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Attorneys for Petitioners and Plaintiffs John Tos et al.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

JOHN TOS *et al*.,
Petitioners and Plaintiffs
vs.
STATE OF CALIFORNIA *et al*.,
Respondents and Defendants

No. 34-2016-00204740
Assigned for all purposes to Hon. Shelleyanne W.L. Chang, Dept. 24

PETITIONERS' AND PLAINTIFFS' OPPOSITION TO RESPONDENT AND DEFENDANT CALIFORNIA HIGH-SPEED RAIL AUTHORITY'S DEMURRER TO SECOND AMENDED PETITION AND COMPLAINT

Date:	August 18, 2017
Time:	10:30 AM
Department:	24
Action filed:	December 13, 2016
Trial Date:	Not Yet Set

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INTRODUCTION

Respondent and Defendant California High-Speed Rail Authority ("Authority") has demurred to the Second Cause of Action in Petitioners' and Plaintiffs' (hereinafter, "Petitioners") Second Amended Petition and Complaint ("SAP"). This is the second time the Authority has demurred to this cause of action, which seeks injunctive relief under Code of Civil Procedure § 526a for illegal and wasteful expenditures of public funds. (SAP ¶¶ 91-105.)[1] The Authority again asserts that the cause of action challenges administrative approvals for two Final Funding Plans under Streets & Highways Code § 2704.08(d) and that such a challenge may only be brought by way of mandamus. Contrary to the Authority's assertion, Petitioners' injunctive relief claim addresses a qualitatively different type of violation of the Authority's duties – one not properly addressed in mandamus.

After the Authority's first demurrer was granted with leave to amend, Petitioners accordingly amended their action to include mandamus claims challenging the two Final Funding Plans' approvals. The mandamus claims also challenge Respondents' failures to fulfill their mandatory duties under the Proposition 1A, the 2008 high-speed rail bond measure. The Authority argues that the suit challenges only those approvals and may only be brought in mandamus. The Authority is wrong. The Second Cause of Action addresses a *different* violation by the Authority and has a significantly different remedy. Both sets of claims are valid and deserve to be decided on their merits.

BACKGROUND

I. THE HIGH-SPEED RAIL PROJECT AND ITS BOND MEASURE.

In 1996, the State of California ("State") created the Authority and charged it with developing and implementing an intercity high-speed rail service integrated with the State's existing intercity rail and bus network. (Public Utilities Code § 185030; SAP ¶ 28.) In 2008, the Legislature placed on the ballot a $9.95 billion general obligation bond act, the "Safe Reliable High-Speed Passenger Train Bond Act of

[1] Petitioners have voluntarily dismissed the allegations in ¶ 106, which had sought recovery of the expended funds from the Authority's Board members.

the 21st Century," denominated on the November ballot as Proposition 1A ("Prop. 1A" or "Measure") to provide partial funding towards planning and constructing that high-speed rail system. (SAP ¶ 29.)

Aware that voters' might be skeptical of approving such a large outlay of public tax dollars, the Legislature placed in the Measure numerous provisions intended to allay those concerns. (See, SAP ¶¶ 32-35 [description of included provisions].) They included both procedural requirements to be met before funds could be expended on construction (Streets & Highways Code § 2704.08[2]), and substantive requirements for the system to be constructed with the bond funds. (§ 2704.09.) In *Calif. High-Speed Rail Auth. v. Sup. Ct. ("Cal. HSR Auth.")* (2014) 228 Cal.App.4th 676, 706, the Court of Appeal referred to those provisions as a "financial straitjacket" intended "to ensure the financial viability of the project." (*See also,* SAP ¶¶ 31-33 [Legislature and Governor were concerned about voters' reluctance to approve the bond measure and included assurances in the measure intended to assuage voter concerns].)

Among the requirements included within § 2704.08 were provisions that the basic construction unit for the system would be a "usable segment" containing at least two stations, and that when construction of a usable segment was complete, it would be "suitable and ready for high-speed train operation." (SAP ¶ ¶ 34, 35.) In November 2008, the voters approved the Measure, making it part of the State's statutes. (SAP ¶ 1; Streets & Highways Code, Section 9, Chapter 20, §§ 2704 – 2704.21; see also, generally, *Cal. HSR Auth., supra*, 229 Cal.App.4th at pp. 684-690.)

II. THE AUTHORITY'S PRELIMINARY FUNDING PLAN

In November 2011, the Authority approved a first, "Preliminary" Funding Plan for what it termed its Initial Operating Segment ("IOS"), along with its Draft 2012 Business Plan. (*Cal. HSR Auth., supra*, 228 Cal.App.4th at p. 690.) In April 2012, it approved a Final Revised 2012 Business Plan, which defined the IOS as a 300-mile segment extending from Merced through the Central Valley, across the Tehachapi Mountains, and into the San Fernando Valley. (*Id.* at pp. 690-691.) In July 2012, the Legislature, based on the Authority's Final Revised Business Plan and Preliminary Funding Plan,

[2] Unless otherwise indicated, all statutory references are to the Streets & Highways Code.

approved appropriations of Prop. 1A bond funds; for construction of not only an initial 129-mile section of the IOS, but also in the two "bookend" segments of the Phase I, San Francisco – Los Angeles, Project: one at its northern end, along the San Francisco Peninsula between San Francisco and San Jose, and the other at its southern end in Los Angeles County. (*Id.* at pp. 691-692.)

While the money had been appropriated, it could not be committed or spent until the Authority had prepared second "Final" Funding Plans, along with independent consultant reports, for the segments involved. (SAP ¶ 33; § 2704.08(d); *see also, Cal. HSR Auth., supra,* 229 Cal.App.4th at pp. 710-711, 713.) Perhaps because of the stringent requirements the voters had set for such Funding Plans in Prop. 1A, no such plans were prepared between 2012 and 2016.

III. THE LEGISLATURE'S ENACTMENT OF AB 1889.

During the 2016 legislative session, a bill proposed by Assembly Member Mullin, who represents part of the area in the northern "bookend" along the San Francisco Peninsula, was amended to address the difficulty in approving a Final Funding Plan. (SAP ¶¶ 55-59.) As enacted, AB 1889[3] provides that a corridor/usable segment would be considered suitable and ready for high-speed train operation if either, a) upon completion of the project's construction, high-speed rail trains could operate immediately, or b) they would be able to operate after additional planned investments had been made to corridor/usable segment. (SAP ¶¶ 59-62.)

While several of the petitioners herein raised objections to the Legislature and the Governor that the bill was an unconstitutional attempt to unilaterally modify the terms of a voter-approved bond measure, the bill was given final approval and was signed by the Governor. (SAP ¶¶ 61-62.)

IV. THE FINAL FUNDING PLANS AND AB 1889.

On December 13, 2016, the Board considered and gave its approval to two Final Funding Plans. (SAP ¶ 72.) Preparation of these plans had obviously begun prior to their being posted on the Authority's website on or about December 8, 2016, however the exact time is unknown, other than that it was after

[3] The bill's codified provisions are contained in § 2704.78.

AB 1889 had been enacted. (SAP ¶¶ 63, 64.) One Funding Plan ("Peninsula Corridor Funding Plan") provided $600 million of Prop. 1A HSR construction funds towards the electrification of a portion of the northern bookend segment ("Peninsula Corridor Segment"). The electrified segment would be used by Caltrain, a local conventional rail commuter line. Eventually, after major future investments and additional construction, it might also be usable by high-speed rail trains. (SAP ¶¶ 44-47, 70.)

The second Final Funding Plan ("Central Valley Funding Plan") provided $2.4 billion of Prop. 1A HSR construction funds towards construction of a "Central Valley Segment." That segment would only extend approximately 106 miles, between Madera and Shafter. (SAP ¶ 40.) While it would be electrified and would contain two stations (Kings/Tulare and Fresno), it would not be suitable and ready for high-speed train operation, nor would it carry any high-speed train service. (SAP ¶ 67.) Rather, it would serve as a test track for high-speed rail cars if/when they were later purchased.[4] (SAP ¶¶ 41-43, 65-69.) In the meantime, with additional expenditures, it *might* be usable by Amtrak for its conventional rail San Joaquin service. (SAP ¶ 42.)

On January 3, 2017, Respondent Jeff Morales, Chief Executive officer of the Authority ("CEO"),[5] gave final approval to the two Final Finding Plans and transmitted them to Respondent Michael Cohen ("Cohen"), the Director of the California Department of Finance, for his review and approval. (SAP ¶72.)

Cohen gave his final approval to the Central Valley Funding Plan on March 3, 2017. (SAP ¶ 73.) With that approval, Respondent and Defendant State of California proceeded to sell $1.25 billion of Prop. 1A bonds for use towards construction of the Central Valley Segment. (SAP ¶ 74.) Those funds are currently being expended towards the construction of that segment. (SAP ¶ 75.)

[4] The Final Funding Plan for the Central Valley Segment did not include funds for the purchase of any rolling stock to run on the segment. (SAP ¶ 41.)

[5] Mr. Morales has since resigned from this position, and has been substituted for as a party by Mr. Thomas Fellenz, the interim CEO.

V. THE CURRENT LITIGATION

Petitioners[6] filed their initial complaint, for declaratory and injunctive relief, on December 13, 2016 – the same day that the Authority's Board of Directors ("Board") gave its final approval to the two Final Funding Plans. (SAP ¶ 72.) The initial complaint named only the Authority and its Board as defendants.

The summons and complaint were served on the Authority and its Board by mail with a Notice and Acknowledgement of Receipt ("NAR") mailed on December 16th. The NAR was signed by the Authority's Chief Counsel on January 5, 2017, nineteen days later. Almost a full thirty days after that, counsel for the Authority notified counsel for the Petitioners that the Authority intended to demur, based on the action being unripe. In response, Petitioners filed a First Amended Complaint, naming the same parties and again asserting claims for declaratory and injunctive relief. Counsel for the Authority again indicated it would demur, asserting that the claims were still unripe, and that the Second Cause of Action, for injunctive relief under C.C.P. § 526a, was in reality a challenge to the funding plans that could only be asserted through mandamus. On May 5, 2017, the Court granted the demurrer with leave to amend.

On May 25, 2017, Petitioners filed their SAP. The SAP added two causes of action in mandamus – one directed at the Authority and its Board and Chief Executive Officer; the other, at the Director of the Department of Finance. It continued to include causes of action for declaratory relief (C.C.P. § 1060) and for injunctive relief (C.C.P. § 526a). The SAP was served on the Authority and its Board, as well as the newly added Respondent/Defendant State of California, on May 30, 2017. The other respondents/defendants, the Authority's Chief Executive Officer and the Director of the California Department of Finance, were served shortly thereafter. Somewhat later, Petitioners voluntarily dismissed all Board members in their individual capacities (but not in their official capacities).

In response to the Authority's indication that it intended to file another demurrer, Petitioners, in the interest of moving the case forward, voluntarily dismissed various claims in the SAP that the

[6] The initial complaint included one plaintiff who removed himself from the case prior to the filing of the SAP.

Authority's counsel had indicated it intended to challenge by demurrer or motion to strike.[7] The Authority nonetheless filed this demurrer, as well as a motion to strike all allegations seeking injunctive relief. The State of California demurred to the First Cause of Action, claiming misjoinder, and the Authority's CEO demurred to his inclusion as a party. He has subsequently been voluntarily dismissed by Petitioners, rendering his demurrer moot.

STANDARD OF REVIEW

A demurrer tests whether the complaint, or one or more of its causes of action, states facts sufficient to support a cause of action. (*Zhang v. Superior Court* (2013) 57 Cal.4th 364, 370.) The complaint's allegations are given a reasonable interpretation, and all material facts that are properly pled are treated as admitted. (*Id.*)

> If the complaint states a cause of action under any theory, regardless of the title under which the factual basis for relief is stated, that aspect of the complaint is good against a demurrer. '*[W]e are not limited to plaintiffs' theory of recovery in testing the sufficiency of their complaint against a demurrer, but instead must determine if the factual allegations of the complaint are adequate to state a cause of action under any legal theory.* (*Id.* [emphasis added].)

In considering a demurrer, the Court may consider not only the facts stated on the face of the complaint, but also facts for which judicial notice may properly be taken. (*Yvanova v. New Century Mortgage Corp.* (2016) 62 Cal.4th 919, 924.)

Even if a complaint is subject to demurrer, leave to amend should be granted liberally if there is any reasonable possibility that the complaint can be amended to state a viable cause of action. (*Mendoza v. JPMorgan Chase Bank, N.A.* (3rd Dist., 2016) 6 Cal.App.5th 802, 809.)

[7] Authority's counsel has indicated that Respondents dispute the validity of the Court's acceptance of Petitioners' Request for Dismissal.

ARGUMENT

I. THE DEMURRER TO THE SECOND CAUSE OF ACTION SHOULD BE OVERRULED.

The Authority argues that the Second Cause of Action, for wasteful and/or illegal expenditures of Public Funds under Code of Civil Procedure § 526a, should be dismissed because, while claiming to seek injunctive relief against those expenditures, it is in reality a challenge to Defendants' approval of the two funding plans, and that challenge may only be made through administrative mandamus. (Def. P&As at p. 14.)

Petitioners concede that a challenge to a final administrative decision must be brought by mandamus, but that is not the thrust of Petitioners' Second Cause of Action. Petitioners' Third and Fourth Causes of Action are explicitly mandamus claims that include challenging administrative approvals for the Central Valley and Peninsula Corridor Segment Funding Plans.

A. **The Claims in the Second Cause of Action are based on different wrongs than those involved in the mandamus causes of action, and adequately state a cause of action for illegal and/or wasteful use of public funds**.

Under California law, a cause of action arises when the plaintiff has a primary right, and the defendant has a corresponding primary duty. The violation of that duty gives rise to a single cause of action. (*Bay Cities Paving & Grading, Inc. v. Lawyers' Mutual Ins. Co.* (1993) 5 Cal.4th 854, 860; *Slater v. Blackwood* (1975) 15 Cal.3d 791, 795.) While a single breach only gives rise to a single cause of action, the same set of actions can breach more than one duty, and thus give rise to more than one cause of action. For example, a City's approval of a development project can give rise to both a cause of action for violation of the California Environmental Quality Act and a cause of action for violation of state planning law. (*See, e.g., Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173.)

The Authority points to Petitioners' right to have a Final Funding Plan approved in accordance with the provisions of Prop. 1A and argues that any claim of violation of that right must be determined through a mandamus action. Petitioners do not dispute that fact.

At issue in the Second Cause of Action however, are separate claims based on a *different* primary right – the right of taxpayers to have public funds spent in a way that is neither illegal nor wasteful.

(*Gates v. Superior Court* (1986) 178 Cal.App.3d 301, 309.) The Second Cause of Action charges the Authority with wasteful and/or illegal expenditure of public funds. The cause of action asserts that if AB 1889 is unconstitutional, as alleged in the First Cause of Action, the use of Prop. 1A bond funds for construction of either the Central Valley Segment or the Peninsula Corridor Segment violates Prop. 1A and is therefore illegal. (SAP ¶¶ 7, 92-98, 105(a)); *See, Veterans of Foreign Wars v. State of California* (1974) 36 Cal.App.3d 688, 690-691, 693 [action under C.C.P. § 526a seeking to enjoin expenditure of bond funds contrary to the provisions of the bond act, alleging they involved an illegal partial repeal of the bond's provisions].)

In addition, the cause of action asserts that, if AB 1889 is unconstitutional, the expenditure of any public funds towards the preparation of a Final Funding Plan that must rely on AB 1889 is wasteful because such a Final Funding Plan could never properly be found legally adequate. Such illegal or wasteful expenditures of public funds are clearly subject to injunction under § 526a, (*See, e.g., Blair v. Pitchess* (1971) 5 Cal.3d 258, 267-269 [suit properly sought to restrain expenditure of public funds to enforce unconstitutional implementation of ordinance]; *White v. Davis* (2003) 30 Cal.4th 528, 555 [taxpayer standing sufficient under § 526a to support a final judgment permanently enjoining illegal expenditures, although not enough, in itself, to support issuance of a preliminary injunction]; *City of Ceres v. City of Modesto* (1969) 274 Cal.App.2d 545, 554-557 [allegation that installing infrastructure outside of a city's sphere of influence would be an illegal and wasteful use of public funds was a justiciable claim for injunctive relief under § 526a]; *accord*, *Los Altos Property Owners Assn. v. Hutcheon* (1977) 69 Cal.App.3d 22).

The issue the Authority attempts to raise is very similar to that raised by the defendants in *County of Santa Clara v. Superior Court* (2009) 171 Cal.App.4th 119. There, plaintiffs filed an action based of C.C.P. § 526a against multiple jurisdictions claiming that the jurisdictions had adopted illegal policies for responding to public records requests. They sought both injunctive and declaratory relief – declaratory relief that the policies were illegal and injunctive relief to block further expenditures to implement the illegal policies (*See, e.g., Van Atta v. Scott* (1980) 27 Cal.3d 424 [suit to enjoin expenditure of public

funds on illegal pretrial detention policy].) The various jurisdictions demurred, claiming that Government Code §§ 6258 and 6259 provided the exclusive procedure for litigating claims of violation of the California Public Records Act.[8] The demurrer was overruled with respect to several jurisdictions, and those jurisdictions sought a writ of mandate in the court of appeal to reverse the trial court ruling. The court of appeal accepted jurisdiction and then denied the writ petition on its merits.

The court noted that the Public Records Act's provisions in §§ 6258 and 6259 only addressed claims by a person requesting records that access to the records had been improperly denied. The provisions did *not* address the types of claims made in the plaintiffs' complaint under § 526a. (*County of Santa Clara, supra*, 171 Cal.App.4th at p. 130.) Similarly here, a writ proceeding may be the only appropriate way to challenge administrative decisions as violating the requirements of Prop. 1A, but the claims made under § 526a address a violation of a different primary right – a taxpayer's right not to have public funds spent on an illegal or wasteful activity. That cause of action is separate from the mandamus claims pursued in the third and fourth causes of action, and is properly stated in the SAP.

The Authority also asserts that claims under § 526a for injunctive relief regarding funding plans still in preparation "are plainly not ripe." It claims that such claims can only ripen when the Funding Plan is approved, and the remedy then is in mandamus. It cites to the court of appeal's ruling in *Cal. HSR Auth., supra,* 228 Cal.App.4th at p. 713. That case is inapposite.

Cal. HSR Auth. involved a mandamus challenge to the Authority's approval of a preliminary funding plan. The court found the challenge unripe because the approval being challenged was "but an interlocutory and preliminary step in [a multistep] process." (*Id.* at p. 712.)

Here, what is at issue is not the Authority's decision approving a funding plan. Rather, it is the Authority's expenditure of public funds on *preparing* funding plans that are incapable of being properly approved. The Authority's actions here are not analogous to approving of a preliminary funding plan.

[8] Some of the demurrers were granted as the plaintiffs had failed to allege that they were citizens or taxpayers of those jurisdiction. That issue was not before the court of appeal in the writ proceeding.

Instead, the situation is much more like the claim in *City of Ceres, supra*, that Modesto's expenditure of public funds to install infrastructure in an area that city might never serve was wasteful and was hence subject to injunction under C.C.P. § 526a.[9]

From the point of view of injunctive relief under § 526a, it is immaterial whether these expenditures had been authorized by the Authority's final formal approval of Funding Plans that could be challenged via mandamus. Of particular note, Petitioners have alleged that the Authority's expenditure of public funds on the preparation and approval of necessarily noncompliant funding plans was, and would be, wasteful even prior to the funding plans receiving formal approval by the Authority. (SAP ¶¶ 92, 99, 100, 105(b).) (*See, Hayward Area Planning Assn. v. Alameda County Transportation Authority ("HAPA")* (1999) 72 Cal.App.4th 95, 104 [suit seeking to enjoin expenditure of transportation sales tax measure funds on a project not included in the measure's list of authorized projects was ripe based on party's admissions to that effect, even though no formal approval had yet been given and environmental review of project was still in progress].) That is a valid cause of action under § 526a and is entirely separate from final agency action on the Funding Plan.

B. Petitioners' claims under C.C.P. § 526a entitle them to procedural rights that are not available in a mandamus claim against funding plan approvals.

Not only are the claims in the Second Cause of Action based on violations of a different legal right, but Petitioners are entitled to procedural rights under C.C.P. § 526a that are unavailable for a mandamus challenge to a Funding Plan's approval. The second paragraph of § 526a states as follows:

> An action brought pursuant to this section to enjoin a public improvement project shall take special precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

Petitioners' claims that expenditure of Prop. 1A bond funds are illegal and may be enjoined entails precisely the kind of situation, and remedy, identified in that paragraph. Resolution of those claims is therefore entitled to special precedence. While a mandamus claim under C.C.P. § 1085 is

[9] *See also*, *Los Altos Property Owners Assn. v. Hutcheon, supra,* 69 Cal.App.3d at pp. 24-25 [Los Altos School District's preparation of a consolidation plan that would create useless and duplicative facilities was wasteful use of public funds].

assigned to specific departments under the Sacramento County local rules, such claims are not given special calendar precedence.

In addition, the effect of an appeal on a judgment for mandamus is different from the effect on the prohibitory injunction that would be ordered under the Second Cause of Action. After a judgment ordering issuance of a writ of mandate, the execution of the writ is stayed pending resolution of the appeal unless the court of appeal grants a writ of supersedeas and orders the writ to be implemented. (*See, e.g., Agricultural Labor Relations Bd. v. Tex-Cal Land Management, Inc.* (1987) 43 Cal.3d 696, 700; *Fry v. City of Los Angeles* (2016) 245 Cal.App.4th 539, 548.)

By contrast, a preliminary or permanent injunction, if prohibitory in effect, is not stayed by the filing of an appeal. Rather either the trial court must agree to stay the injunction pending the outcome of the appeal or the court of appeal must grant a writ of supersedeas and order the injunction stayed. (*Canavarro v. Theatre, etc., Union* (1940) 15 Cal.2d 495, 498; *See, e.g., Kenneally v. Medical Board* (1994) 27 Cal.App.4th 489, 494.) Especially given that what is involved in the Second Cause of action is the illegal or wasteful expenditure of public funds, if the trial court finds in Petitioners' favor, it is highly appropriate that the burden be on Respondents in seeking to allow such expenditures to continue pending resolution of the appeal.

CONCLUSION

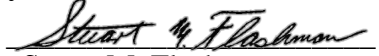
Code of Civil Procedure Section 526a was first enacted more than one hundred years ago. Since then, it has shown itself to be a highly useful tool. "That section provides 'a general citizen remedy for controlling illegal governmental activity.'" (*Van Atta, supra* 27 Cal.3d at p. 447 [quoting from *White, supra,* 13 Cal.3d at p. 763].) In order to function effectively in its remedial role, Section 526a provides litigants under it challenging a public works project statutory calendar priority as well as the general exemption of prohibitory injunctions from an automatic stay on appeal. If the Court limited this action to the granting of a writ of mandate, neither of those two protections for citizen rights would apply.

Especially when the case involves the potential illegal expenditure of literally billions of dollars of taxpayer funds under a general obligation bond, the Court should reject the Authority's attempt to narrowly limit the scope of this litigation. The Authority's demurrer should therefore be overruled.

Dated: July 27, 2017

Michael J. Brady
Stuart M. Flashman

Attorneys for Petitioners and Plaintiffs

by: 
Stuart M. Flashman

PROOF OF SERVICE BY MAIL AND ELECTRONIC MAIL

I am a citizen of the United States and a resident of Alameda County. I am over the age of eighteen years and not a party to the within above-titled action. My business address is 5626 Ocean View Drive, Oakland, CA 94618-1533.

On July 27, 2017, I served the within PETITIONERS' AND PLAINTIFFS' OPPOSITION TO RESPONDENT AND DEFENDANT HIGH-SPEED RAIL AUTHORITY'S DEMURRER TO SECOND AMENDED PETITION AND COMPLAINT; PETITIONERS' AND PLAINTIFFS' OPPOSITION TO RESPONDENT AND DEFENDANT STATE OF CALIFORNIA'S DEMURRER TO SECOND AMENDED PETITION AND COMPLAINT; PETITIONERS' OPPOSITION TO RESPONDENT AND DEFENDANT HIGH-SPEED RAIL AUTHORITY'S MOTION TO STRIKE ALLEGATIONS; PETITIONERS' REQUEST FOR JUDICIAL NOTICE IN OPPOSITION TO RESPONDENT AND DEFENDANT HIGH-SPEED RAIL AUTHORITY'S MOTION TO STRIKE ALLEGATIONS; SUPPORTING MEMO OF POINTS AND AUTHORITIES; SUPPORTING DECLARATION OF AUTHENTICITY; and PETITIONERS' OPPOSITION TO RESPONDENT AND DEFENDANT HIGH-SPEED RAIL AUTHORITY'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION TO STRIKE ALLEGATIONS on counsel for the respondents and defendants herein by placing a true copy thereof enclosed in a sealed envelope with first class mail postage thereon fully prepaid and depositing it in a U.S. Post Office mailbox at Oakland, California addressed as follows:

Sharon O'Grady, Deputy Attorney General
Tamar Pachtar, Deputy Attorney General
Office of California Attorney General
455 Golden Gate Ave., Ste. 11000
San Francisco, CA 94102-7004
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In addition, on the above-same day, I also served the above-same document, converted into a pdf file, on the above-same parties via electronic service as an e-mail attachment sent to the e-mail addresses shown above from my e-mail account at stu@stuflash.com.

I, Stuart M. Flashman, hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California on July 27, 2017.

Stuart M. Flashman