City of
Santa Monica®

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September 4, 2013

VIA FEDEX

The Honorable Chief Justice Tani Cantil-Sakauye
The Honorable Associate Justices
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-4797

Re: Amicus Letter Supporting the County of Los Angeles' Petition for Review
Los Angeles Unified School District v. County of Los Angeles, et al.
217 Cal.App.4th 597
Court of Appeal Case No. B243849
Supreme Court Case No. S212534

Dear Honorable Chief Justice Cantil-Sakauye and Associate Justices:

On June 26, 2013, the Court of Appeal (Second Appellate District, Division Four) issued an opinion in *Los Angeles Unified School District ("LAUSD") v. County of Los Angeles, et al.* In essence, the opinion holds that the relevant property tax allocation statutes and this Court's analysis of the Triple Flip and VLF Swap legislation in *City of Alhambra v. County of Los Angeles* (2012) 55 Cal. 4th 707 ("*City of Alhambra*") supports LAUSD's contention that its share of diverted Educational Revenue Augmentation Fund ("ERAF") revenue must be included in the calculation of passthrough payments under Health and Safety Code section 33607.5.[1]

Pursuant to Rule 8.500 (g) of the California Rules of Court, the League respectfully requests that this Court grant review of the opinion for the reasons set forth in this *amicus curiae* letter. The League of California Cities ("League") is an association of 467 California cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and to enhance the quality of life for all Californians. The League is advised by its Legal Advocacy Committee, comprised of 24 city attorneys from all regions of the State. This Committee monitors litigation of concern to municipalities, and identifies those cases that have statewide or nationwide significance. The Committee has identified this case as having such significance.

[1] All statutory references are to the Health and Safety Code unless otherwise noted.

BACKGROUND

In 2007, LAUSD filed a petition for writ of mandate to compel the County of Los Angeles, City of Los Angeles, and several community redevelopment and other local agencies (collectively, the "County") to increase LAUSD's allocation of passthrough payments to reflect the ERAF revenues that LAUSD receives in each fiscal year.[2]

Under Section 33353.2, an "affected taxing entity" is defined as any governmental taxing agency that levies a property tax on all or any portion of property located in a redevelopment project area. Under Section 33607.5(a), each affected taxing entity is entitled to receive a passthrough payment in proportion to the percentage share of property taxes that the affected taxing entity receives during the fiscal year the funds are allocated. Because the County ERAF is merely an accounting fund created by the State and not a government taxing agency that levies a property tax on property located within a redevelopment project area, the ERAF is not entitled to receive a passthrough payment under Section 33607.5(a).[3] Consequently, the County omitted the property taxes allocated to the ERAF under Revenue and Taxation Code sections 96.1, 97.2(d)(2), and 97.3(d)(2) from all of its passthrough calculations.

In its petition, LAUSD challenged the omission of ERAF revenue received by LAUSD from the calculation of its passthrough payments. The superior court entered a judgment denying LAUSD's petition based on the court's determination that ERAF revenue was properly omitted from LAUSD's property tax allocation base. However, in LAUSD's appeal from the initial judgment, the Court of Appeal reversed the trial court's ruling. The Court of Appeal concluded that because the ERAF receives a share of A.B. 8 property tax revenue under Revenue and Taxation Code section 97.2(d)(5) and 97.3(d)(5), the ERAF revenues that are received by LAUSD should be included in its property tax allocation base for purposes of calculating LAUSD's passthrough payments

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[2] LAUSD did not dispute that it had been receiving passthrough payments based upon the A.B. 8 allocations of property tax revenue that it receives in each fiscal year, in accordance with Revenue and Taxation Code section 96.1.

[3] This was confirmed in a letter from the California State Controller to Kristina Burns of the Los Angeles County Auditor-Controller's Office, dated June 6, 2011.In that letter, the State Controller says:

> "In essence, an ERAF is simply an accounting tool for reallocating tax revenues among local agencies and school districts. An ERAF is not a governmental subdivision/agency, is not operated by a board of supervisors, and has no territorial jurisdiction.
>
> In sum, we conclude that an ERAF is merely a fund and does not qualify as a taxing jurisdiction under Revenue and Code section 100. Accordingly, an ERAF should not be treated as a recipient of passthrough payments."

under Section 33607.5.[4] *Los Angeles Unified School District v. County of Los Angeles*, 181 Cal.App.4th 414, 426 (2010). This ruling is referenced hereinafter as "LAUSD I".

Upon remand, the superior court conducted further proceedings that resulted in the present judgment and orders. These orders required the County to include the ERAF revenue that was actually received by LAUSD in the calculation of LAUSD's passthrough payments. The superior court rejected LAUSD's contention that the property tax revenues diverted from the ERAF due to the Triple Flip and VLF Swap legislation (Revenue and Taxation Code sections 97.68 *et seq.* and 97.70 *et seq.*, respectively) should be treated as if "deemed received" by LAUSD.

LAUSD appealed the Superior Court's rejection that diverted ERAF revenues must be counted as property tax revenues "deemed received" by LAUSD. Among other things, LAUSD asserted that "the without regard to ..." language in Section 33607.5(a)(2) reflects the Legislature's intent to hold *schools* harmless from the Triple Flip and Vehicle License Swap statutes. The Court of Appeal agreed with LAUSD. Relying primarily on *City of Alhambra* (wherein this Court determined that the Triple Flip ad VLF Swap have no effect on the A.B. 8 property tax allocation framework under Revenue and Taxation Code section 96.1), the Court of Appeal determined that LAUSD should be credited with the ERAF revenue that was diverted by the Triple Flip and VLF Swap legislation, although it was never received by LAUSD. *Los Angeles Unified School District v. County of Los Angeles et al.*, 217 Cal. App.4th 597 (2013). This ruling is referenced hereinafter as "LAUSD II".

In its Petition for Review to this Court ("Petition"), the County asserts that the Court of Appeal's holding in LAUSD II is not supported by the plain language of Section 33607.5(a)(2) and that the Court of Appeal wrongly applied the *City of Alhambra* case to the calculation of passthrough revenues under Section 33607.5.

For the reasons set forth below, we agree with the County. LAUSD II was wrongly decided. In ruling that the County must include revenue that LAUSD did not receive as part of its percentage share of the property taxes, the Court contradicted *City of Alhambra* which held that the Triple Flip and VLF Swap do not affect a taxing entity's percentage share.

The LAUSD II court's analysis also mistakenly assumes that the A.B. 8 allocations to the ERAF correspond directly with the ERAF allocations to schools. As we explain below, the A.B. 8 allocations to the ERAF are not identical to the ERAF allocations to schools because the statutory framework for the A.B. 8 allocations to the ERAF (which occurs under Revenue and Taxation Code section 97.2(d)(5) and 97.3(d)(5)) are separate and independent from the statutory framework for the allocation

[4] Including the ERAF revenue in LAUSD's base means an increase to its percentage share. An increase in its percentage share increases its passthrough payment pursuant to Section 33607.5.

of ERAF revenue to schools (which occurs under Revenue and Taxation Code section 97.2(d)(2) and 97.3(d)(2)).

Therefore, while we agree that the "without regard to language ... " in Section 33607.5(a)(2) supports the central premise in *City of Alhambra* that the Triple Flip and VLF Swap have no impact on any A.B. 8 percentage shares for any affected taxing entity, including LAUSD, we disagree that this rationale requires the County to impute ERAF revenues to LAUSD (as if received) when calculating LAUSD's share of passthrough payments under Section 33607.5.

REASONS WHY REVIEW SHOULD BE GRANTED

We agree with the County that the LAUSD II ruling presents an issue of first impression, with far-reaching financial impacts to all affected taxing entities throughout the State notwithstanding the dissolution of redevelopment.[5]

As noted by the County, without review by this Court, precious property taxes will be misallocated in a manner wholly inconsistent with the Legislature's clear, unmistakable and express intent. Furthermore, the LAUSD II ruling would be based upon a misapplication of both the LAUSD I and *City of Alhambra* rulings.

Under rule 8.500(b)(1) of the California Rules of Court, the County's Petition for Review should be granted to reconcile the LAUSD I decision and clarify the applicability of the *City of Alhambra* ruling to the calculation of LAUSD's passthrough shares under Section 33607.5(a).

ARGUMENT

A. The Term "Receives" Should Be Given the Meaning it Bears in Ordinary Use, as Recognized by the LAUSD I Court.

As discussed in LAUSD II and in the County's Petition, passthrough payments for each of the affected taxing entities must be calculated in accordance with Section 33607.5(a)(2), as follows:

> All payments made pursuant to this section shall be in addition to any amounts the affected taxing entities receive pursuant to subdivision (a) of Section 33670. The payments made pursuant to this section to the affected taxing entities, including the community, shall be allocated among the affected taxing entities ... in

[5] Section 34183(a)(1) of the post dissolution statutes (AB1x 26 and AB 1484) preserves statutory pass through payments to all affected taxing entities.

> proportion to the percentage share of property taxes each affected taxing entity, including the community, *receives* during the fiscal year the funds are allocated which *percentage share* shall be determined without regard to any amounts allocated to a city, a city and a county, or a county pursuant to Sections 97.68 and 97.70 of the Revenue and Taxation Code, and without regard to any allocation reductions to a city, a city and county, a county, a special district or a redevelopment agency pursuant to Sections 97.71, 97.72 and 97.73 of the Revenue and Taxation Code and Section 33681.12. (Emphasis added.)

In LAUSD I, the Court of Appeal agreed with LAUSD's argument that "because it undeniably *receives* ERAF revenue that is allocated as property taxes to the ERAF under subdivision (d)(5), it must be included in the calculation of its percentage share of property taxes ..." *LAUSD I*, 181 Cal. App. 4th 414, 426. The court further elaborated that since "ERAF's are merely accounting devices, we are compelled to conclude that any property tax revenue deemed allocated to ERAF's under subdivision (d)(5) necessarily qualifies as property tax revenue to the school that *received* it." *Id.* The LAUSD I court thus interpreted and used the word "receives" in its ordinary sense.

Following its LAUSD I ruling, the Court of Appeal remanded this case to the trial court to determine how Section 33607.5(a) should be implemented in light of the LAUSD I ruling. During this process, LAUSD sought to include language in the writ that would require the County to impute ERAF revenues that LAUSD had never received, thus raising an issue that was never alleged in LAUSD's petition, and never raised in the first trial or in LAUSD I.

In concluding that the property tax revenue that LAUSD received from ERAFs "should be deemed" to include its share of the ERAF revenue that was diverted by the Triple Flip and VLF Swap legislation, the LAUSD II court ignored the LAUSD I ruling and required the County to credit LAUSD with property tax revenues that it never received.

While the Court of Appeal attempted to determine the intent of the Legislature so as to effectuate the purpose of the "without regard to ..." language in Section 33607.5(a)(2), as further explained in the paragraphs below, the LAUSD II court failed to properly harmonize the term "receives" with the "without regard to ..." language in Section 33607.5(a)(2). Furthermore, because the LAUSD II ruling inherently contradicts the LAUSD I ruling, we believe that the LAUSD II Court erroneously ignored the law of the case.

B. The "Without Regard To ..." Language in Section 33607.5(a)(2) is Necessary to Preserve Each Affected Taxing Entity's A.B. 8 Allocations for Purposes of Calculating Passthrough Payments.

In its Petition, the County asserts that the "receives" and "without regard to ..." language in Section 33607.5(a)(2) can only be harmonized if the passthrough payments to the affected taxing entities are based upon the same allocations that are made to all affected taxing entities under Revenue and Taxation Code section 96.1, without regard to the revenue transfers required by Revenue and Taxation Code sections 97.68 *et seq.* (the Triple Flip statute) and 97.70 *et seq.* (the VLF Swap statute). The LAUSD II court determined that LAUSD's share of passthrough payments must be calculated based upon ERAF revenues imputed to LAUSD (and therefore not actually received by LAUSD) in the absence of the Triple Flip and VLF Swap. These different interpretations lead to vastly different results. As further explained, below, we believe that the County's interpretation best honors the legislative intent of Section 33607.5(a)(2). Furthermore, the County's interpretation is consistent with *City of Alhambra* because the proportionate shares of the affected taxing entities are not affected by the Triple Flip statute and the VLF Swap statute.

a. General Property Tax Allocation.

Property taxes are allocated to jurisdictions within a county on a pro rata basis based upon the property tax revenue allocated to each jurisdiction in the prior fiscal year. Revenue and Taxation Code section 96.1(a).

Revenue and Taxation Code sections 97.2(a)-(c) and 97.3(a)-(c) operate to shift a portion of cities', counties', and special districts' allocations of property tax revenues to the ERAF. Revenue and Taxation sections 97.2(d)(5) and 97.3(d)(5) deem this shifted revenue as property tax revenue allocated to the ERAF in the prior fiscal year for purposes of Section 96.1(a). The consequence is that ERAF should receive a pro rata share of annual property taxes (and growth) along with all of the taxing entities.

Non-basic aid school districts such as LAUSD generally receive their revenues from three sources. First, they receive a pro rata share of annual property taxes under Section 96.1(a) since schools are taxing entities under that statute.

Second, they may receive a share of property tax revenues that are distributed by the county auditor from the ERAF. That distribution is made to each non-basic aid school district in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district, as reported by the county superintendent of schools. Revenue and Taxation Code sections 97.2(d)(2) and 97.3(d)(2). This means that districts with higher pupil attendance and lower property tax revenues get a larger share of the ERAF distribution. Conversely, school districts with low pupil attendance and high property tax revenues may get no share of the ERAF distribution.

Third, as a result of Proposition 98 (article XVI, section 8 of the California Constitution and implemented, in part, by Education Code section 42238), non-basic aid school districts receive State general fund revenues to ensure that each district receives a minimum level of total revenues (referred to as "back-fill"). See *Sonoma v. Commission on State Mandates et al.* (2000) 84 Cal. App. 4th 1264, 1289-91. Thus, if a district's allocation under Section 96.1(a) results in reduced annual revenues, the State must increase its contribution of general funds to ensure that the minimum level of funding is maintained. Similarly, to the extent that revenues are shifted away from the ERAF by the State to satisfy other State purposes (like the Triple Flip and Vehicle License Swap legislation, which is discussed, below), the State has an obligation to backfill that shift by increasing its contribution of general fund revenues to maintain the district's minimum level of funding.

b. Operation of Revenue and Taxation Code 97.68.

Effective from fiscal year 2004-05, Revenue and Taxation Code section 97.68(a) and (b) authorize the "triple flip" of revenues amongst the State, cities and counties, and schools. Under the first flip, 0.25 percent of local sales and use taxes is reduced and 0.25 percent of the State sales tax is increased for bond repayments. Under the second flip, lost sales and use tax revenues are replaced by property tax revenues that would have been placed in the ERAF but are deposited into a Sales and Use Tax Compensation Fund. Under the third flip, any shortfall to schools caused by the reduction in ERAF funds is compensated by the State's general fund. Because the State backfills any reduction in ERAF revenues that would otherwise have been transferred to schools, *the Triple Flip legislation is revenue neutral to schools*. Section 97.68 is commonly referenced as the Triple Flip legislation.

Section 97.68(e) provides that the property tax revenues transferred to the cities and county under Section 97.68(a) do not count for purposes of calculating the tax allocations under Section 96.1(a). The consequence of this is that the allocations under section 96.1(a) are made without regard to any amounts allocated to a city, a city and a county, or a county pursuant to Section 97.68. This mirrors the "without regard to ..." language in Section 33607.5(a)(2). Notably, this wording does not expressly reference any revenue additions or reductions to schools because Section 97.68 causes no revenue changes to schools.

As illustrated in Table 1, below, the language in Sections 97.68(e) and 33607.5(a)(2) operates to preserve *all* of the affected taxing entities' percentage shares as if the transfers under Section 97.68 had not occurred. Consequently, the *proportionate shares* of the cities and county are not increased and the shares of the other affected taxing entities (including LAUSD and the other schools) are not decreased by operation of Section 97.68.

Table 1: Operation of Sections 97.68 and 33607.5(a)(2), assuming a hypothetical set of property tax allocation ratios:

AFFECTED TAXING ENTITY	PERCENTAGE SHARE OF PROPERTY TAX REVENUES RECEIVED BY AFFECTED TAXING ENTITY UNDER SECTION 96.1	PERCENTAGE ALLOCATIONS AFTER 97.68 REVENUE TRANSFERS	PERCENTAGE SHARE RECEIVED BY AFFECTED TAXING ENTITY FOR PURPOSES OF SECTION 33607.5(A)(2)
City of Los Angeles	25%	30%	25%
County of Los Angeles	25%	30%	25%
Special Districts	25%	20%	25%
LAUSD	25%	20%	25%
	100%	100%	100%

c. Operation of Revenue and Taxation Code Section 97.70.

Effective from fiscal year 2004-05, Revenue and Taxation Code section 97.70(a) authorizes the allocation of property tax revenue that would otherwise be transferred to the ERAF to the *cities* and *counties*, to compensate those entities' loss of *vehicle license fees* resulting from reduction in VLF rate from 2% to 0.65%. This section is commonly referenced as the Vehicle License Swap legislation.

Just as the case with Section 97.68 discussed above, Section 97.70(d) provides that the revenues transferred to the cities and county under Section 98.70(a) do not count for purposes of calculating the tax allocations under Section 96.1(a). The consequence of this is that the allocations under Section 96.1(a) are made *without regard to any amounts allocated to a city, a city and a county, or a county pursuant to Section 97.70*. This language also mirrors the "without regard to ..." language in Section 33607.5(a)(2). Notably, this wording does not expressly reference any revenue additions or reductions to schools because Section 97.70 causes no revenue changes to schools.

As illustrated in Table 2 below, the language in Sections 97.70(d) and 33607.5(a)(2) operates to preserve *all* of the affected taxing entities' percentage shares as if the transfers under Section 97.70 had not occurred. Consequently, the shares of the cities and county are not increased and the shares of the other affected taxing entities (including the schools) are not decreased by operation of Section 97.70.

Table 2: Operation of Sections 97.70 and 33607.5(a)(2), again based on a hypothetical set of property tax allocation ratios:

AFFECTED TAXING ENTITY	PERCENTAGE SHARE OF PROPERTY TAX REVENUES RECEIVED BY AFFECTED TAXING ENTITY UNDER 96.1(a)	PERCENTAGE ALLOCATIONS AFTER POST 97.70 REVENUE TRANSFERS	PERCENTAGE SHARE RECEIVED BY AFFECTED TAXING ENTITY FOR PURPOSES OF SECTIONS 96.1 AND 33607.5(A)(2)
City of Los Angeles	25%	30%	25%
County of Los Angeles	25%	30%	25%
Special Districts	25%	20%	25%
LAUSD	25%	20%	25%
	100%	100%	100%

d. LAUSD's Re-interpretation of "Without Regard To" Would Require the RDAs to Impute Property Tax Transfers from Section 97.2(d)(3) and Section 97.3(d)(3), Which Conflicts with Section 33607.5(a)(2).

LAUSD's proposed interpretation would require the County to calculate LAUSD's share of property tax revenues not only "without regard to ..." the revenue transfers under the Triple Flip and VLF Swap statutes, but also by imputing ERAF revenues to LAUSD as if they had been received by LAUSD pursuant to Revenue and Taxation Code section Sections 97.2(d)(2) and 97.3(d)(2). As observed by the County in its Petition, if the real intent of the "without regard to ..." language in Section 33607.5(a)(2) was to hold the schools harmless from any loss of ERAF revenues under Revenue and Taxation Code section 97.2(d)(2) and 97.3(d)(2), then the Legislature would have simply included language referencing the reductions to schools under those sections. The intent of the hold harmless language in Section 33607.5(a)(2) is thus to retain in place all taxing agencies' proportionate shares of the property tax determined pursuant to Revenue and Taxation Code section 96.1. That's how "the without regard to ..." language holds all affected taxing entities harmless from the Triple Flip and VLF Swap statutes.

C. The *Alhambra* Ruling has no Bearing on the Transfer of ERAF Revenues to the Schools.

In making its determination, the LAUSD II Court relied heavily on the reasoning in *City of Alhambra* that because the Triple Flip and VLF Swap have no effect on the A.B. 8 property tax allocation system, the diversions from the ERAF neither increase the

recipient entity's property tax revenue base nor decrease the donor ERAF's property tax base. We agree that that this is the fundamental intent behind the "without regard to ..." language in Section 33607.5(a)(2). However, for the reasons set forth in the paragraphs below, we do not agree that this requires the County to impute ERAF revenues to LAUSD that it did not receive under Revenue and Taxation Code sections 97.2(d)(2) and 97.3(d)(2).

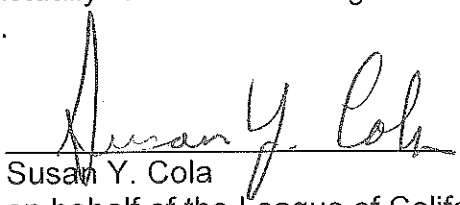
As explained in both the LAUSD I and the *City of Alhambra* opinions, the allocation of property taxes to the ERAF is made under the A.B. 8 property tax allocation system (Revenue and Taxation Code sections 96.1, 97.2(d)(5) and 97.3(d)(5)). By contrast, the allocation of ERAF revenues to LAUSD is based upon the statutory formula in Revenue and Taxation Code sections 97.2(d)(2) and 97.3(d)(2).

The A.B. 8 allocation of property taxes to the ERAF and the allocation of property taxes from the ERAF to LAUSD differ because each allocation serves a different purpose. The allocation of A.B. 8 property taxes to the ERAF under Revenue and Taxation Code section 97.2(d)(5) and 97.2(d)(5) ensures that ERAF receives a base share of ad valorem property taxes and annual ad valorem property tax growth under Revenue and Taxation Code section 96.1. This allocation framework serves to reduce the State's backfill obligations to schools under Proposition 98 and its implementing statutes.

Section 97.2(d)(2) and 97.3(d)(2) of the Revenue and Taxation Code ensures that each school only receives ERAF revenues in inverse proportion to the amounts of A.B. 8 property tax revenue per average daily attendance *of each school.* For example, if a school's enrollment decreases, then the school may receive a smaller share of ERAF funds (assuming its A.B. 8 allocation remained static). Conversely, if the School's annual enrollment increases, then it would be entitled to receive a greater share of ERAF funds (assuming its A.B. 8 allocation remained static). Similarly, if a School's A.B. 8 allocation increased, then it would be entitled to a smaller share of the ERAF (assuming its student enrollment remained static). If it decreased, then it would be entitled to a larger share of the ERAF (assuming its student enrollment remained static). Because the A.B. 8 allocation of property taxes to each school and the student enrollment of each school are independent of the A.B. 8 allocations of property taxes to the ERAF, the A.B. 8 allocations of property taxes to the ERAF are independent of the amount of ERAF revenues transferred to schools.

CONCLUSION

For all of the reasons stated above and in the County's Petition, it would be manifestly unfair to order the County to calculate LAUSD's passthrough payments based upon the ERAF revenues that it did not actually receive. The League therefore urges the Court to grant the Petition for Review.



Susan Y. Cola
on behalf of the League of California Cities

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing _____

_____ and know its contents.

☐ **CHECK APPLICABLE PARAGRAPHS**

☐ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am ☐ an Officer ☐ a partner ☐ a of

_____

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for _____

a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on _____ at _____ , California.

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

_____ _____

Type or Print Name Signature

PROOF OF SERVICE

1013a (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles , State of California.

I am over the age of 18 and not a party to the within action; my business address is: 1685 Main Street, Room 310, Santa Monica, CA 90401

On, September 4, 2013 I served the foregoing document described as AMICUS LETTER SUPPORTING THE COUNTY OF LOS ANGELES' PETITION FOR REVIEW

_____

_____ on the interested parties in this action

☐ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

[SEE ATTACHED SERVICE LIST]

☒ **BY MAIL**

☐ *I deposited such envelope in the mail at _____ , California. The envelope was mailed with postage thereon fully prepaid.

☒ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Santa Monica California 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.

Executed on September 4, 2013 at Santa Monica , California.

☐ **(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on _____ at _____ , California.

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

☐ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

DEBORAH FREEMAN _____

Type or Print Name Signature

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**(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)

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