9th Cir. 1988).

13 **2. This Court Should Dismiss or, Alternatively, Stay this Action.**

14 Here, the Superior Court acquired jurisdiction over the *res*, Measure ULA, on  
 15 February 15, 2023, the deadline for any interested person to answer pursuant to  
 16 HJTA’s published summons and the Validation Proceeding Statutes. RJN, Exh. 3.  
 17 Alternatively, Superior Court jurisdiction over Measure ULA was arguably  
 18 acquired on March 14, 2023, the date for any interested person to answer pursuant  
 19 to Newcastle’s published summons. RJN, Exh. 7.<sup>8</sup>

20 Moreover, the City has already submitted to the Superior Court’s jurisdiction,  
 21 having answered both HJTA’s and Newcastle’s state court complaints (RJN,  
 22

23 <sup>7</sup> Abstention is required even if the plaintiff seeks both merits and declaratory  
 24 relief. *Id.*

25 <sup>8</sup> Ultimately, it is immaterial whether the Superior Court acquired jurisdiction  
 26 over Measure ULA through HJTA’s or Newcastle’s actions. There will ultimately  
 27 be a single, consolidated proceeding in the Superior Court in which interested  
 28 persons may challenge the validity of Measure ULA (if, of course, they have  
 satisfied pleading requirements). *See Cal. Civ. Proc. Code § 865* (“If more than one  
 action is pending concerning similar contests which may be brought under this  
 chapter, they shall be consolidated for trial”).

1 Exhs. 2, 6), and will vigorously defend the legality of the voters' approval of  
2 Measure ULA against the challengers' claims.

3 Meanwhile, Newcastle delayed taking action in this federal case. Newcastle  
4 did not serve the City until February 22, 2023; did not commence publication of  
5 summons until on or after February 24, 2023; and stated in the summons that  
6 March 27, 2023 was the deadline for interested persons to file an answer, which is  
7 well after the deadlines stated in HJTA's and Newcastle's state court summonses.<sup>9</sup>

8 Thus, the Superior Court was the first to acquire jurisdiction over Measure  
9 ULA, the City, and any interested persons. Accordingly, the first factor is  
10 dispositive. Newcastle may not proceed with their duplicative federal court action  
11 since the Superior Court was the first to acquire jurisdiction. *Chapman*, 651 F.3d at  
12 1044, n. 1; *State Eng'r of State of Nevada*, 339 F.3d at 808; *40235 Washington St.*  
13 *Corp.*, 976 F.2d at 589; *Montanore*, 867 F.3d at 1166.

14 In addition, Newcastle's filing of duplicative complaints demonstrates that  
15 they are forum shopping. When combined with the first factor, dismissal, rather  
16 than merely a stay, is warranted. *See Am. Int'l Underwriters*, 843 F.2d at 1259.<sup>10</sup>

17 Other factors support this conclusion.

18 Under the third factor, not exercising jurisdiction will avoid piecemeal  
19 litigation and prevent potentially inconsistent rulings. *R.R. St. & Co. Inc. v. Transp.*  
20 *Ins. Co.*, 656 F.3d 966, 980 (9th Cir. 2011). The fourth factor – which court first  
21 obtained jurisdiction – is already resolved in support of the City's motion.

22 Under the fifth factor, the primary issue in these actions is whether Article  
23 XIII A, section 4 of the California Constitution (added by Proposition 13 in 1979)

24  
25 <sup>9</sup> As discussed in Section III-C below, Newcastle also did not satisfy the  
publication-of-summons requirements of the Validation Proceeding Statutes.

26 <sup>10</sup> Substantial similarity is the standard, not "exact parallelism." *Nakash v.*  
27 *Marciano*, 882 F.2d 1411, 1416 (9th Cir. 1989). Newcastle's state and federal  
28 complaints are substantially similar (they are essentially identical, except that  
Newcastle added a Commerce Clause claim to the FAC filed herein).

1 proscribed the voters' authority to adopt Measure ULA by citizens' initiative, or  
 2 whether the voters properly exercised their inherent, reserved initiative authority  
 3 (enshrined in the California Constitution since 1911), as the California Court of  
 4 Appeal, First District, has twice ruled.<sup>11</sup> Given this primary, non-routine issue of  
 5 California constitutional law, abstention is warranted. *Montanore*, 867 F.3d at  
 6 1168.

7 Finally, under the sixth factor, the California courts are capable of addressing  
 8 Newcastle's federal claims. *Id.* at 1169; *R.R. St. & Co.*, 656 F.3d at 981; *see also*  
 9 Section III-A-2 above.

10 Accordingly, dismissal is warranted under the *Colorado River* Doctrine (or,  
 11 alternatively, a stay).

12 **C. In addition, this Court Should Dismiss Under the Validation Proceeding**  
 13 **Statutes.**

14 **1. Newcastle Was Obligated to Timely Publish Summons, file Proof**  
 15 **of Publication, and Secure Jurisdiction.**

16 The Validation Proceeding Statutes "apply to 'any matter which under any  
 17 other law is authorized to be determined pursuant to this chapter.'" *Plan. &*  
 18 *Conservation League v. Dep't of Water Res.*, 17 Cal.4th 264, 269 (quoting Cal. Civ.  
 19 Proc. Code § 860).

20 Here, California Government Code section 50077.5(a) provides that any  
 21 challenge to a voter-approved ordinance imposing a special tax shall be brought  
 22 pursuant to the Validating Proceeding Statutes.<sup>12</sup> Newcastle has so acknowledged,

23 <sup>11</sup> *Howard Jarvis Taxpayers Ass'n v. City & Cnty. of San Francisco*, 60  
 24 Cal.App.5th 227, (2021), *as modified on denial of reh'g* (Feb. 22, 2021); *City &*  
 25 *Cnty. of San Francisco v. All Persons Interested in Matter of Proposition C*, 51  
 26 Cal.App.5th 703 (2020).

27 <sup>12</sup> Subdivision (a) of Section 80077.5 states in pertinent part: "Chapter 9  
 28 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure  
 applies to any judicial action or proceeding to validate, attack, review, set aside,  
 void, or annul an ordinance or resolution approved by the voters pursuant to this  
 article on or after January 1, 1986, that levies a special tax, or modifies or amends  
 an existing ordinance or resolution that levies a special tax."



1 by alleging that the Validation Proceeding Statutes apply (*e.g.*, Dkt. 1, ¶¶ 8, 15,  
2 239, and Dkt. 14, ¶¶ 6, 13, 265), and in their *ex parte* application for publication of  
3 summons. Dkt. 22, p. 2:15-18 (“This application is made on the grounds that, as  
4 this suit includes a ‘reverse validation’ action, Cal. Government Code section  
5 50077.5 requires Plaintiffs’ lawsuit to be brought as a reverse validation action  
6 against ‘all persons’ pursuant to Cal. Code Civ. Proc. section 860 et seq.”).

7 The plaintiff must publish the summons pursuant to California Government  
8 Code section 6063. Cal. Civ. Proc. Code §§ 861, 861.1, and 863. Government  
9 Code section 6063 requires the summons to be published “once a week for three  
10 successive weeks.” The published summons must state the date by which answers  
11 must be filed. Cal. Civ. Proc. Code § 861. 861.1. Pursuant to these statutes, the  
12 published date by which answers are due must be at least 31 days after the first  
13 publication (minimum of 21 days of published notice plus 10 days to respond after  
14 completion of publication period). *Katz v. Campbell Union High Sch. Dist.*, 144  
15 Cal.App.4th 1024, 1030 (2006).

16 A challenger’s “[f]ailure to publish a summons in accordance with the  
17 statutory requirements ... deprives the court of the power to rule upon the matter.”  
18 *Id.* at 1032. If the challenger “fails to complete the publication ... and to file proof  
19 thereof in the action within 60 days from the filing of his complaint, the action shall  
20 be forthwith dismissed on the motion of the public agency unless good cause for  
21 such failure is shown by the interested person.” *Id.* at 1028 (2006) (quoting Cal.  
22 Civ. Proc. Code § 863).

## 23 **2. Newcastle Did Not Timely Act to Secure Jurisdiction in this Court.**

24 Here, 35 days after filing suit, Newcastle belatedly applied *ex parte* for an  
25 order to publish summons. Newcastle first published the summons on or after  
26 February 24, 2023, which summons specifies March 27, 2023 as the deadline for  
27 interested persons to answer. RJN, Exh. 8.

28 Newcastle did not file proof of publication within 60 days of filing suit (that

1 is, by March 7), as required by Cal. Civ. Proc. Code § 863. By delaying any effort  
2 to publish the summons for over one month, Newcastle unduly caused this failure  
3 to satisfy the publication-of-summon requirements.

4 As a consequence, dismissal is warranted. *Katz*, 144 Cal.App.4th at 1030,  
5 1036 (trial court properly dismissed reverse validation because plaintiff did not  
6 properly specify date for interested persons to file answer, and neither plaintiff’s  
7 mistake of law nor lack of prejudice constituted good cause to relieve plaintiff of  
8 mistake); *Protect Agric. Land v. Stanislaus Cnty. Loc. Agency Formation Com.*,  
9 223 Cal.App.4th 550, 561-63 (2014) (plaintiff’s failure to publish summons  
10 pursuant to Validation Proceeding Statutes based on mistake of law did not provide  
11 good cause to relieve them of duty; dismissal affirmed).

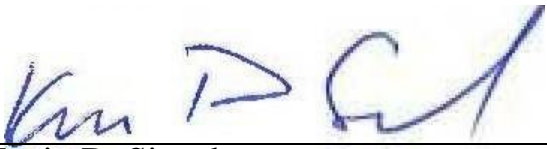
12 **IV. CONCLUSION**

13 For the foregoing reasons, this Court should grant the City’s motion and  
14 dismiss this case (or, alternatively, to stay).

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: March 15, 2023

BURKE, WILLIAMS & SORENSEN, LLP

By: 

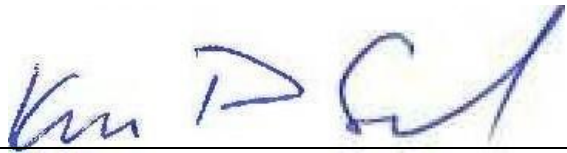
Kevin D. Siegel  
J. Leah Castella  
Tamar M. Burke  
Eileen L. Ollivier  
Attorneys for Defendant  
CITY OF LOS ANGELES



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**LOCAL RULE 11-6.2 CERTIFICATE OF COMPLIANCE**

The undersigned, counsel of record for Defendant City of Los Angeles, certifies that this brief contains 5,1561 words, which complies with the word limit of L.R. 11-6.1.



---

Kevin D. Siegel

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

I, Paola Mendez-Ruiz, declare:

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1 California Street, Suite 3050, San Francisco, California 94111-5432. On March 15, 2022, I served a copy of the within document(s):

***DEFENDANT CITY OF LOS ANGELES’ MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF RULE 12(B)(1) MOTION TO DISMISS FIRST AMENDED COMPLAINT OR, ALTERNATIVELY, TO STAY***

by transmitting via my electronic service address (pmruiz@bwsllaw.com) the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

Keith M. Fromm  
LAW OFFICES OF KEITH M. FROMM  
907 Westwood Blvd., Suite 442  
Los Angeles, CA 90024  
Tel: (310) 500-9960  
E-mail: [keithfromm@aol.com](mailto:keithfromm@aol.com)

*Attorneys for Plaintiffs and  
Petitioners* Newcastle Courtyards,  
LLC, and Jonathan Benabou, as  
Trustee on behalf of The Mani  
Benabou Family Trust

Jeffrey Lee Costell  
Joshua S. Stambaugh  
Sara M. McDuffie  
COSTELL & ADELSON LAW CORP.  
100 Wilshire Blvd., Suite 700  
Santa Monica, CA 90401  
Tel: (310) 458-5959  
E-mail: [jlcostell@costell-law.com](mailto:jlcostell@costell-law.com);  
[jstambaugh@costell-law.com](mailto:jstambaugh@costell-law.com);  
[smcduffie@costell-law.com](mailto:smcduffie@costell-law.com)

1 Nicholas R. Colletti  
2 COLLINS & COLLINS LLP  
3 2011 Palomar Airport Road, Suite 207  
4 Carlsbad, CA 92011  
5 Tel: 760-274-2110  
6 Fax: 760-274-2111  
7 E-mail: [ncolletti@ccmslaw.com](mailto:ncolletti@ccmslaw.com)

*Attorneys for Defendants and  
Respondents COUNTY OF LOS  
ANGELES*

8 Brian K. Stewart  
9 COLLINS & COLLINS LLP  
10 790 E Colorado Blvd, 6th Floor  
11 Pasadena, CA 91101  
12 Tel: 626-243-1100  
13 Fax: 626-243-1111  
14 E-Mail: [bstewart@ccllplaw.com](mailto:bstewart@ccllplaw.com)

15 Morgan Chu  
16 Connor He-Schaefer  
17 Emily Grant  
18 Jared Looper  
19 IRELL & MANELLA, LLP  
20 1800 Avenue of the Stars, Suite 900  
21 Los Angeles, California 90067  
22 T: (310) 203-7000  
23 Email: [mchu@irell.com](mailto:mchu@irell.com); [che-](mailto:che-schaefer@irell.com)  
24 [schaefer@irell.com](mailto:schaefer@irell.com)

*Attorney for Defendants*  
SOUTHERN CALIFORNIA  
ASSOCIATION OF NON-PROFIT  
HOUSING, INC., KOREAN  
IMMIGRANT WORKERS  
ADVOCATES OF SOUTHERN  
CALIFORNIA DBA  
KOREATOWN IMMIGRANT  
WORKERS ALLIANCE, AND  
SERVICE EMPLOYEES  
INTERNATIONAL UNION  
LOCAL 2015

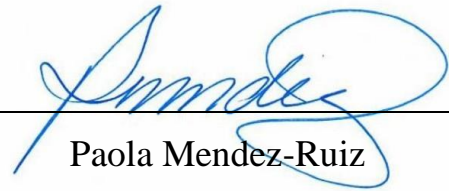
25 Gregory Bonett  
26 Faizah Malik  
27 Brandon Payette  
28 Kathryn Eidmann  
PUBLIC COUNSEL  
610 S. Ardmore Avenue  
Los Angeles, California 90005  
T: (213) 385-2977  
F: (213) 385-9089  
Email: [gbonett@publiccounsel.org](mailto:gbonett@publiccounsel.org);  
[fmalik@publiccounsel.org](mailto:fmalik@publiccounsel.org);  
[bpayette@publiccounsel.org](mailto:bpayette@publiccounsel.org);  
[keidmann@publiccounsel.org](mailto:keidmann@publiccounsel.org)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on March 15, 2022, at San Francisco, California.



---

Paola Mendez-Ruiz