

**S218400**

SUPREME COURT  
FILED

No. S \_\_\_\_\_  
2d. Civil No. B243800

MAY - 7 2014

IN THE SUPREME COURT OF CALIFORNIA

Frank A. McGuire Clerk

In Re Coordinated Proceeding Special Title (Rule 3.550(c))  
TRANSIENT OCCUPANCY TAX CASES

CITY OF SAN DIEGO, CALIFORNIA,

*Appellant,*

v.

HOTELS.COM, L.P., et al.,

*Respondents.*

---

Appeal from the Los Angeles County Superior Court  
Hon. Elihu M. Berle, Judge, Case Number: GIC861117  
(Judicial Council Coordination Proceedings No. JCCP4472)

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**PETITIONER'S REQUEST TO TAKE JUDICIAL NOTICE;  
MEMORANDUM OF POINTS AND AUTHORITIES;  
[PROPOSED] ORDER**  
[Filed Concurrently with Petition for Review]

---

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COPY

## **REQUEST TO TAKE JUDICIAL NOTICE**

Under California Rules of Court, rule 8.252(a)(2), in connection with its concurrently-filed Petition for Review (the “Petition”), petitioner City of San Diego (“City”) requests that this Court take judicial notice of the attached coordination orders in the coordinated transient occupancy tax (“TOT”) cases, of which the instant action is a part, as well as the attached List of Ordinances of the 471 California cities and counties with transient occupancy tax (“TOT”) ordinances, and the fact that over 400 of them contain common tax imposition language, definitions of “rent,” and definitions of “occupancy.”

The following coordination orders are attached as Exhibits A-H:

1. Exhibit A: Judicial Council Order Assigning Coordination Motion Judge And Setting Date For Hearing, issued April 19, 2006.
2. Exhibit B: Docket pages reflecting the coordination motion judge’s grant of coordination motion on June 19, 2006.
3. Exhibit C: Coordination Motion Judge’s Recommendations Regarding Coordination and Order on Stay Request, issued July 3, 2006.
4. Exhibit D: Order Assigning Coordination Trial Judge, issued July 21, 2006.
5. Exhibit E: Order Granting Online Travel Companies’ Joint Petition to Add-On Cases, issued May 4, 2009.

6. Exhibit F: Order Granting Expedia Entities' Joint Petition for Coordination, issued June 16, 2009.

7. Exhibit G: Order Granting Online Travel Companies' Petition To Add-On Case, issued August 31, 2010.

8. Exhibit H: Order Granting Petition For Coordination Of Add-On Cases With Transient Occupancy Tax Coordinated Proceedings, issued January 8, 2014.

A List of Ordinances of the 470 cities and counties with TOT enactment is attached as Exhibit I. This list also catalogues the extent to which those ordinances contain similar or dissimilar tax imposition language, definitions of "rent," and definitions of "occupancy."

This Request is based on Evidence Code sections 451, 452, 453, 455, and 459, the accompanying Memorandum of Points and Authorities and Declaration of Meehan Rasch, and the Petition and briefs filed in this appeal.

DATED: May 6, 2014

Respectfully Submitted,

**OFFICE OF THE SAN DIEGO  
CITY ATTORNEY**

Daniel F. Bamberg, Esq.

Jon E. Taylor, Esq.

**KIESEL BOUCHER LARSON LLP**

William L. Larson, Esq.

**BARON & BUDD, P.C.**

Laura Baughman, Esq.

Thomas M. Sims, Esq.

**GREINES, MARTIN, STEIN  
& RICHLAND LLP**

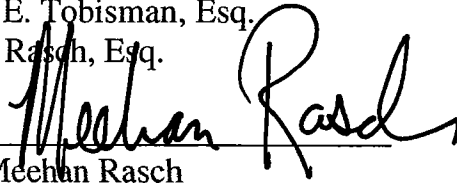
Irving H. Greines, Esq.

Cynthia E. Tobisman, Esq.

Meehan Rasch, Esq.

By: \_\_\_\_\_

Meehan Rasch

A handwritten signature in black ink, appearing to read "Meehan Rasch", is written over a horizontal line. The signature is fluid and cursive.

Attorneys for Petitioner,  
CITY OF SAN DIEGO, CALIFORNIA

## MEMORANDUM OF POINTS AND AUTHORITIES

Appellate courts may take judicial notice of the enactments of any public entity pursuant to Evidence Code sections 451(a) and 452(a)-(b), and may take judicial notice of the records of any court pursuant to Evidence Code sections 452 and 459. (Evid. Code §§ 452(d), 459; *Taus v. Loftus* (2007) 40 Cal.4th 683, 726 [court may take judicial notice of court records in related proceedings relevant to the questions raised on appeal].)

As explained in the attached Declaration of Meehan Rasch, the coordination orders attached as Exhibits A-H are relevant to the issues raised by the Petition For Review. They establish the procedural background to the Court of Appeal's March 27, 2014 published opinion, in which the Court of Appeal justified its decision to cite and rely on its previously unpublished decisions by holding that two unpublished decisions it issued in prior appeals brought by different parties in these coordinated proceedings were "law of the case" and, as such, were controlling in future dispositions in the coordinated proceedings. (Opn. 3-4, fn. 4.)

The coordination orders support the City of San Diego's statement that no order merging the coordinated actions into a single action ever issued in this case. (See Petition p. 17-18.) Thus, they help illuminate and frame an important question of first impression in this case—namely, whether the law-of-the-case doctrine automatically applies to bind all parties in coordinated proceedings, regardless of the absence of any order

merging the coordinated actions. As the City's Petition explains, nothing in the coordination orders reflects any intent that the different coordinated actions be merged or treated as the same action for all purposes.

The coordination orders, which are part of the trial court's records in these coordinated proceedings, have not been the subject of any prior request for judicial notice. Indeed, until the Court of Appeal's published opinion, there was no reason to seek such judicial notice.

In addition, the City respectfully requests that the Court take judicial notice of the accompanying List of Ordinances attached as Exhibit I, containing a full list of citations to all of the transient occupancy tax ("TOT") ordinances supporting the City's statement in its Petition for Review that of the 470 California cities and counties with TOT ordinances, over 400 have enacted TOT ordinances containing identical or substantially identical taxing language to that adopted by the City. (See, e.g., Petition, pp. 20-21, 29, 31.)

Exhibit I consists of three subsections, citing all city and county TOT ordinances in the state that do and do not share, respectively, common tax imposition language, definitions of "rent," and definitions of "occupancy." The list contains no argument.

Petitioner makes this request solely for the purpose of allowing the Court to have, at its fingertips, the benefit of Petitioner's comprehensive research on the more than 400 California TOT laws that employ language identical or substantially identical to the ordinance involved in this case.

This Application is based on the accompanying Memorandum of Points and Authorities, on the Petition for Review filed concurrently with this Application and all of the records and files in this case.

We respectfully request that the Court take judicial notice of the coordination orders now.

DATED: May 6, 2014

Respectfully Submitted,

**OFFICE OF THE SAN DIEGO  
CITY ATTORNEY**

Daniel F. Bamberg, Esq.

Jon E. Taylor, Esq.

**KIESEL BOUCHER LARSON LLP**

William L. Larson, Esq.

**BARON & BUDD, P.C.**

Laura Baughman, Esq.

Thomas M. Sims, Esq.

**GREINES, MARTIN, STEIN  
& RICHLAND LLP**

Irving H. Greines, Esq.

Cynthia E. Tobisman, Esq.

Meehan Rasch, Esq.

By: \_\_\_\_\_

  
Meehan Rasch

Attorneys for Petitioner,  
CITY OF SAN DIEGO, CALIFORNIA

## DECLARATION OF MEEHAN RASCH

I, Meehan Rasch, declare:

1. I am an attorney licensed to practice law in the state of California and an associate in the law firm of Greines, Martin, Stein & Richland LLP. The firm represents appellant City of San Diego in connection with the City's Petition for Review ("Petition").

2. The coordination orders attached and described below are relevant to the issues addressed in the Petition and will be of assistance to the Court as it considers the issues following:

a. In its March 17, 2014 opinion, the Court of Appeal concluded that two unpublished decisions issued in prior appeals brought by different parties in these coordinated proceedings were "law of the case" and, as such, were controlling in future dispositions in the coordinated proceedings. (Opn. 3-4, fn. 4.)

b. The City has noted in its Petition that the opinion's law-of-the-case proclamation runs afoul of established law providing that coordinated proceedings are not automatically merged into one absent an order or stipulation so providing.

c. The City has cited the coordination orders in the present coordinated proceedings to establish that here, there was no such order or stipulation merging the coordinated actions into a single action.



3. I am familiar with the documents that constitute Exhibits A-H to petitioner's Motion for Judicial Notice.

4. Attached as Exhibit A is a true and correct copy of the Judicial Council's Order Assigning Coordination Motion Judge And Setting Date For Hearing, issued April 19, 2006.

5. Attached as Exhibit B is a true and correct copy of the Case Summary page of the electronic docket for Judicial Council Coordination Proceedings No. JCCP4472 and a docket page containing proceeding information for the period including June 19, 2006, reflecting the coordination motion judge's granting of coordination motion on June 19, 2006, coordinating the Los Angeles and San Diego actions.

6. Attached as Exhibit C is a true and correct copy of the Coordination Motion Judge's Recommendations Regarding Coordination and Order on Stay Request, issued July 3, 2006, coordinating the Los Angeles and San Diego actions.

7. Attached as Exhibit D is a true and correct copy of the Order Assigning Coordination Trial Judge, issued July 21, 2006.

8. Attached as Exhibit E is a true and correct copy of the Order Granting Online Travel Companies' Joint Petition to Add-On Cases, issued May 4, 2009, adding the Anaheim actions to the coordinated proceedings.

9. Attached as Exhibit F is a true and correct copy of the Order Granting Expedia Entities' Joint Petition for Coordination, issued June 16, 2009, adding the San Francisco actions to the coordinated proceedings.

10. Attached as Exhibit G is a true and correct copy of the Order Granting Online Travel Companies' Petition To Add-On Case, issued August 31, 2010, adding the Santa Monica action to the coordinated proceedings.

11. Attached as Exhibit H is a true and correct copy of the Order Granting Petition For Coordination Of Add-On Cases With Transient Occupancy Tax Coordinated Proceedings, issued January 8, 2014, adding the San Francisco actions to the coordinated proceedings.

12. The List of Ordinances attached as Exhibit I and described below is relevant to the issues addressed in the Petition and will be of assistance to the Court as it considers the issues following:

a. The City has noted in its Petition that definitive interpretation of the TOT ordinance language at issue here is a matter of enormous statewide importance, as substantially identical taxing language appears in the TOT ordinances of over 400 California cities and counties.

b. Correct interpretation of the more than 400 commonly-worded TOT ordinances thus will have a tangible and immediate impact on the ability of public entities in every part of the state, of all sizes, to offer needed services.

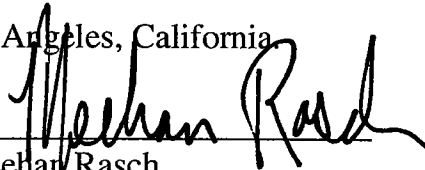
c. The City has cited the full body of citations statewide to underscore the magnitude of this issue: By reason of the coordination order, all future TOT cases will be decided by Division

Two. Thus, unless this Court intervenes now, the hundreds of public entities with identically-worded (or operationally identical) TOT laws will be denied their just entitlements. This is so because Division Two has thrice held (once in the published opinion in this case and twice in unpublished opinions) that the tax base for calculating TOT is the wholesale amount received by the hotel. If San Diego's interpretation of the TOT language is correct, only action by this Court will ensure that these hundreds of public entities receive the revenues they are due.

13. Attached as Exhibit I is a true and correct list of ordinances of the 470 California cities and counties with TOT ordinances, and a breakdown of the extent to which they contain common tax imposition language, common definitions for "rent," and common definitions for "occupancy."

14. This request for judicial notice is made in good faith.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct and that this Declaration was executed on May 6, 2014, at Los Angeles, California.

  
\_\_\_\_\_  
Meehan Rasch

No. S \_\_\_\_\_

IN THE SUPREME COURT OF CALIFORNIA

In Re Coordinated Proceeding Special Title (Rule 3.550(c))  
TRANSIENT OCCUPANCY TAX CASES

CITY OF SAN DIEGO, CALIFORNIA,

*Appellant,*

v.

HOTELS.COM, L.P., et al.,

*Respondents.*

Appeal from the Los Angeles County Superior Court  
Hon. Elihu M. Berle, Judge, Case Number: GIC861117  
(Judicial Council Coordination Proceedings No. JCCP4472)

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**[PROPOSED] ORDER**

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Good cause appearing, Petitioner's Request for Judicial Notice is  
granted.

DATED: \_\_\_\_\_, Justice

# **EXHIBIT A**

**CHAIR, JUDICIAL COUNCIL OF CALIFORNIA**  
455 Golden Gate Avenue, San Francisco, CA 94102-3688

Coordination Proceeding	)	
Special Title (Rule 1550(b))	)	
	)	
<b>TRANSIENT OCCUPANCY TAX</b>	)	<b>JUDICIAL COUNCIL</b>
<b>CASES</b>	)	<b>COORDINATION PROCEEDING</b>
	)	<b>NO. 4472</b>
	)	
Included actions:	)	
	)	
City of Los Angeles, California	)	<b>SUPERIOR COURT OF CALIFORNIA</b>
v. Hotels.Com, L.P.	)	<b>COUNTY OF LOS ANGELES</b>
	)	<b>NO. BC 326 693</b>
	)	
City of San Diego, California	)	<b>SUPERIOR COURT OF CALIFORNIA</b>
v. Hotels.Com, L.P.	)	<b>COUNTY OF SAN DIEGO</b>
	)	<b>NO. GIC 861 117</b>

**ORDER ASSIGNING COORDINATION MOTION JUDGE  
AND SETTING DATE FOR HEARING**

THE MANAGING JUDGE of the Complex Civil Division of the Superior Court of California, County of Los Angeles, is hereby assigned pursuant to Code of Civil Procedure section 404 and rule 1524 of the California Rules of Court to sit as coordination motion judge to determine whether the actions are complex, and if so, whether coordination of the included actions set forth in the caption is appropriate. If the coordination motion judge grants the petition for coordination, he or she must (1) recommend a particular superior court for the site of the coordination proceedings, pursuant to rule 1530, and (2) select the reviewing court having appellate jurisdiction if the actions to be coordinated are within the jurisdiction of more than one reviewing court, pursuant to 1505(a).

Pursuant to section 404.5 and rule 1514, pending any determination whether coordination is appropriate, the coordination motion judge may stay any action being considered for, or affecting an action being considered for, coordination.

Pursuant to rule 1524, the clerk of each court in which an included action is pending is directed to file this order in the included action.

Pursuant to rules 1501(17) and 1524, all documents required to be submitted to the coordination motion judge must be transmitted to the court address designated below:

Managing Judge of the Complex Civil Division  
Superior Court of California, County of Los Angeles  
Central Civil West, Dept. 323, Room 1707  
600 South Commonwealth Avenue  
Los Angeles, CA 90005

Pursuant to rule 1511, a copy of every notice of opposition, application for stay order, stay order, notice of hearing on the petition, and order granting or denying coordination must be transmitted to the Chair of the Judicial Council at the following address:

Chair, Judicial Council of California  
Administrative Office of the Courts  
Attn: Appellate & Trial Court Judicial Services  
(Civil Case Coordination)  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688

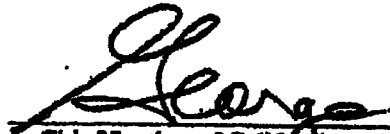
Unless otherwise ordered by the coordination motion judge, it is ordered that a hearing on the petition for coordination be set before the coordination motion judge at the time and place as follows:

June 15, 2006; 10:00 a.m.  
Central Civil West, Dept. 323, Room 1707  
600 South Commonwealth Avenue  
Los Angeles, CA 90005

f

Petitioner is directed to serve a copy of this order on (1) all parties to the included coordinated actions, and (2) the clerk of each court for filing in each included action.

Dated: April 19, 2006

  
Chief Justice of California and  
Chair of the Judicial Council



100002

# CHAIR, JUDICIAL COUNCIL OF CALIFORNIA

## PROOF OF SERVICE BY MAIL

JUDICIAL COUNCIL COORDINATION NUMBER: <b>4472</b>	CASE NUMBER:
--	--------------

1. I am over the age of 18 and not a party to this legal action.
2. I am employed in the City and County of San Francisco and my business address is

**455 Golden Gate Avenue  
San Francisco, CA 94102-3888**

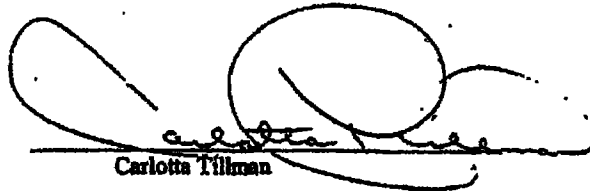
3. On April 19, 2006, I served a copy of the following documents:

- ORDER ASSIGNING COORDINATION MOTION JUDGE
- ORDER ASSIGNING COORDINATION TRIAL JUDGE
- ORDER ASSIGNING COORDINATION MOTION JUDGE AND SETTING DATE FOR HEARING
- AMENDED ORDER ASSIGNING COORDINATION MOTION JUDGE
- AMENDED ORDER ASSIGNING COORDINATION TRIAL JUDGE
- OTHER

on the interested parties listed on the attached mailing list by placing a true copy enclosed in a sealed envelope with postage fully prepaid in the outgoing mailbox in my office, in accordance with ordinary business practices for deposit with the United States Postal Service in San Francisco, California. I am readily familiar with my office's business practice for collection of and processing of correspondence for mailing, and under that practice the above document is being deposited with the United States Postal Service this date in San Francisco, California, in the ordinary course of business.

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

Date: April 19, 2006

  
Carlotta Tillman

**MAILING LIST**

**JUDICIAL COUNCIL COORDINATION PROCEEDING NO. 4472**

**Mr. David F. McDowell  
Mr. James Oliva  
MORRISON & FOERSTER  
555 West Fifth Street, Suite 3500  
Los Angeles, CA 90013-1024**

# **EXHIBIT B**

## Case Summary

**Case Number:** JCCP4472  
"TRANSIENT OCCUPANCY TAX CASES" VS HOTELS.COM,L.P., ET AL

**Filing Date:** 04/26/2006  
**Case Type:** Judicial Council Coord Proceeding (General Jurisdiction)  
**Status:** Pending

**Coordinated Case(s):** BC326893 on 06/19/2006

**Coordinated Case(s):** GIC861117 on 06/19/2006

**Coordinated Case(s):** CGC-13535275 on 01/08/2014

**Coordinated Case(s):** CGC-13-535290 on 01/08/2014

**Coordinated Case(s):** CGC-13-535273 on 01/08/2014

**Coordinated Case(s):** CGC-13-535296 on 01/08/2014

**Coordinated Case(s):** CGC-13-535278 on 01/08/2014

**Coordinated Case(s):** CGC-13-535277 on 01/08/2014

### Future Hearings

**05/14/2014** at 01:30 pm in department 323 at 600 South Commonwealth Ave., Los Angeles, CA 90005  
Hearing on Demurrer(2. M/ASSESSMENTS)

### Documents Filed | Proceeding Information

#### Parties

Click on any of the below link(s) to see names that begin with the letter indicated:  
B - H I - O P - T

BARON & BUDD PC - Attorney for Plaintiff/Petitioner

BINGHAM MCCUTCHEN - Attorney for Defendant/Respondent

CHEAPTICKETS.COM - Defendant/Respondent's DBA

CITY AND COUNTY OF SAN FRANCISCO - Defendant

CITY OF ANAHEIM - Defendant

CITY OF LOS ANGELES - Attorney for Plaintiff/Petitioner

CITY OF LOS ANGELES [BC326893] - Plaintiff

CITY OF SAN DIEGO [GIC 861117] - Plaintiff

CITY OF SANTA MONICA - Plaintiff

CRISTINA L. TALLEY CITY ATTORNEY - Attorney for Defendant/Respondent

DENNIS J. HERRERA CITY ATTORNEY - Attorney for Defendant/Respondent

**09/08/2008** at 09:00 am in Department 323, Carolyn B. Kuhl, Presiding  
Exparte proceeding - **Court makes order**

**08/28/2008** at 11:00 am in Department 323, Carolyn B. Kuhl, Presiding  
Motion (MOTION TO LIFT STAY) - **Continued by Plaintiff**

**08/19/2008** in Department 323, Carolyn B. Kuhl, Presiding  
Telephonic Conference - **Completed**

**07/23/2008** at 09:00 am in Department 323, Carolyn B. Kuhl, Presiding  
Non-Appearance (Case Review) - **Completed**

**01/18/2008** at 09:00 am in Department 323, Carolyn B. Kuhl, Presiding  
Non-Appearance (Case Review) - **Court makes order**

**07/27/2007** in Department 323, Carolyn B. Kuhl, Presiding  
Ruling on Submitted Matter - **Court makes order**

**06/11/2007** at 01:45 pm in Department 323, Carolyn B. Kuhl, Presiding  
Motion to Strike (CLASS ALLEGATIONS Demurrer to L.A.'s 3rd Amd Cplt Demurrer to S.D.'s 1st Amd Cplt) -  
**Submitted-Orally Argued**

Click on any of the below link(s) to see proceedings held on or before the date indicated:  
TOP [07/26/2011](#) [07/07/2010](#) [08/03/2009](#) [03/20/2007](#)

**03/20/2007** at 10:30 am in Department 323, Carolyn B. Kuhl, Presiding  
Motion to Strike (Motion to Strike the Class Allegations in Los Angeles' Second Amended Complaint; Various  
Demurrers) - **Advanced to a Previous Date**

**03/01/2007** at 01:45 pm in Department 323, Carolyn B. Kuhl, Presiding  
Hearing on Demurrer - **Overruled**

**01/30/2007** at 10:30 am in Department 323, Carolyn B. Kuhl, Presiding  
Further Status Conference - **Held-Continued**

**12/05/2006** at 03:30 pm in Department 323, Carolyn B. Kuhl, Presiding  
Initial Status Conference - **Completed**

**11/01/2006** at 03:45 pm in Department 323, Carolyn B. Kuhl, Presiding  
Affidavit of Prejudice (ORDER REASSIGNING CASE TO D-323) - **Court makes order**

**10/24/2006** at 11:00 am in Department 323, Carolyn B. Kuhl, Presiding  
Non-Appearance (Case Review) (reassignment to Judge Kuhl D-323) - **Court makes order**

**10/19/2006** at 09:30 am in Department 322, Peter D. Lichtman, Presiding  
Court Order - **Completed**

**10/05/2006** in Department 322, Peter D. Lichtman, Presiding  
Court Order - **Completed**

**09/29/2006** in Department 323, Carolyn B. Kuhl, Presiding  
Affidavit of Prejudice - **Case is reassigned**

**08/16/2006** in Department 309, Anthony J. Mohr, Presiding  
Affidavit of Prejudice - **Transferred to different department**

**06/19/2006** at 10:00 am in Department 323, Carolyn B. Kuhl, Presiding  
Motion of Pet. for Coordination - **Granted**

Click on any of the below link(s) to see proceedings held on or before the date indicated:  
TOP [07/26/2011](#) [07/07/2010](#) [08/03/2009](#) [03/20/2007](#)

# **EXHIBIT C**

COPY

1 DAVID F. McDOWELL (CA SBN 125806)  
2 BENJAMIN J. FOX (CA SBN 193374)  
3 JAMES OLIVA (CA SBN 215440)  
4 MORRISON & FOERSTER LLP  
5 555 West Fifth Street, Suite 3500  
6 Los Angeles, California 90013-1024  
7 Telephone: (213) 892-5200  
8 Facsimile: (213) 892-5454  
9 dmcdowell@mofocom  
10 bfox@mofocom  
11 joliva@mofocom

7 Attorneys for Defendants  
8 TRAVELCITY.COM, LP; SITE59.COM, LLC and  
9 TRAVELCITY.COM, INC.

9 (Additional Defendants Listed on Signature Page)

RECEIVED  
JUN 27 2006  
Dept. 323

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES

13 COORDINATION PROCEEDING  
14 SPECIAL TITLE [RULE 1550(b)]

15 TRANSIENT OCCUPANCY TAX CASES

16 CITY OF LOS ANGELES, CALIFORNIA, on  
17 behalf of itself and all others similarly situated,

18 Plaintiff,

19 v.

20 HOTELS.COM, L.P., et al. and DOES 1 through  
21 1000, inclusive,

22 Defendants.

23 CITY OF SAN DIEGO, CALIFORNIA,

24 Plaintiff,

25 v.

26 HOTELS.COM, L.P., et al. and DOES 1 through  
27 1000, inclusive,

28 Defendants.

ORIGINAL FILED

JUL 03 2006

LOS ANGELES  
SUPERIOR COURT

JUDICIAL COUNCIL COORDINATION  
PROCEEDING No. 4472

Assigned to the Hon. Carolyn B. Kuhl  
for hearing on Petition for Coordination

[REDACTED] RECOMMENDATIONS  
REGARDING COORDINATION AND  
ORDER ON STAY REQUEST

Los Angeles Superior Court  
Case No. BC326693

San Diego Superior Court  
Case No. GIC 861117

la-864933

[PROPOSED] RECOMMENDATIONS REGARDING COORDINATION AND ORDER ON STAY REQUEST

1 In accordance with the Order Assigning Coordination Motion Judge in this matter dated  
2 April 19, 2006, the Court makes the following determinations:

3 1. These actions are complex under Rule 1800, *et seq.*, of the California Rules of Court;  
4 2. Coordination of *City of Los Angeles v. Hotels.com, et al.*, Los Angeles County Superior  
5 Court Case No. BC 326693, and *City of San Diego v. Hotels.com, et al.*, San Diego Superior Court  
6 Case No. GIC 86111, which is not opposed by any party, is appropriate under Code of Civil  
7 Procedure § 404, *et seq.*, and Rule 1520, *et seq.*, of the California Rules of Court;

8 3. The Court of Appeal, Second Appellate District, is designated, pursuant to Code of  
9 Civil Procedure § 404, *et seq.*, and Rule 1505(a) of the California Rules of Court, as the reviewing  
10 court herein; and

11 4. It is recommended, pursuant to Code of Civil Procedure § 404, *et seq.*, and Rule 1530  
12 of the California Rules of Court, that the Los Angeles Superior Court is the appropriate court site for  
13 assignment of the coordination trial judge. The court bases this recommendation on its findings that  
14 the Los Angeles Superior Court action has been pending longer than the San Diego Superior Court  
15 action; Judge Anthony Mohr has made a substantive ruling in the Los Angeles action, while Judge  
16 Richard Strauss has not made any such rulings; court congestion has not delayed either action, and  
17 Los Angeles is a more convenient forum for counsel in the action.

18 These cases are not stayed pursuant to Code of Civil Procedure § 404.5 and Rule 1514 of the  
19 California Rules of Court; however, only discovery previously authorized in either case or that may  
20 be further authorized by Judge Anthony Mohr is allowed. The parties should address all issues  
21 regarding discovery matters in either case, including any protective orders, to Judge Anthony Mohr,  
22 pending assignment of a coordination trial judge by the Judicial Council.

23  
24 Dated:

JUL 03 2006


Carolyn B. Kuhl

\_\_\_\_\_  
Carolyn B. Kuhl  
Judge of the Los Angeles Superior Court



1 Submitted By:

2 MORRISON & FOERSTER LLP

3 

4 By: \_\_\_\_\_  
5 David F. McDowell  
6 Attorneys for Defendants  
7 Travelocity.com, L.P., Site59.com, LLC  
8 and Travelocity.com, Inc.

8 *Additional Defendants and Counsel:*

9 Alan E. Friedman (CA SBN 47839)  
10 JONES DAY  
11 555 South Flower Street, 50th Floor  
12 Los Angeles, California 90071  
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# **EXHIBIT D**

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**FILED**  
LOS ANGELES SUPERIOR COURT



JUL 21 2006

JUL 27 2006  
2:42PM

JOHN A. CLARKE, CLERK

*John A. Clarke*  
DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

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**Coordination Proceeding  
Special Title (Rule 1550(b))**

**JUDICIAL COUNCIL  
COORDINATION PROCEEDING  
NO. 4472**

**TRANSIENT OCCUPANCY TAX  
CASES**

**Coordinated actions:**

**City of Los Angeles, California  
v. Hotels.Com, L.P.**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES  
NO. BC 326 693**

**City of San Diego, California  
v. Hotels.Com, L.P.**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
NO. GIC 861 117**

**ORDER ASSIGNING COORDINATION TRIAL JUDGE**

Judge Anthony J. Mohr, Judge of the Los Angeles Superior Court, is hereby assigned pursuant to Code of Civil Procedure section 404.3 and Rule 1540, of the California Rules of Court, to sit as coordination trial judge to hear and determine the coordinated actions listed, at the site or sites he finds appropriate. Immediately upon assignment, the coordination trial judge may exercise all the powers over each coordinated action of a judge of the court in which that action is pending.

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Pursuant to Rules 1501(17) and 1540, every paper filed in a coordinated action shall be accompanied by proof of submission of a copy thereof to the coordination trial judge at the following address:

Judge Anthony J. Mohr  
Los Angeles Superior Court  
Department 309  
600 South Commonwealth Avenue  
Los Angeles, California 90005

Pursuant to Rule 1511, a copy of every notice of opposition, application for stay order, stay order, notice of hearing on the petition, and order granting or denying coordination shall be transmitted to the Chair of the Judicial Council shall be sent to the following address:

Chair, Judicial Council of California  
Administrative Office of the Courts  
Attn: Appellate & Trial Court Judicial Services  
(Civil Case Coordination)  
455 Golden Gate Avenue  
San Francisco, California 94102-3660

Petitioner is directed to serve a copy of this order on (1) all parties to the included coordinated actions, and (2) the clerk of each court for filing in each included action.

DATED: July 21, 2006.

  
WILLIAM A. MacLAUGHLIN, Presiding Judge

123000

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**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

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**Coordination Proceeding,  
Special Title (Rule 1559 (b))**

**Plaintiffs,**

**vs.**

**TRANSIENT OCCUPANCY TAX CASES**

**Defendants.**

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**CASE NO. JCCP 4472**

**CERTIFICATION OF MAILING  
OF ORDER ASSIGNING COORDINATION  
TRIAL JUDGE**

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**CERTIFICATE OF MAILING**

I, JOHN A. CLARKE, Clerk of the Superior Court of California, County of Los Angeles, and not a party to the within action, hereby certify that on July 21, 2008, I served a copy of the "Certification of Mailing of Order Assigning Coordination Trial Judge" on the parties in the within action, by depositing true copies thereof, enclosed in sealed envelopes with postage thereon fully prepaid in the United States Post Office mail box in the County of Los Angeles, California, addressed as follows:

**Mr. David F. McDowell  
Mr. James Oliva  
MORRISON & FOERSTER  
555 West Fifth Street, Ste. 3500  
Los Angeles, CA 90013-1024**

**Mr. JOHN A. CLARKE  
Executive Officer  
Superior Court of California  
County of Los Angeles  
111 North Hill Street, Ste. 105-E  
Los Angeles, CA 90012**

**Hon. Anthony J. Mohr  
Los Angeles Superior Court  
Department 309  
600 South Commonwealth Avenue  
Los Angeles, CA 90005**

**Chair, Judicial Council of California  
Administrative Office of the Courts  
Attn: Appellate & Trial Court Judicial Services  
(Civil Case Coordination)  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688**

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**CERTIFICATE OF MAILING**

112000

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

JOHN A. CLARKE, Executive Officer/Clerk  
of the Los Angeles Superior Court

Dated: July 21, 2006.

By



GLORIA A. PEDREGON

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CERTIFICATE OF MAILING