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Superior Court Of California
County Of Riverside
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Society.

12
13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 IN AND FOR THE COUNTY OF RIVERSIDE

15 CENTER FOR COMMUNITY ACTION AND
16 ENVIRONMENTAL JUSTICE, CENTER FOR
17 BIOLOGICAL DIVERSITY, COALITION FOR
18 CLEAN AIR, SIERRA CLUB, SAN BERNADINO
19 VALLEY AUDUBON SOCIETY,

Petitioners/Plaintiffs,

v.

20 CITY OF MORENO VALLEY, a municipal
21 corporation; MORENO VALLEY COMMUNITY
22 SERVICES DISTRICT, a dependent special district
23 of the City of Moreno Valley; and DOES 1-20
24 inclusive,

Respondents/Defendants,

25 HIGHLAND FAIRVIEW; HIGHLAND
26 FAIRVIEW OPERATING COMPANY, a
27 Delaware general partnership; HF PROPERTIES, a
28 California general partnership; SUNNYMEAD
PROPERTIES, a Delaware general partnership;
13451 THEODORE LLC, a California limited
liability company; and DOES 1 through 20,
inclusive,

Real Parties in Interest.

Case No: **RIC1511327**

(California Environmental Quality Act)

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

[Code Civ. Proc., §§ 1085, 1094.5; CEQA
(Pub. Resources Code, §§ 21000 et seq.)]

Date: **11/23/15**
Time: **8:30 AM**
Dept: **05**
Judge: **RIEMER**

Action Filed: September 22, 2015
Trial Date: None set

1 **I. INTRODUCTION**

2 1. On August 19, 2015, the City Council for the City of Moreno Valley (“City”) approved the
3 World Logistics Center Project (“Project”) – a 2,610 acre, 40+ million square foot warehouse
4 complex that would be larger than New York’s Central Park and may be the largest development of
5 its kind in the world. On the same day, the City also approved a final environmental impact report
6 (“Final EIR”) that purports to, but fails to analyze the widespread impacts of the Project’s
7 construction and operation.

8 2. Due to the size of the Project, the City’s action to approve the World Logistics Center
9 commits approximately 10% of the City’s total land mass to be developed and used solely for
10 warehouses and distribution centers indefinitely. Notably, this is not the only major warehouse and
11 distribution center that has been proposed in the City. The City is already home to one of the largest
12 shipment and distribution centers in the Inland Empire, which is also owned and operated by the
13 principal Project applicant, Highland Fairview. If the Project is constructed and operated as planned,
14 residents of the City and its surrounding areas will see a future that is dominated by large-scale
15 massive warehouse developments, increased truck shipments and traffic, and even worse air quality
16 than they already experience.

17 3. Several governmental agencies, organizations, individuals and even the County of Riverside
18 expressed deep concerns about the Project and the associated environmental review conducted by
19 the City throughout the City’s decision making process. The South Coast Air Quality Management
20 District (“SCAQMD”) expressed significant concerns about the “unprecedented scale” of the
21 Project. These concerns were also echoed by the California Air Resources Board (“ARB”), which
22 was just as concerned about the implications of the Project’s dramatic increase in heavy-duty truck
23 traffic, and the resulting public health impacts that could not be addressed by the City’s currently
24 proposed mitigation measures, set forth in the Final EIR.

25 4. As noted in the comments submitted by these individuals and entities as well as others, there
26 are myriad concerns stemming from the Project’s environmental and public health impacts. The size
27 of the Project alone, with its estimated 14,000 trucks trips per day, will substantially add to the
28 existing presence of ozone, ozone precursors, and other contaminants, such as carcinogenic diesel

1 particulate matter, in an air basin that already suffers from some of the worst air quality in the nation.
2 This additional air pollution will only exacerbate the serious direct health impacts already
3 experienced by nearby residents. In addition, the Project will contribute unprecedented levels of
4 greenhouse gas (“GHG”) emissions that will add to, rather than reduce climate change impacts. As a
5 result, the Project directly conflicts with existing State GHG reduction goals. The Project will also
6 impose severe and detrimental impacts to a variety of imperiled species, habitats and other biological
7 resources. Yet, the Project’s environmental review document and the City’s environmental review
8 process have failed to adequately address these impacts.

9 5. The City has improperly analyzed this Project in a programmatic EIR, rather than in a
10 project-level EIR – a mistake that not only misconstrues the nature of the approvals and actions
11 before the City with regard to the Project, but which also precludes a necessary assessment and
12 analysis of the Project’s required mitigation. The City has also failed to require re-circulation of the
13 Final EIR in light of critical information that must be analyzed in the document, and for which the
14 Public must be allowed the opportunity to provide comments. These and many additional fatal flaws
15 in the Final EIR’s analyses have led Petitioners and their organizational members to become deeply
16 concerned by the City’s decision to approve this Project. Given the scope and significant impacts of
17 the Project, it is critical that the City comply with the requirements of the California Environmental
18 Quality Act (“CEQA”) before moving forward on a project of this scale. To date, the City has failed
19 to do so.

20 6. As a result, Petitioners bring this action on their behalf, on behalf of their members, the
21 general public, and in the public interest, to compel the City to adhere to CEQA’s critical
22 environmental review and mitigation requirements designed to maintain a high-quality, healthy
23 environment for all Californians.

24 **II. PARTIES**

25 7. Petitioner CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE
26 (“CCA EJ”) is a membership-based California non-profit environmental health and justice
27 organization with its primary membership in and around Riverside County. CCA EJ’s mission is to
28 bring people together to improve their social and natural environment, and to build community

1 power in order to create safer, healthier, toxic free places to live, work, learn and play in and around
2 the counties of Riverside and San Bernardino. CCAEJ has its physical offices in Jurupa Valley and
3 organizes to build leadership for community action in Jurupa Valley, Mira Loma, in the City and the
4 City of Riverside, as well as other cities throughout the counties of Riverside and San Bernardino.
5 CCAEJ has identified the City as a “community at risk” for various environmental injustices
6 including bearing a disproportionate share of the impacts from high polluting industries, heavy-duty
7 diesel truck and other mobile source emissions, and suffering other disparities created by zoning and
8 irresponsible land use planning. Accordingly, CCAEJ, together with co-petitioners to this action and
9 other environmental groups, filed extensive comments that are part of the administrative record for
10 the City’s approval of the Project and Final EIR. CCAEJ’s members are extremely concerned that
11 the Project will detrimentally impact their health and wellbeing, and the health and wellbeing of their
12 children, of their community, and the environment, and that it will detrimentally impact the area’s
13 surrounding resources. Most of CCAEJ’s members who reside in and around Riverside County and
14 around the proposed site for the Project already suffer a disproportionate burden from existing
15 stationary and mobile sources of pollution, including significant air pollution from, *inter alia*, the
16 movement of goods throughout region to existing warehouses and other large-scale storage and
17 distribution centers.

18 8. Petitioner CENTER FOR BIOLOGICAL DIVERSITY (the “Center”) is a non-profit
19 corporation with offices in San Francisco, Los Angeles, and elsewhere throughout California and the
20 United States. The Center is actively involved in environmental protection issues throughout
21 California and North America and has over 50,000 members, including many throughout California
22 and in Riverside County. The Center’s mission includes protecting and restoring habitat and
23 populations of imperiled species, reducing GHG pollution to preserve a safe climate, and protecting
24 air quality, water quality, and public health. The Center’s members and staff include individuals
25 who regularly use and intend to continue to use the areas in Riverside County and elsewhere affected
26 by the Project, including numerous members who are particularly interested in protecting the native,
27 endangered, imperiled, and sensitive species and habitats found in the San Jacinto Wildlife Area
28 (“SJWA”), who will be detrimentally impacted by the construction and operation of the Project. As

1 such, the Center has submitted extensive comments to the City, throughout its decision making
2 process regarding the Project, which are now part of the administrative record of the City's decision
3 to approve the Project and its Final EIR.

4 9. Petitioner COALITION FOR CLEAN AIR ("CCA") is a California non profit organization
5 that is dedicated to restoring clean healthy air to California by advocating for effective public policy
6 and practical business solutions. For the past 44 years CCA has made significant improvements to
7 California's air by advocating for innovative policy solutions in through both state and federal
8 legislation; encouraging the early adoption of new technologies; advising businesses on regulatory
9 compliance and clean air practices; and has empowered its allies with technical and policy expertise
10 to educate decision-makers and the public on air pollution solutions. CCA has offices in Los
11 Angeles and Sacramento, and has a direct interest in protecting and improving the quality of the air
12 throughout Southern California and throughout the State. As such, CCA submitted comments to the
13 City, during its decision making process regarding the Project, which are now part of the
14 administrative record of the City's decision to approve the Project and its Final EIR.

15 10. Petitioner SIERRA CLUB is a national nonprofit organization of approximately 600,000
16 members. Sierra Club is dedicated to exploring, enjoying, and protecting the wild places of the
17 earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to
18 educating and encouraging humanity to protect and restore the quality of the natural and human
19 environment; and to using all lawful means to carry out these objectives. Sierra Club's particular
20 interest in this case and the issues that this Project approval concerns stem from the Sierra Club's
21 local San Gorgonio Chapter's interests in preserving the native, endangered, imperiled and sensitive
22 species and wildlife habitats of the SJWA; decreasing rather than increasing heavy-duty and
23 medium-duty truck traffic in an already highly overburdened air basin; and ensuring that good,
24 livable and healthy jobs are brought to the area. The members of the San Gorgonio Chapter live,
25 work, and recreate in an around the areas that will be directly affected by the construction and
26 operation of the Project. Sierra Club submitted extensive comments to the City throughout its
27 environmental review process for the Project, which are part of the City's record of its decision to
28 approve the Project and its Final EIR.

1 11. Petitioner SAN BERNARDINO VALLEY AUDUBON SOCIETY (“SBVAS”) is a local
2 chapter of the National Audubon Society, a non-profit corporation that focuses on inspiring and
3 mobilizing people nationwide to protect hundreds of bird species and their habitats through
4 conservation, education and advocacy efforts. Founded in 1948, the SBVAS chapter area covers
5 almost all of Riverside and San Bernardino counties and includes the Project site. The SBVAS
6 chapter has approximately 2,000 members, about half of whom live in Riverside County, and whom
7 regularly engage in the bird watching, conservation, education and advocacy activities to protect bird
8 species in and around the area where the Project construction and operation will take place. The
9 SBVAS’ mission extends beyond the preservation of bird species and is to preserve imperiled and
10 sensitive habitats throughout the area for all wildlife, and to maintain the quality of life in the Inland
11 Empire. As such, the SBVAS chapter is particularly concerned with the impacts that the
12 construction and operation of the Project will have on various species including but not limited to
13 bird species in the SJWA, in and around the City and throughout Riverside and San Bernardino
14 counties.

15 12. By this action, Petitioners seek to protect the health, welfare, and economic interests of their
16 members and the general public and to enforce the City’s duties under CEQA. Petitioners’ members
17 and staff have an interest in their health and well-being, in the health and well-being of others,
18 including the residents of the City and its surrounding areas in Riverside County and in the region.
19 Petitioners also have a strong interest in conserving and protecting the environment, in protecting the
20 aesthetic and ecological integrity of the areas surrounding the Project area, and have economic
21 interests in Riverside County. Petitioners’ staff and members who live and work near the Project
22 also have a right to and a beneficial interest in the City’s compliance with CEQA. These interests
23 have been, and continue to be, threatened by the City’s decision to certify the Final EIR and approve
24 the Project in violation of CEQA. Unless the relief requested in this case is granted, Petitioners’
25 staff and members will continue to be adversely affected and irreparably injured by the City’s failure
26 to comply with CEQA.

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1 13. Respondent CITY OF MORENO VALLEY is a municipally funded, general law City,
2 incorporated, organized and existing under the laws of the state of California since the year 1984,
3 with the capacity to sue and be sued.

4 14. Respondent CITY OF MORENO VALLEY CITY COUNCIL is the City's current 5-member
5 council.

6 15. As referred to herein, the City consists of all councils including the current five-member City
7 Council, boards, commissions and departments including the current Planning and/or Land Use
8 Department and/or the City's Planning Commission.

9 16. The City is the "lead agency" as the term is defined by CEQA, and is therefore, charged with
10 principal responsibility for carrying out or approving the Project, and for evaluating the Project's
11 environmental impacts pursuant to CEQA. (Pub. Res. Code § 21067.)

12 17. The City approved the Project and the EIR at issue in this case, and based on information and
13 belief authorized and filed or caused to be filed at least three Notices of Determination certifying the
14 EIR and approving a Statement of Overriding Considerations, the last of which was the only relevant
15 Notice of Determination for statute of limitations purposes and was posted by the County of
16 Riverside's County Clerk on August 26, 2015.

17 18. Based on information and belief, the City has also executed, approved and is a party to a
18 development agreement with Real Parties in Interest, which specifically sets forth Project-related
19 construction and operation details concerning, for example, grading and building permits, *inter alia*.

20 19. Based on information and belief the City has also issued and/or approved land use changes
21 including but not limited to General and Specific Plan amendments; it has executed and/or approved
22 pre-annexation zoning changes for land that has not yet been acquired by the project applicant but
23 that is contained within the project area, and falls within the City's jurisdiction; and it has adopted or
24 approved a tentative parcel map to be governed by both the Specific Plan and the City's
25 development agreement for the purpose of financing the Project's approved activities.

26 20. Petitioners are also informed and believe and on that basis allege that the COMMUNITY
27 SERVICES DISTRICT ("CSD") is a governmental body within the City, established pursuant to the
28 Community Services Law (Cal Gov. Code section 6100 et seq.). CSD is a dependent special district

1 of the City and the City's five-member City Council serves as its Board of Directors. CSD is
2 responsible for setting forth certain funding mechanisms and services within the territory covered by
3 the Project and subject to Project related approvals within the territory and jurisdiction of the City.

4 21. Petitioners are informed and on that basis believe that CSD's staff, contractors and
5 consultants working under its control and direction approved a resolution, which was supported by
6 the Final EIR's analysis furthering the Project.

7 22. Petitioners are informed and believe on that basis allege that HIGHLAND FAIREVIEW is a
8 Real Party in Interest in so far as it is the entity named and thereby identified on the City's public
9 notice documents relating to the Project including its August 26, 2015 Notice of Determination,
10 pursuant to Public Resources Code section 21167.6.5.

11 23. Petitioners are also informed and on that basis believe that HIGHLAND FAIRVIEW
12 OPERATING COMPANY, a Delaware general partnership, and HF PROPERTIES, a Delaware
13 general partnership ("hereinafter referred to collectively, with HIGHLAND FAIRVIEW as
14 "Highland Fairview") are also Real Parties in Interest insofar as the two are listed as owners and
15 developers of the property subject to the City's actions pursuant to its approval of the Project and the
16 Final EIR, including the City's execution of the development agreement required by the Project.

17 24. Petitioners are further informed and on that basis believe that SUNNYMEAD PROPERTIES,
18 a Delaware general partnership is also a Real Party in Interest insofar as it is listed as an owner and
19 developer of the property subject to the City's actions pursuant to its Project approvals and Project
20 related actions; and that 13451 THEODORE LLC is similarly a Real Party in Interest insofar as it is
21 also listed as an owner and developer of the property subject to the City's actions pursuant to the
22 Project, including the City's execution of the development agreement required for the Project.

23 25. Petitioners do not know the true names of Does 1 through 20 inclusive, and therefore, name
24 them by such fictitious names. Petitioners will seek leave from the Court to amend this petition to
25 reflect the true names and capacities of Does 1 through 20 inclusive once they have been
26 ascertained.

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1 **III. JURISDICTION AND VENUE**

2 26. Venue is proper in the Superior Court of California, County of Riverside under Code of Civil
3 Procedure section 395 because the City, its City Council and the proposed project are currently
4 located, or will be located, in Riverside County.

5 27. Venue is also proper in the Court pursuant to Code of Civil Procedure sections 393, 394.

6 28. The action is filed in the Riverside Historic Courthouse, 4050 Main Street, Riverside, 92501,
7 in accordance with the Standing Administrative Order – Where to File Documents – dated January 5,
8 2015, which requires all CEQA Petitions for Writ of Mandate to be filed in this Courthouse.

9 29. The court has jurisdiction over this action pursuant to Public Resources Code section 21168
10 and Code of Civil Procedure section 1094.5 (or in the alternative, pursuant to Public Resources Code
11 section 21168.5 and California Code of Civil Procedure section 1085).

12 30. This petition has been filed within 30 days of the filing and posting of the City’s last Notice
13 of Determination approving the Project and the Final EIR, which was posted by the City on its
14 website, in accordance with Public Resources Code section 21167(c) and Cal. Code Regs., tit. 14
15 (“CEQA Guidelines”) section 15112(c)(1).

16 31. Petitioners have complied with Public Resources Code section 21167.5 by prior service of a
17 letter upon the City indicating their intent to file this petition. (Attachment A.)

18 32. Petitioners have performed any and all conditions precedent to filing this instant action and
19 have exhausted any and all available administrative remedies to the extent required by law.

20 33. Petitioners do not have a plain, speedy, or adequate remedy at law because Petitioners and
21 their members will be irreparably harmed by the City’s failure to comply with CEQA’s
22 environmental review and mitigation requirements in approving the Final EIR for the Project and by
23 the ensuing environmental and public health consequences that will be caused by the construction
24 and operation of the Project, as approved.

25 **IV. STATEMENT OF FACTS**

26 **A. Community and Environmental Setting**

27 34. Moreno Valley spans a total of 51.5 square miles of the Western portion of Riverside
28 County, located in the Inland Empire. It is surrounded by the cities of Riverside and Perris, the

1 March Air Reserve Base, Lake Perris and Lake Perris State Park, the San Timoteo Badlands, and the
2 SJWA – an approximately 19,000-acre state conservation area, a portion of which shares an
3 approximately 2 mile border with the Project.

4 35. The City has a population of approximately 196,495 residents, a small fraction of the over 2
5 million people living in Riverside County who will be subject to the immediate and direct
6 environmental impacts of the Project. Not surprisingly, the City of Riverside and other surrounding
7 communities have objected to and expressed concerns about the Project but to no avail.¹

8 36. In the past several years, Riverside County and specifically the portion of the County where
9 the City is located have seen a dramatic influx of large-scale warehouse development, impacting the
10 health of its residents, and the environment.

11 37. The City is already home to one of the largest warehouses in the region – a 1.82 million
12 square foot distribution center – and, in addition to the Project, will likely see at least two other
13 large-scale warehouse developments in the very near future.

14 38. Indeed, there are two other warehouse development projects that are either currently under
15 review by the City, or which have already been approved by the City. Each of these two warehouses
16 will be approximately 1.3-1.4 million square feet in size, making the Project approximately 40 times
17 larger than other, similar developments – a fact that only highlights the Project’s potential to
18 dramatically change the environmental and demographic landscape of the area.

19 39. Notably, Riverside County and the City are over 80 miles away from the nearest ports, yet
20 much of the area’s recent development has been geared towards receiving goods from those ports,
21 for storage, sale and distribution.

22 40. As a result of increased and continued industrial growth throughout the Inland Empire,
23 including a growing concentration of storage and distribution centers throughout Riverside County
24 and in the City, vehicle and truck traffic throughout the area has increased, causing severe traffic
25 issues on Riverside County roads, and along the region’s interstate highways.

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28 ¹ See City of Moreno Valley demographic and historical data, available at: <http://www.moreno-valley.ca.us/community/about.shtml>

1 41. Indeed, the rapid increase in the construction and operation of warehouses, storage and
2 distribution centers in the area has been recognized as an environmental, public health and policy
3 concern by California government agencies and the state’s executive officers, including the Attorney
4 General, ARB, and the California Department of Transportation. These state officers and agencies
5 are especially concerned with the lack of environmental review conducted to analyze the
6 environmental consequences of large-scale commercial sales, storage and distribution centers like
7 the Project, and the lack of consideration for the traffic, air pollution and public health impacts these
8 projects bring with them.

9 42. The part of Riverside County where the City is located falls under the jurisdiction of the
10 SCAQMD – the regional air pollution control agency with authority to regulate the “critical air
11 pollution problems” throughout the South Coast Air Basin (“Basin”), which includes all of Orange
12 County and the non-desert portions of Los Angeles, Riverside and San Bernardino counties. (Health
13 & Safety Code § 40402(b).)

14 43. SCAQMD is specifically responsible for clean air planning in and throughout the Basin,
15 pursuant to Clean Air Act. The air quality planning SCAQMD conducts is critical to meeting
16 national air pollution control standards set forth under the Clean Air Act, including National
17 Ambient Air Quality Standards (“NAAQS”) aimed at reducing the presence of contaminants of
18 concern that severely impact public health and the environment, and which contribute to climate
19 change. These contaminants include but are not limited to, nitrogen oxide (“NOx”), particulate
20 matter (“PM”), which produce soot, ground-level ozone (or “smog”) and ozone precursors that are
21 highly prevalent throughout the Basin, and specifically in the Western portion of Riverside County
22 where the City is, and where the Project will be located.

23 44. The Basin experiences complex and significant air quality issues caused by an extremely
24 high concentration of a variety of industrial activities and on-road vehicle traffic including diesel
25 emissions from heavy-duty truck traffic. As a result, the Basin exceeds federal public health
26 standards for both ozone and ozone precursors, and PM, resulting in its residents experiencing some
27 of the worst air pollution in the nation.

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1 45. The Western portion of Riverside and San Bernardino counties and the area specifically
2 surrounding the City have been identified as air pollution hot spots by air quality regulators
3 including SCAQMD for decades. This area suffers some of the worst PM concentrations in the
4 nation as a result of pollution blowing in from both Los Angeles and Orange counties, combined
5 with high concentrations of air pollution from other sources farther east that become trapped by
6 surrounding mountain ranges. The area has also experienced worsening air quality as a result of
7 increased diesel pollution from trucks used to transport goods into the region's growing warehouse
8 and other storage and distribution facilities. Notably, diesel exhaust, or diesel particulate matter
9 ("DPM"), which is highly prevalent throughout the Basin and throughout Riverside and San
10 Bernardino counties, contains dangerous levels of PM, carbon, soot and other harmful and
11 carcinogenic contaminants that can cause a host of short term acute exposure impacts and can cause
12 respiratory diseases including asthma, and lung cancer.

13 46. CalEnviroScreen, the California Environmental Protection Agency's health screening tool,
14 identifies the City and its surrounding area as having some of the State's worst concentrations of
15 ozone and PM, traffic density, and diesel truck pollution. Residents in the area suffer from high
16 rates of asthma (*e.g.* 21.4% of children and 13.8% of adults in San Bernardino County), as well as
17 other respiratory and pollution related health conditions. This includes residents in areas like Jurupa
18 Valley that are located along commonly used truck routes between the Ports of Los Angeles and
19 Long Beach and Riverside County.

20 47. Based on its 24-hour PM monitoring conducted at the Mira Loma monitor, SCAQMD has in
21 fact noted that the Basin will not attain the NAAQS for fine PM or PM 2.5 by the Basin's statutory
22 deadline set for the year 2015. The Mira Loma monitoring station is a station located along SR 60,
23 in close proximity to numerous residents.

24 48. ARB is the state agency charged with monitoring the regulatory activity of California's 35
25 local air districts including SCAQMD. ARB has determined that diesel exhaust is responsible for
26 over 70% of the health risks associated with air pollution statewide, and SCAQMD has determined
27 that DPM accounts for over 68% of the health risks associated with breathing air in and around the
28 Basin.

1 49. Consistent and continued exposure to DPM is, therefore, a serious concern for Basin
2 residents and particularly for those residing along heavy-duty truck thoroughfares. The Interstate
3 highway 15 (“I-15”) and state route 60 (“SR 60”) are just some of the thoroughfares that especially
4 impact Riverside County, City residents and residents of the areas surrounding the City. Other
5 thoroughfares such as the Interstate highway 710 (“I-710”) and highways 91 and 22, also impact
6 numerous residents living closer to the ports. These residents suffer impacts from heavy pollution
7 caused by ships and port-based pollution sources in addition to increased truck traffic to ship goods
8 out of the port area, and towards storage and distribution centers located at far distances. Residents
9 who live along these and other thoroughfares experience some of the region’s most concentrated
10 vehicle traffic and breathe some its most polluted air. Most of these residents also lack the financial
11 means to address the health problems caused by these exposures. Children, who are among the most
12 vulnerable residents, are not only subject to these avoidable health impacts, but they also experience
13 some of the highest rates of school absences, which means lost work days for parents and caregivers,
14 all of which only further impacts families and these communities.

15 50. In addition to the region’s grave DPM, ozone and other PM emission concentrations, the
16 Basin and the western portion of Riverside and San Bernardino counties, like the rest of the state, are
17 experiencing increased impacts from climate change including decreasing water supply and rainfall
18 as well as increasing temperatures, which often exacerbate air pollution concentrations.

19 51. GHG emissions contribute to local, regional and global climate change impacts and, as such,
20 they have been the subject of increased statewide regulatory efforts.

21 52. ARB, SCAQMD and the Governor’s office have all adopted rigorous goals and standards to
22 decrease the state’s GHG emissions, and to decrease the impacts from climate change. Some of these
23 targets have been codified into state law, and others have been declared by executive order, or by
24 agency action.² The crux of many of the State’s most recent efforts has been to actively limit GHG

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26 ² See e.g., Health and Safety Code § 38500 *et seq.*, the California Global Warming Solutions Act of 2006 [setting forth a
27 statewide requirement to reduce GHG emissions to 1990 levels by 2020 — a reduction of approximately 15 percent
28 below emissions expected under a “business as usual” scenario – and requiring ARB to adopt regulations to achieve the
maximum technologically feasible and cost-effective GHG emission reductions; to mitigate risks associated with climate
change; improve energy efficiency; and expand the use of renewable energy resources, cleaner transportation, and waste
reduction practices].

1 emissions as government agencies have recognized that a pure “business as usual” approach will
2 only exacerbate and accelerate the impacts of climate change, rather help to reduce and slow its
3 negative consequences.³ In setting forth its GHG reduction efforts, the State has emphasized the
4 importance of local agency involvement, and local agency commitments to reducing GHG emissions
5 through their policy and planning processes. Continued coordination between State, regional and
6 local entities is instrumental to ensuring the efficacy of the State’s policies and to enabling the State
7 to reach its reduction targets.

8 53. In addition to impacting human health and resource availability and access over time, climate
9 change also directly impacts the environment including the presence and viability of numerous
10 biological species and their habitats throughout the State and locally, within Riverside County.
11 Many native, sensitive and imperiled species and their habitats are found in and around the City, and
12 many are located in the immediate vicinity of the Project.

13 54. The SJWA’s total 19,000 square acres is home to a number of imperiled biological species,
14 many of which are native to California. Others migrating through the Pacific Flyway – a migratory
15 bird passage that extends from the southernmost tip of South America along the Pacific Ocean, to
16 the North Slope of Alaska – also rely on the SJWA en route. 9,000 acres of the SJWA is also
17 comprised of restored wetlands, which provide critical habitats to these migratory birds as well as
18 terrestrial species that may also migrate to the area in search of limited water.

19 55. Just some of the animal and plant species that are found in the SJWA include the Burrowing
20 Owl (a species of special concern, whose viability is threatened by continued urban and sub-urban
21 development); the Tri-Colored Blackbird (a bird that has received emergency protection status in
22 2014, and whose population remains in rapid decline); the California Golden Eagle; 25 species of
23 raptors and at least 65 of the 146 species of plants and animals covered by the Western Riverside
24 County Multiple Species Habitat Conservation Plan including the Los Angeles pocket mouse (a
25 threatened and State special status species native to the San Bernardino and Riverside County areas).

26
27
28 ³ See *id.*, see also, California State Executive Order B-30-15, April 29, 2015, Governor Edmund G. Brown [increasing the state’s GHG reduction target to achieve 40% below 1990 level reductions by the year 2030].

1 The SJWA is also home to three threatened and endangered plant species such as the Spreading
2 Navarretia, Threadleaved Brodiaea, and the San Jacinto Crownscale.

3 56. A significant portion of the land found in the area immediately adjacent to the approved
4 Project is used specifically for habitat and species conservation, and is comprised of the part of the
5 SJWA and reserve lands that are governed by the Western Riverside County Multiple Species
6 Habitat Conservation Plan. In addition to conservation uses, there are a few residences and small
7 family farms in the vicinity of where the Project's 2,610 acre warehouse complex will be constructed
8 and will operate.

9 **B. The Project and Its Environmental Impacts**

10 57. The Project involves construction and operation of a 40.6 million square foot warehouse
11 complex, which, according to the EIR and other approval documents will be used to provide a major
12 logistics center to accommodate an undefined "portion" of the trade volumes at the Ports of Los
13 Angeles and Long Beach.

14 58. The total area needed to effectuate the Project's construction and operations include
15 committing almost 4,000 acres within the City to indefinite future use for logistics – receiving and
16 distributing shipments by truck, conducting sales and offering storage services – or logistics support.
17 Thus, in addition to the 40.6 million square foot or 2,610 acre warehouse envisioned by the Project,
18 the land use changes involved in the Project's approvals commits approximately 10% of the City's
19 total land mass to be developed and used solely for warehouses, distribution centers, and associated
20 facilities indefinitely.

21 59. Give the size and scope of the Project, the Project approvals that have been or will be issued
22 by the City include the following: a new Specific Plan and Specific Plan Amendment; a General
23 Plan Amendment; pre-annexation zoning changes for land that has not yet been acquired by
24 Highland Fairview but that is located within the Project area and is subject to the City's jurisdiction;
25 execution of a development agreement consistent with the construction of the Project as described in
26 its notice and environmental review documents; and adoption or approval of a tentative parcel map
27 to be governed by the Project's approvals and used for the purpose of financing the Project's
28 operations.

1 60. As proposed, the Project will also involve drastic deviations from the City's current General
2 Plan designations and goals, which include, *inter alia*, (1) properly screening manufacturing and
3 industrial land uses to support mixed-use development and to avoid increased traffic flows as well as
4 disruptive construction and operation; (2) mitigating and minimizing where necessary, increased
5 traffic, noise, light and glare caused by land use activities; and (3) requiring development along
6 scenic roadways to be visually attractive.

7 61. Because the Project involves construction and operation of a warehouse complex that is so
8 vast in size, the Project will necessarily involve single-use development throughout a vast portion of
9 the City's land; increased traffic flows and will involve disruptive construction and operation as well
10 as high levels of light, noise and glare, which will also obstruct scenic views.

11 62. Because the Project will also necessarily attract increased truck and other vehicular traffic,
12 the Project will also significantly impact the air quality in the immediate vicinity of the Project, as
13 well as throughout the City, the County and the region.

14 63. Moreover, because the Project will be located at least 80 miles away from the nearest port,
15 and because the only other point of entry for goods that appear likely to be stored at the World
16 Logistics Center is the Ontario Airport, the Project is likely to cause significant impacts along all
17 roadways, thoroughfares, highways and highway corridors linking the ports of Los Angeles and
18 Long Beach to Moreno Valley.

19 64. These issues are particularly troubling because, among other things, the City has effectively
20 tied its hands with respect to requiring necessary mitigation, now and into the future. Based on the
21 terms of the City's draft development agreement that was circulated with the Final EIR documents,
22 the City will have little, if any, discretion to consider an alternative to the project. Features such as
23 building height and size, which will theoretically be determined by the new zoning, will essentially
24 be set in stone by the development agreement, such that they cannot be changed by a new City
25 Council or by initiative. Thus, in addition to approving a Final EIR that suffers from numerous
26 deficiencies as detailed below, by signing and executing the development agreement the City will
27 give up, or has already given up any phasing control for the Project – freezing into place any
28

1 assigned mitigation, or lack thereof, including fees, and the City leaves the design of the project
2 exclusively in the hands of the developers.

3 **C. The City of Moreno Valley's Project Approval and Environmental Review Process**

4 **1. The City's Draft EIR**

5 65. On February 24, 2013, the City released a Draft EIR for a 60-day review and public comment
6 period, which closed on April 8, 2013.

7 66. Hundreds of members of the public, including Petitioners, submitted extensive comments to
8 the City regarding numerous, severe flaws contained in the Draft EIR's analyses. Such comments
9 expressed serious concerns about the Draft EIR's failure to adequately analyze or mitigate the
10 Project's significant adverse traffic impacts; its failure to adequately analyze or mitigate the
11 Project's significant and adverse impacts to air quality and human health, including the Project's
12 potentially severe DPM and GHG emissions impacts, as well as its growth inducing impacts.

13 67. Numerous public commenters, including Petitioners, also discussed at length the Draft EIR's
14 failure to adequately analyze or mitigate the Project's significant and adverse impacts on biological
15 resources including imperiled, sensitive and endangered species and habitats located in the nearby
16 SJWA. These comments specifically highlighted the Draft EIR's omission of mitigation measures
17 necessary to address the impacts that both construction and operation of the Project will have on the
18 wildlife habitats.

19 68. Commenters, including Petitioners, also submitted detailed comments regarding additional
20 legal inadequacies in the Draft EIR's analyses, including but not limited to the Draft EIR's failure to
21 provide a project-level analysis of the known Project impacts based on the specifications that would
22 be contained in the terms of the development agreement; the need for re-circulation of the EIR as a
23 result of its inadequate analyses; and the document's failure to adequately analyze a reasonable
24 range of alternatives in order to minimize the impacts from the Project's construction and operation.

25 69. These and additional comments raised during the Draft EIR comment and review period
26 were echoed and supported by dozens of other public health and environmental organizations as well
27 as government agencies such as the United States Fish and Wildlife Service, the California
28 Department of Fish and Wildlife, ARB, SCAQMD, and others.

1 **2. The City's Final EIR and Draft Statement of Overriding Consideration**

2 70. On May 1, 2015, the Final EIR was released for a 45-day comment period. At the same time,
3 the City also prepared and released for comment a draft Statement of Overriding Considerations
4 outlining the overriding economic, legal, social, technological, or other benefits of the Project that
5 allegedly outweigh the significant effects on the environment.

6 71. Given that the Final EIR failed to address the Draft EIR's deficiencies, Petitioners repeated
7 their concerns about the Final EIR's failure to, *inter alia*: adequately analyze the Project's impacts in
8 a project-level, rather than a programmatic EIR – again, in light of the project-level details contained
9 in the City's draft development agreement; its failure to adequately evaluate and mitigate the
10 Project's significant traffic, air quality, public health, and environmental impacts, with specific
11 emphasis on its failure to adequately disclose and evaluate the Project's GHG, DPM and other toxic
12 air emissions as well as its failure to adequately analyze the Project's impacts to endangered,
13 imperiled and sensitive biological species and habitats of the SJWA; its inclusion of significant new
14 information; and document's overall failure to adequately analyze a reasonable range of project
15 alternatives.

16 **i. Significant New Information and Changes**

17 72. Petitioners and other commenters, including ARB, further noted that the Final EIR's
18 inclusion of new information that was omitted from the Draft EIR or unknown at the time of its
19 publication triggered yet another reason to re-draft, re-notice and re-circulate the full Final EIR
20 pursuant to CEQA.

21 73. In particular, the new information that Petitioners and others noted in comments, was
22 included in the Final EIR but never studied, addressed, or commented on in the Draft EIR includes
23 the following:

- 24 1. A drastic increase in truck traffic, which the Final EIR's traffic analysis estimated would
25 consist of 14,000 trucks per day, many of which will be diesel trucks.
- 26 2. References to a January 2015 report regarding health risks from diesel exhaust called the
27 *Advanced Collaborative Emissions Study (ACES): Lifetime Cancer and Non-Cancer*
28 *Assessment in Rats Exposed to New-Technology Diesel Exhaust* ("HEI Study"). The Final

1 EIR relied on the HEI Study to address comments regarding the Project's health impacts
2 caused by DPM and concluded, based on the HEI study alone, that the Project's health risks
3 would be virtually eliminated by the Final EIR's proposed mitigation measures. Specifically,
4 the Final EIR included mitigation measures that relate to, but did not clearly require the
5 implementation of certain diesel control technologies.

6 3. A mistaken reliance on the use of a set of adjoining parcels of land purchased by the State
7 Department of Fish and Wildlife ("CDFW") for conservation purposes relating to the SJWA
8 habitats and species, and which are referred to throughout the Final EIR documents as
9 "CDFW parcels" as a "buffer," and included as part of the Project's "mitigation." Petitioners
10 pointed out the Final EIR's reference to such parcels as a "buffer" was an addition made to
11 the Final EIR document, which was not contained in the Draft EIR, as the Draft EIR
12 described the same parcels as part of the Project. Petitioners pointed out that this amounted
13 to significant new information because it resulted in a complete failure to analyze the true
14 impacts that the Project will have on SJWA and other surrounding areas.

15 4. A last minute change in the Project's stated objectives, which was made between the Draft
16 EIR and the Final EIR, and was significant enough to require recirculation. Specifically, the
17 Project's objectives were altered to include providing major logistics support to
18 accommodate an undefined portion of the trade volumes at the Ports of Los Angeles and
19 Long Beach – a change that was not fully analyzed or even stated in the Draft EIR, including
20 its proposed alternatives and mitigation measures.

21 74. Petitioners also pointed out that the existence of new monitoring data that refuted the Final
22 EIR's conclusions regarding the Project's air quality impacts amounted to significant new
23 information that had to be included in a revised EIR analysis of the Project's impacts. This
24 monitoring data includes the data collected from the Mira Loma Monitoring station for 24-hour PM.

25 **ii. Greenhouse Gas (GHG) Emissions Impacts**

26 75. The Final EIR also included a revised analysis of the Project's GHG emissions, which
27 Petitioners and other commenters noted impermissibly excludes a significant portion of the Project's
28 contribution to GHG's emissions. The Final EIR claims that although the Project is estimated to

1 result in almost 400,000 metric tons of GHGs annually, over three quarters of those emissions do not
2 need to be analyzed or mitigated because they are “capped” under California’s Global Warming
3 Solutions Act of 2006, known as “AB 32” – and act that requires the ARB to adopt and implement
4 cost-effective “cap and trade” measures to achieve GHG reduction benchmarks by the year 2020.

5 76. The Final EIR concluded that because mobile source emissions including emissions from
6 truck traffic are generally regulated by “AB 32” they did not need to be analyzed or mitigated in the
7 document.

8 77. Notably, AB 32 only sets forth regulatory targets through the year 2020, at which point its
9 regulatory requirements become mere consultation requirements.

10 78. Petitioners and other commenters thus pointed out that because the Project’s GHG emissions
11 would extend beyond the time-frame contemplated by AB 32, and because they dramatically exceed
12 SCAQMD’s threshold level of significance for GHG emissions, which is 10,000 metric tons – these
13 emissions, which are 400 times greater than the applicable CEQA threshold levels, could not be
14 dismissed as “capped” under the Act.

15 79. Petitioners and others further pointed out that because those emissions have real known and
16 potential impacts including impacts on climate change, they must be analyzed and mitigated
17 pursuant to CEQA, notwithstanding the existence of this law, and they noted the danger in setting
18 forth this type of analysis, which could, in essence, allow any project proponent or lead agency to
19 evade necessary CEQA review of a project’s severe environmental impacts.

20 **iii. Additional Errors and Lack of Substantial Evidence**

21 80. Finally, Petitioners pointed out that while the City included a Draft Statement of Overriding
22 Considerations (“Statement”), the Statement and its single supporting document, - a report that only
23 generally described but did not state in detail how the Project would lead to good, secure and stable
24 jobs for surrounding area residents - failed to set forth sufficient, detailed information to support the
25 Statement’s claims that the City and its residents would be benefitted by the Project, notwithstanding
26 the significant environmental and public health impacts that a Project of this size and scope brings
27 with it.

28 ///

1 ***3. The City’s Approval of the Final EIR and Statement of Overriding Considerations***

2 81. On June 30, 2015, the Moreno Valley Planning Commission approved the Project with a 6-1
3 vote, despite Petitioners’ arguments and comments regarding the severe flaws in the Final EIR’s
4 analyses of the Project’s public health, air quality, GHG and biological species impacts, as well as
5 numerous other flawed points of analyses set forth in the Final EIR. After the City Planning
6 Department issued its approval, and before the Project was to be approved by the City Council,
7 Petitioners and other commenters continued to submit additional comments, emphasizing the need to
8 re-evaluate the Project’s impacts and urged the City to reject the Final EIR as drafted.

9 82. After the City Planning Department issued its approval, but before the City Council
10 considered whether it would adopt or reject the Planning Department’s approval, Petitioners
11 submitted to the City Council an expert report published by the University of Southern California
12 that refuted many of the claims made in the Draft Statement of Overriding Considerations.

13 83. Numerous other organizations and government agencies including the ARB and SCAQMD,
14 among others, also submitted additional comments to the City during the same time-frame.

15 84. On August 19, 2015, the City Council decided to approve the Final EIR and the Project with
16 a 3-2 vote. In so doing the City also approved as final, the Statement of Overriding Considerations
17 and other Project related entitlements including a development agreement between the City and Real
18 Parties in Interest; the General Plan and Specific Plan amendments as well as the Specific Plan for
19 the Project-area. Based on information and belief, the City also approved or will approve, based on
20 its approval of the Final EIR and other Project related documents, the pre-annexation zoning changes
21 and the tentative parcel map required by the Project.

22 **FIRST CAUSE OF ACTION**

23 **(Violations of CEQA – Failure to Comply with CEQA’s requirements – Code of Civil
24 Procedure Section 1085, or 1094.5; Public Resources Section 21000 et seq.)**

25 85. Petitioners hereby re-allege and incorporate herein by reference the allegations contained in
26 the foregoing paragraphs.

27 86. The City has violated CEQA by certifying a legally deficient Final EIR and by approving the
28 Project without adequate environmental review.

1 87. Among other things, the City:

- 2 A. Failed to require that the Final EIR base its environmental review and analyses on an
3 accurate, stable, and finite project description. **(CEQA Guidelines §§ 15124,**
4 **15126.)** Because the Final EIR describes the Project in relation to the City’s
5 adoption of the Specific Plan almost exclusively and because the Project in fact
6 involves the construction and operation of a known warehouse-complex and related
7 support structures; and because, *inter alia*, the Project description has not been stable
8 between the Draft and Final EIR document descriptions as further detailed below, the
9 City failed to provide an accurate and stable project description as required by CEQA.
- 10 B. Improperly relied upon a programmatic review of the Project’s impacts, and set forth
11 mitigation measures based on such review. **(Pub. Res. Code 21068.5; CEQA**
12 **Guidelines §§ 15152(c), 15168.)** Despite the known impacts of the Project, the City
13 failed to evaluate the Project’s known, project-level environmental impacts in the
14 level of detail required under CEQA. As a result, the City’s analysis of the Project’s
15 impacts and its assessments of the mitigation measures required to address those
16 impacts are impermissibly vague and lack the level of detail required under CEQA.
- 17 C. Failed to adequately evaluate the Project’s environmental impacts, and failed to
18 adequately respond to public comments concerning a variety of significant
19 environmental effects of the Project, including the Project’s direct, indirect, and
20 cumulative impacts. **(Pub. Res. Code §§ 21100(b), 21100(d), 21002.1, 21068,**
21 **21060.5, 21083(b)(2); CEQA Guidelines §§ 15126.2(a), 15130(a).)**

22 For example:

- 23 i. The Final EIR fails to adequately address the Project’s GHG emissions.
24 By outright dismissing the Project’s significant GHG emissions, which are
25 admittedly caused by the Project and which far exceed the SCAQMD’s
26 threshold levels of significance, the Final EIR fails to comply with
27 CEQA’s requirement that it “make a good-faith effort, based to the extent
28 possible on scientific, and factual data, to describe, calculate, or estimate

1 the amount of [GHG] emissions resulting from a project.” (CEQA
2 Guidelines § 15064.4 subsection (a).) The Final EIR further fails to
3 evaluate GHG emissions by failing to consider, among others,: (1) the
4 extent to which the project may increase or reduce GHG emissions; (2)
5 whether emissions exceed a threshold of significance; and (3) the extent to
6 which the project complies with regulations or requirements adopted to
7 implement statewide, regional or local plans to reduce GHG emissions.
8 (CEQA Guidelines § 15064.4(b).)

- 9 ii. The Final EIR fails to adequately evaluate the incremental significance of
10 the Project’s increase in GHG emissions in and around the City,
11 throughout the County, the region and the State.
- 12 iii. The Final EIR improperly omits a necessary, detailed analysis of the
13 Project’s potentially severe public health impacts caused by DPM and
14 other mobile source pollution including the air pollution that will be
15 caused by the Project’s estimated 14,000 truck trips per day.
- 16 iv. The Final EIR fails to address and analyze the significance of the
17 Project’s traffic, public health and air quality impacts, as well as its
18 biological resources and wildlife impacts in light of other, currently
19 proposed or foreseeable warehouse development projects, including but
20 not limited to, the Moreno Valley Logistics Center Project, a project that
21 is not referenced in the Final EIR as a current, ongoing or reasonably
22 foreseeable future project, let alone analyzed for cumulative impacts.
- 23 v. The Final EIR fails to adequately analyze the impacts that the Project’s
24 influx of 14,000 truck trips per day would have on all roadways and
25 thoroughfares, including but not limited to SR-60, Gilman Springs Road,
26 and the several overpasses and County roads surrounding the Project. The
27 Final EIR also fails to justify several of its assumptions regarding traffic
28 projections and relating to the Project’s traffic impacts. As a result, the

1 Final EIR also fails to adequately analyze traffic impacts throughout the
2 region, specifically along the additional thoroughfares connecting the
3 Ports of Los Angeles and Long Beach to the Project area.

4 vi. The Final EIR also fails to evaluate the cumulative effects of the Project's
5 traffic impacts, including but not limited to evaluating the incremental
6 significance of the Project's increase in truck and other vehicle traffic to
7 and from the Ports of Los Angeles and Long Beach, and along all of the
8 main thoroughfares that such trucks will use.

9 vii. The Final EIR fails to adequately respond to comments regarding the
10 Draft EIR's failure to evaluate the Project's growth inducing impacts
11 pursuant to CEQA. (Pub Res. Code § 21100(b)(5).)

12 viii. The Final EIR fails to properly analyze the Project's impacts to biological
13 species because it erroneously classifies the CDFW parcels as a "buffer"
14 zone, used for mitigation purposes. As a result, the Final EIR fails to
15 adequately analyze the true scope of the Project's impacts to wildlife,
16 sensitive habitats and biological species. The Final EIR also fails to
17 adequately address comments that raised serious concerns regarding the
18 Project's significant impacts to imperiled and/or endangered species which
19 were not properly analyzed and mitigated based on the City's improper
20 designation of the CDFW parcels.

21 D. Failed to re-circulate the EIR in light of significant new information. (**Pub. Res.**
22 **Code § 21092.1.**) Such significant new information includes, but is not limited to,
23 the HEI Study which the City relied upon to minimize the Project's health risks
24 caused by diesel pollution; the Final EIR's truck trips per-day estimations contained
25 in its traffic projections; the Final EIR's GHG emissions analysis including its
26 reliance on AB 32 to "cap all emissions from mobile sources; the Final EIR's re-
27 designation of the CDFW parcels as a "buffer" rather than as part of the Project area;
28 the Final EIR's change in Project's objectives; and the Final EIR's failure to consider

1 new air quality monitoring data including but not limited to the monitoring data from
2 SCAQMD's Mira Loma station monitor, *inter alia*.

3 E. Failed to consider, discuss, or adopt adequate mitigation measures to minimize the
4 Project's significant and detrimental impacts, or otherwise improperly deferred
5 mitigation necessary to minimize the Project's impacts. (**Pub. Res. Code §**
6 **21002.1(b); CEQA Guidelines §§ 15002(a)(3) 15021(a)(1), 15126.4.**) For example:

- 7 i. The Final EIR fails to adopt adequate mitigation measures to address
8 the Project's traffic impacts, and its impacts to air quality and public
9 health, including but not limited to the Project's DPM and GHG
10 emissions impacts caused by the Project's truck traffic and other
11 Project-related sources of emissions.
- 12 ii. The Final EIR also fails to adopt adequate mitigation measures to
13 address the Project's significant impacts to wildlife and biological
14 species.
- 15 iii. Finally, because the Final EIR erroneously basis its analyses on a
16 programmatic review of the Project while the City has set forth at least
17 some specifications contained in the City's development agreement,
18 the Final EIR precludes the application of necessary, enforceable
19 mitigation measures in violation of CEQA.

20 F. Failed to adequately analyze a reasonable range of alternatives, which would
21 substantially lessen the significant environmental effects of the Project. (**Pub. Res.**
22 **Code § 211002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 1512(d).**) Because
23 the Final EIR is impermissibly framed as a programmatic EIR, and because the
24 Project's objectives are impermissibly vague, the Final EIR precludes a necessary
25 analysis of reasonable alternatives to the Project and limits the City's consideration to
26 only those projects that would serve the interests of Real Parties in Interest as
27 envisioned by the development agreement and other Project-related documents, and
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1 which will similarly provide logistics support for a vast and undefined portion of the
2 needs from the Ports of Los Angeles and Long Beach.

3 G. Failed to base its findings, including the findings made in its Statement of Overriding
4 Considerations on substantial evidence, defined as “fact[s], [] reasonable
5 assumption[s] predicated upon fact[s], or expert opinion supported by fact [which] is
6 not argument, speculation, unsubstantiated opinion or narrative, evidence that is
7 clearly inaccurate or erroneous, or evidence of social or economic impacts that do not
8 contribute to, or are not caused by, physical impacts on the environment.” (**Pub Res.
9 Code § 21080(e); CEQA Guidelines § 15384.**)

10 88. If the City, Real Parties in Interest and Does 1-20 Inclusive are not enjoined from moving
11 forward with permitting, constructing and operating the Project without an adequate Final EIR, and
12 without complying with CEQA’s environmental review and evidentiary requirements, Petitioners
13 will suffer irreparable harm from which there is no plain, speedy, or adequate remedy at law unless
14 this Court grants the requested writ of mandate.

15 89. By certifying the Final EIR and by approving a Statement of Overriding Considerations, as
16 well as other Project related documents, approvals and entitlements the City committed a prejudicial
17 abuse of discretion, failed to proceed in the manner required by law, and acted without substantial
18 evidentiary support.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Petitioners pray for judgment as set forth below:

21 A. For a writ of mandate or peremptory writ issued under the seal of this Court pursuant
22 to Code of Civil Procedure 1094.5 or in the alternative 1085, and directing the City to:

- 23 1. Void the Final EIR for the Project approval;
- 24 2. Set aside and withdraw all approvals of the Project including but not limited
25 to the City’s approval of the Specific Plan and General Plan amendments; its
26 approval and execution a development agreement to construct and operate the
27 Project; its approval of any pre-annexation zoning required for the project;
28 and its approval of a tentative parcel map for financing purposes relating to

1 the Project; and

- 2 3. Refrain from granting any further approvals for the Project until the City's
3 Planning Department and the City Council comply fully with the requirements
4 of CEQA.

5 B. For a writ of mandate or peremptory writ issued under the seal of this Court pursuant
6 to Code of Civil Procedure 1094.5 or in the alternative 1085, and directing all Real Parties in Interest
7 and/or Does 1-20 inclusive to:

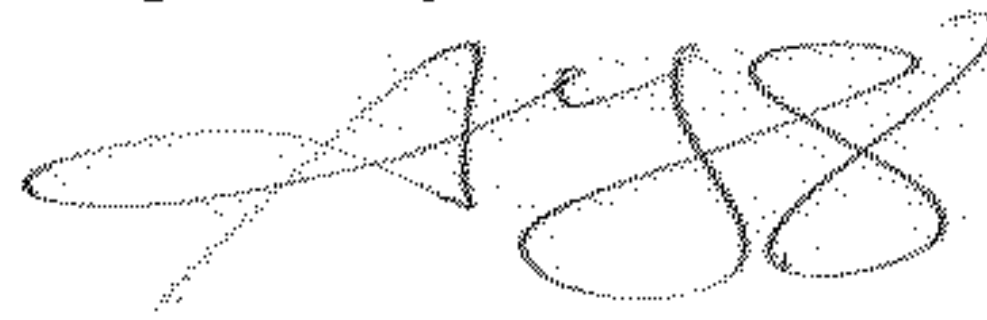
- 8 1. Refrain from constructing and operating the Project until the City's Planning
9 Department and the City Council and other City entities comply fully with the
10 requirements of CEQA by voiding the approved Final EIR for the Project,
11 setting aside and withdrawing all approvals issued pursuant to that document's
12 review, and conducting a new environmental review process that complies
13 with CEQA's requirements as set forth herein.

14 C. For Petitioners' fees and costs, including reasonable attorneys' fees and expert
15 witness costs, as authorized by Code of Civil Procedure § 1021.5 and any other applicable
16 provisions of law.

17 D. For such other legal and equitable relief as this Court deems appropriate and just.

18 DATED: September 22, 2015

Respectfully submitted,

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21 A. Yana Garcia (State Bar No. 282959)

22 Stacey Geis (State Bar No. 181444)

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*Attorneys for Petitioners CCAEJ, the Center, CCA,
Sierra Club and SBVAS*

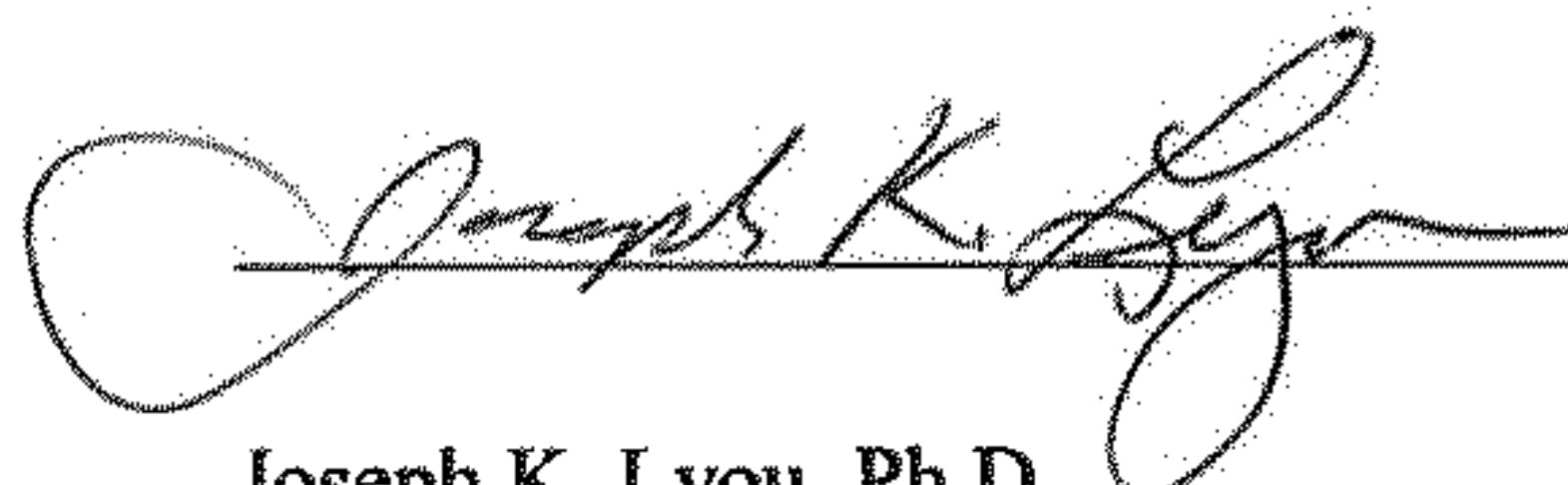
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VERIFICATION

I, Joseph K. Lyou, Ph.D., hereby declare:

I am the President and Chief Executive Officer of the Coalition for Clean Air, a California non-profit corporation with offices in Los Angeles and Sacramento, California. The facts alleged in the above Petition are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 21st day of September 2015 at Los Angeles, California.


Joseph K. Lyou, Ph.D.

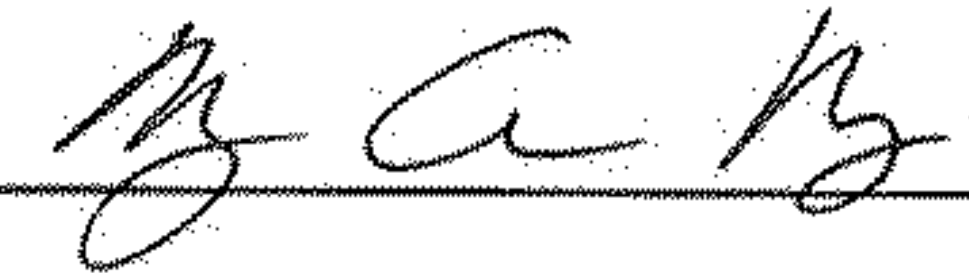
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VERIFICATION

I, MARY ANN RUIZ, hereby declare:

I am a CHAPTER
CHAIR at the Sierra Club, a national non-profit corporation with offices in San Francisco and Los Angeles, California and elsewhere in the United States. The facts alleged in the above Petition are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this ___ day of September 2015 at [San Francisco/Los Angeles California.


9-22-2015

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VERIFICATION

I, Drew Feldmann, hereby declare:

I am a board member and Conservation Chair at the San Bernardino Valley Audubon Society, a non-profit corporation with offices in Redlands, California. The facts alleged in the above Petition are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 21st day of September 2015 at Montclair, California.



Drew Feldmann

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VERIFICATION

I, Penny Newman, hereby declare:

I am the Executive Director at the Center for Community Action and Environmental Justice, a non-profit corporation with offices in Jurupa Valley. The facts alleged in the above Petition are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 21st day of September 2015 at San Francisco, California.



Penny Newman

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VERIFICATION

I, Aruna Prabhala, hereby declare:

I am a Staff Attorney of the Strategic Litigation Group at the Center for Biological Diversity,
a non-profit corporation with offices in San Francisco, California and elsewhere in the United States.

The facts alleged in the above Petition are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is
true and correct and that this verification is executed on this 22 day of September 2015 at San
Francisco, California.



Aruna Prabhala

ATTACHMENT A



ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, D.C. INTERNATIONAL

VIA: U.S. FIRST-CLASS MAIL
ELECTRONIC MAIL (cityclerk@moval.org)

September 14, 2015

City of Moreno Valley
Attn: Mayor Jesse L. Molina and City Council
Moreno Valley City Hall
14177 Frederick Street
P.O. Box 88005
Moreno Valley, California 92552

**Re: California Public Resources Code section 21167.5 Notice of Intent to File CEQA
Petition Challenging the Certification of the Final Environmental Impact Report for
the World Logistics Center (State Clearinghouse No. 2012021045)**

Dear City Clerk Jane Halstead:

Please be advised that as required under California Public Resources Code section 21167.5, the Center for Community Action and Environmental Justice, the Center for Biological Diversity, the Sierra Club, and the San Bernardino Valley Audubon Society (collectively "Petitioners") hereby provide notice through this correspondence of their intent to file a petition under the California Environmental Quality Act ("CEQA") against the City of Moreno Valley ("Respondent") and Highland Fairview ("Real Party in Interest"). (*See Pub. Res. Code § 21000, et seq.*)

Petitioners seek to challenge the Final Environmental Impact Report ("FEIR") for the World Logistics Center (State Clearinghouse No. 2012021045) that was certified on August 19, 2015 by Respondent. Petitioners will file this CEQA challenge based on the FEIR's failure to comply with CEQA requirements, including but not limited to the failure to adequately analyze environmental impacts, the failure to disclose or accurately evaluate greenhouse gas emissions impacts, and the failure to adequately consider cumulatively considerable impacts. For these and other reasons, the certified FEIR is procedurally and substantively defective.

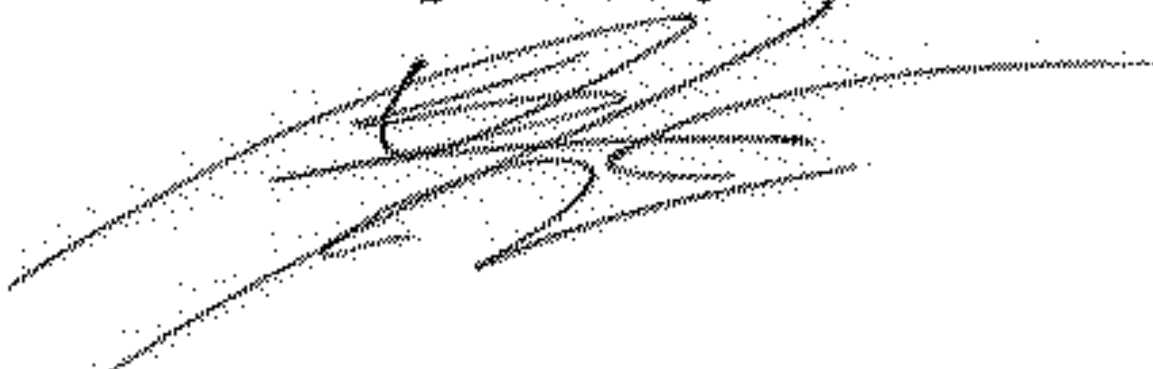
Among other relief, Petitioners will request that the Court issue a writ of mandate to vacate the FEIR certification and to compel the recirculation and preparation of an environmental impact report that conforms to CEQA requirements. Additionally, Petitioners will seek costs and attorney's fees. (*See Cal. Civ. Pro. § 1021.5.*)

CALIFORNIA OFFICE 50 CALIFORNIA STREET, SUITE 500 SAN FRANCISCO, CA 94111

T: 415.217.2000 F: 415.217.2040 CAOFFICE@EARTHJUSTICE.ORG WWW.EARTHJUSTICE.ORG

Based on the reasons outlined above, Respondent should immediately vacate the certification of the FEIR and engage in an appropriate CEQA review process that results in an adequate environmental impact report.

Most respectfully,



Oscar Espino-Padron
Attorneys for Petitioners

cc: Moreno Valley Community Development Department
Attn: Mark Gross
14177 Frederick Street
P.O. Box 88005
Moreno Valley, California 92552

Steve Quintanilla, Interim City Attorney
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552

PROOF OF SERVICE

I am a citizen of the United States of America and a resident of the City and County of San Francisco; I am over the age of 18 years and not a party to the within entitled action; my business address is 50 California Street, Suite 500, San Francisco, California.

I hereby certify that on September 14, 2015, I served by U.S. first class mail and by electronic mail one true copy of the following document:

- Notice of Intent to File CEQA Petition Challenging the Certification of the Final Environmental Impact Report for the World Logistics Center

on the parties listed below:

City of Moreno Valley
Attn: Mayor Jesse L. Molina and City Council
Moreno Valley City Hall
P.O. Box 8805
Moreno Valley, CA 92552
cityclerk@moval.org

Moreno Valley Community Development
Department
Attn: Mark Gross
14177 Frederick Street
P.O. Box 88005
Moreno Valley, California 92552

Steve Quintanilla, Interim City Attorney
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552

I certify under penalty of perjury that the foregoing is true and correct. Executed on September 14, 2015 in San Francisco, California.


Rikki Weber

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Stacey P. Geis (CA SB #181444); A. Yana Garcia (CA SB #282959) Adriano Martinez (CA SB #237152); Oscar Espino-Padron (CA SB #290603) Earthjustice, 50 California Street, Suite 500 San Francisco, CA 94111 TELEPHONE NO: 415-217-2000 FAX NO: 415-217-2040 ATTORNEY FOR (Name): Center for Community Action and Environmental Justice	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside STREET ADDRESS: 4050 Main Street MAILING ADDRESS: 4050 Main Street CITY AND ZIP CODE: Riverside 92501 BRANCH NAME: Riverside Historic Courthouse	
CASE NAME: Center for Community Action and Environmental Justice, et al v. City of Moreno Valley, et al.	CASE NUMBER: RIC1511327
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIP/D/W/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/D/W/D (23) Non-PIP/D/W/D (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/D/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input checked="" type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): One - Violations of CEQA, CCP § 1085, or § 1094.5; Pub. Res. § 21000 et s

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 9/22/2015
 A. Yana Garcia (CA SB # 282959)
 (TYPE OR PRINT NAME) _____ (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property

Damage/Wrongful Death

Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)***Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**

Asbestos (04)

Asbestos Property Damage
Asbestos Personal Injury/
Wrongful DeathProduct Liability *(not asbestos or toxic/environmental)* (24)

Medical Malpractice (45)

Medical Malpractice—

Physicians & Surgeons

Other Professional Health Care
Malpractice

Other PI/PD/WD (23)

Premises Liability (e.g., slip
and fall)Intentional Bodily Injury/PD/WD
(e.g., assault, vandalism)

Intentional Infliction of

Emotional Distress

Negligent Infliction of

Emotional Distress

Other PI/PD/WD

Non-PI/PD/WD (Other) TortBusiness Tort/Unfair Business
Practice (07)Civil Rights (e.g., discrimination,
false arrest) *(not civil
harassment)* (08)Defamation (e.g., slander, libel)
(13)

Fraud (16)

Intellectual Property (19)

Professional Negligence (25)

Legal Malpractice

Other Professional Malpractice
(not medical or legal)

Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)

Other Employment (15)

Contract

Breach of Contract/Warranty (06)

Breach of Rental/Lease

Contract *(not unlawful detainer
or wrongful eviction)*

Contract/Warranty Breach—Seller

Plaintiff *(not fraud or negligence)*Negligent Breach of Contract/
Warranty

Other Breach of Contract/Warranty

Collections (e.g., money owed, open
book accounts) (09)

Collection Case—Seller Plaintiff

Other Promissory Note/Collections
CaseInsurance Coverage *(not provisionally
complex)* (18)

Auto Subrogation

Other Coverage

Other Contract (37)

Contractual Fraud

Other Contract Dispute

Real Property

Eminent Domain/Inverse

Condemnation (14)

Wrongful Eviction (33)

Other Real Property (e.g., quiet title) (26)

Writ of Possession of Real Property

Mortgage Foreclosure

Quiet Title

Other Real Property *(not eminent
domain, landlord/tenant, or
foreclosure)***Unlawful Detainer**

Commercial (31)

Residential (32)

Drugs (38) *(if the case involves illegal
drugs, check this item; otherwise,
report as Commercial or Residential)***Judicial Review**

Asset Forfeiture (05)

Petition Re: Arbitration Award (11)

Writ of Mandate (02)

Writ—Administrative Mandamus

Writ—Mandamus on Limited Court

Case Matter

Writ—Other Limited Court Case

Review

Other Judicial Review (39)

Review of Health Officer Order

Notice of Appeal—Labor

Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)

Construction Defect (10)

Claims Involving Mass Tort (40)

Securities Litigation (28)

Environmental/Toxic Tort (30)

Insurance Coverage Claims

*(arising from provisionally complex
case type listed above)* (41)**Enforcement of Judgment**

Enforcement of Judgment (20)

Abstract of Judgment (Out of
County)Confession of Judgment *(non-
domestic relations)*

Sister State Judgment

Administrative Agency Award
*(not unpaid taxes)*Petition/Certification of Entry of
Judgment on Unpaid TaxesOther Enforcement of Judgment
Case**Miscellaneous Civil Complaint**

RICO (27)

Other Complaint *(not specified
above)* (42)

Declaratory Relief Only

Injunctive Relief Only *(non-
harassment)*

Mechanics Lien

Other Commercial Complaint

Case *(non-tort/non-complex)*

Other Civil Complaint

*(non-tort/non-complex)***Miscellaneous Civil Petition**

Partnership and Corporate

Governance (21)

Other Petition *(not specified
above)* (43)

Civil Harassment

Workplace Violence

Elder/Dependent Adult

Abuse

Election Contest

Petition for Name Change

Petition for Relief From Late

Claim

Other Civil Petition