SUPREME COURT OF CALIFORNIA

S252915

LESLIE T. WILDE,

Plaintiff and Appellant,

v.

CITY OF DUNSMUIR et al.,

Defendants and Respondents.

Court of Appeal, Third Appellate District, Case No. C082664
Superior Court, County of Siskiyou, Hon. Anne Bouliane
Civil Case No. SC CV PT 16-549

SUPPLEMENTAL BRIEF (CRC Rule 8.520(d))

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I

A NEW CASE, *HOWARD JARVIS TAXPAYERS ASSOCIATION v. AMADOR WATER AGENCY*, WAS WRONGLY DECIDED AND SHOULD NOT BE FOLLOWED

Plaintiff Wilde submits this Supplemental Brief under CRC Rule 8.520(d) to address a new case with similar facts, decided after briefing was complete. *Howard Jarvis Taxpayers Assn. v. Amador Water Agency* (2019) 36 Cal.App.5th 279, although from the same Court that decided the case at bar, was authored by a different panel and reached a different result.

The panel that decided the case at bar correctly upheld a local referendum. The *Amador* panel erred by broadly construing an exception to the referendum power. For the reasons below, *Amador* should be disregarded.

A. Amador in a Nutshell

Citizens wanting to put to a vote a resolution of the Amador Water Agency adopting new water rates, turned in a referendum petition with sufficient voter signatures to qualify for the ballot. The Agency's clerk rejected the petition on the grounds that water rates are not subject to referendum because the referendum provision (article II, section 9) contains an exception for "tax levies or appropriations for usual current expenses of the State." (*Amador*, 36 Cal.App.5th at 283-84.)

Citizens sought mandamus, which the trial court denied. The Court of Appeal affirmed. It acknowledged that, under modern definitions of "tax" and "fee," water rates are not "taxes" that would be exempt from referendum. (36 Cal.App.5th at 295.) The Court opined, however, that this "recent evolution of law differentiating between 'tax' and 'fees or charges' developed *after* the

1978 passage of Proposition 13."[1] (36 Cal.App.5th at 295.) In 1911 when voters added the referendum provision to the constitution, the Court concluded, "the exclusion of 'taxes' from the general constitutional referendum power broadly encompassed exactions for usual current expenses of government, regardless of their label as taxes, fees, or charges." (36 Cal.App.5th at 304.)

The Court therefore adopted an "expansive construction of 'tax'" for purposes of the "tax levies" exception (36 Cal.App.5th at 303) and ruled that water rates are "tax levies" beyond the people's referendum power.

The *Amador* Court erred because exceptions to the referendum power must be narrowly construed, and because 1911-era cases and statutes clearly differentiated between tax levies and user fees.

B. *Exceptions to the Referendum Power Must Be Narrowly Construed*

Exceptions to the referendum power must be construed narrowly, not "expansively." Courts have a "solemn duty to jealously guard" the referendum power. (*Cal. Cannabis Coalition v. City of Upland* (2017) 3 Cal.5th 924, 930.) Courts must "apply a liberal construction to this *power* whenever it is challenged" (*Indep. Energy Producers Assn. v. McPherson* (2006) 38 Cal.4th 1020, 1032) and "*narrowly* construe provisions that would burden or limit its exercise." (*Upland*, 3 Cal.5th at 946.) They must "resolve doubts in favor of the exercise of the right whenever possible" (*id.* at 934) in order "*to maintain maximum power in the people.*" (*Carlson v. Cory* (1983) 139 Cal.App.3d 724, 728.)

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[1] Unless noted otherwise, all emphasis is added.

Despite these admonitions, *Amador* broadly construed the "tax levies" exception, claiming that's what voters and the Legislature intended in 1911: "At the time ... the word 'tax' generally had an inclusive definition that included exactions for assessments, fees or charges, including user fees for government services ... We presume voters and legislators were aware of the inclusive use of the term 'tax.'" (*Amador*, 36 Cal.App.5th at 285, 297.)

As shown below, however, a host of 1911-era cases and statutes clearly demonstrate that both the courts and the Legislature distinguished between taxes, assessments, and fees then as they do today.

C. *1911-Era Cases Distinguished Taxes From Assessments and Fees*

Today, the constitution defines "tax" to *exclude* "fees" (art. XIII C, § 1(e)) and defines "fee" to exclude "taxes" (art. XIII D, § 2(e)). "'Fee' ... includ[es] a user fee or charge for a property related service," such as water service. (*Bighorn-Desert View Water Agency v. Verjil* (2006) 39 Cal.4th 205, 216-17.) "Assessments" are neither taxes nor fees (art. XIII D, § 3(a)), but are voluntary funding for public improvements that specially benefit private property (*id.*, § 2(b)).

According to *Amador*, this "recent evolution of law differentiating between "tax" and "fees or charges" developed *after* the 1978 passage of Proposition 13." (*Amador*, 36 Cal.App.5th at 295.) But that statement is incorrect. These lines of demarcation are not a new phenomenon. In 1911, the law recognized the same three basic classifications of government charges: (1) taxes, (2) benefit assessments, and (3) fees. First, the law distinguished taxes from benefit assessments:

> "Taxes are a public imposition, levied by authority of the government, upon the property of the citizen generally, for the purpose of carrying on the government, while the more restricted term 'assessment' is usually, as it was in the present case, induced by the request ... of a majority of the inhabitants of the assessment district, and is levied for the benefit of the property situated within the particular district; the assessment being an equivalent from the owner for the improvement made to the value of the property. Such assessments are not collected like public taxes, but generally, as in the case here, a particular mode of recovering the charge is pointed out by the statute." (*Wood v. Brady* (1885) 68 Cal. 78, 80.)

More importantly, the law in 1911 distinguished taxes from *fees*. And like today, it recognized different types of fees. It differentiated "regulatory fees" – imposed as a condition of business licensing under the police power to protect public health, safety and welfare – from "user fees," such as water rates – collected when an agency does business with citizens in its capacity as an enterprise or service provider.

That regulatory licensing fees were distinguished from taxes is illustrated by the 1850 case of *People ex rel. Attorney General v. Naglee*, which tested the constitutionality of a law requiring foreigners to pay a license fee to operate gold mines on public lands in California:

> "There can scarcely be a doubt that a State law imposing a *tax* upon the personal property of miners, such as their tools, machinery, provisions, and the gold extracted from the earth, would [be valid]. ... But we are of the opinion that [this charge]

should rather be viewed in the light of an Act prescribing certain conditions, upon compliance with which, foreigners are to be permitted to ... pursue a particular branch of business. It is, in truth, what it purports to be, a *license* law. ... [I]t may be regarded as a *police* regulation." (*People ex rel. Atty. Gen. v. Naglee* (1850) 1 Cal. 232, 241-44; see also *People v. McCreery* (1868) 34 Cal. 432, 448 ("[*Naglee*] held that ... the statute did not levy or assess a tax upon property, but required a certain license fee to be paid by those of the specified class, who should pursue the designated business."))

Besides distinguishing regulatory fees enacted under the police power from taxes enacted under the taxing power, the law in 1911 also distinguished taxes from *user fees* charged when government acts in its proprietary capacity. In the 1908 case of *City of South Pasadena v. Pasadena Land and Water Company* (1908) 152 Cal. 579, South Pasadena sued the private water company that served its citizens, to enjoin the company from selling its water rights and waterworks to the City of Pasadena. South Pasadena questioned whether one taxing authority could constitutionally collect revenue from the citizens of another taxing authority. The Supreme Court held that Pasadena would not be taxing the citizens of South Pasadena, but rather selling them water as an enterprise:

"[T]he rule is invoked that there cannot be two municipalities exercising the same powers at the same time within the same territory. But ... [i]n the carrying on of the water service to the people of South Pasadena the City of Pasadena will not be acting in its political, public, or governmental capacity as an agent of the sovereign power equal in all respects to the city

> within which it operates. In administering a public utility, such as a water system, even within its own limits, a city does not act in its governmental capacity, but in a proprietary and only quasi-public capacity." (*Pasadena Land & Water* (1908) 152 Cal. at 592-93.)

1911-era cases, like cases today, distinguished taxes from fees not only as to their source of power, but also as to the purpose of their expenditure. "Taxes" raise revenue that is unrestricted and may be appropriated for general operation of the government and public welfare. Not so with valid "fees." Commodities and services offered by government must "provide for a fee which 'does not exceed the reasonable cost of providing the service for which the fee is charged.'" (*Bixel Assocs. v. City of L.A.* (1989) 216 Cal.App.3d 1208, 1215.) "An excessive fee that is used to generate general revenue becomes a tax." (*Cal. Farm Bureau Fed'n v. State Water Res. Control Bd.* (2011) 51 Cal.4th 421, 438.)

In 1911 it was similarly understood that fees cannot exceed the cost of service so as to generate General Fund revenue, as explained in the 1906 case of *County of Plumas v. Wheeler*, an action by the County to recover from sheep ranchers a license fee for the operation of their business. The ranchers argued that the fee exceeded the County's costs in regulating their business:

> "Can the ordinance now before us be sustained as a valid exercise of the power of the county to regulate the business of raising, herding, grazing, and pasturing sheep? The principles affecting the right of legislative bodies in the exercise of what is known as the 'police power,' to place restrictions upon the conduct of lawful pursuits and occupations, are well settled. ...

> [T]he power to regulate a business may be exercised by means of a license fee or charge. The amount of the license fee, however, must not be more than is reasonably necessary for the purpose sought, *i.e.* the regulation of the business. If it is so great that the court can plainly see that the purpose of its imposition was to realize a revenue under the guise of regulating the business, the provision for the fee cannot stand as an exercise of the police power." (*County of Plumas v. Wheeler* (1906) 149 Cal. 758, 761-63.)

1911-era cases limited not only regulatory fees, but also *user fees* to the cost of service, as explained in the 1897 case of *Fatjo v. Pfister* (1897) 117 Cal. 83. Plaintiff, the executor of a decedent's estate, challenged a statute prescribing fees for county clerk services. The statute set the fee for filing most documents at $5.00. The fee for filing an appraised inventory of a decedent's estate, however, was set at $5.00 plus "one dollar for each additional thousand dollars of the appraised valuation in excess of three thousand dollars." (*Fatjo*, 117 Cal. at 85.) The Supreme Court invalidated that "fee," to the extent it exceeded $5.00, as an unauthorized tax:

> "It is perfectly plain that the legislature has attempted by that portion of section one, above quoted, to levy a property *tax* upon all estates of decedents. ... The ad valorem charge for filing the inventory is in no sense a *fee*, or compensation for the services of the officer, which are the same, as respects this matter, in every estate, large or small. To call it a fee is a transparent evasion." (*Fatjo*, 117 Cal. at 85.)

In *Shelton v. City of Los Angeles*, another case near the time of the referendum amendment, the Supreme Court again distinguished a user fee (water rates) to recover costs related to water service, from taxes for "the general funds of the city." Plaintiff sought to enjoin the City, without voter approval, from selling bonds that exceeded the City's debt limit under article XI, section 18 (now art. XVI, § 18). The bonds were to repair waterworks, and were to be repaid exclusively from *water rates* for the sale of water. Plaintiff complained that "no election has been had [to approve] the collection of any *tax* sufficient to pay the principal and interest on the indebtedness." (*Shelton v. City of Los Angeles* (1929) 206 Cal. 544, 547.) The sole question was whether the bonds created an indebtedness to be repaid "from the exercise of the power of taxation." The Court answered no:

> "[T]his obligation ... is not ... one in default of which the city would be required to disburse the general funds of the city or other moneys derived from *taxation*. The argument that ... approving adequate *water rates* would amount to a 'liability' within the constitutional section is not persuasive." (*Shelton*, 206 Cal. 544, 551.)

Another 1911-era case distinguishing taxes from fees was *City of Madera v. Black* (1919) 181 Cal. 306. The City operated a public sewer system and charged residential customers $1 per month. It sued one of its customers to collect a delinquent bill. The customer contended the sewer fee was invalid because it was *excessive* and, *to that extent*, constituted an unauthorized tax. The Court wrote, "A tax, in the general sense of the word, includes every charge upon persons or property, imposed by or under the authority of the legislature, for *public* purposes." (*Id.* at 310.) "The respondent's main argument is that [this] charge ... is an ordinary debt owed

by the defendant to the plaintiff *for services performed by plaintiff for the defendant* in carrying away sewage from his premises. ... If the argument of the respondent, that it is a debt, is tenable, it must be upon the theory that the city, *in its proprietary capacity*, is the owner of the sewer and that it was operating the same in that capacity. (*Id.* at 311-12.)

> "[T]he power to construct and maintain sewers *does not include authority to raise revenue for general purposes*. ... [T]he power to maintain a sewer may carry by implication the additional power to levy a monthly charge to raise money for the repairs and upkeep of such sewer. But the rates here imposed upon the sewer users were obviously for purposes additional to that of paying the expenses of repairs and maintenance. ... More than half of it has been paid out for the general expenses of the city government. ... It must therefore be presumed that the high rates were imposed in order to bring about the known and inevitable result -- that is, the accumulation of a fund for the general benefit of the city and thereby enable it to fix a lower rate of *taxes* for general purposes. ... This would be an unjust discrimination and an unfair burden upon those who used the sewer, and it is clearly beyond any power possessed by the city. It follows that the charges were excessive and ... must therefore be declared invalid." (*Madera*, 181 Cal. at 313-15.)

It is clear from the cases above that, around the time the constitution was amended to include the referendum power, the law separated fees from taxes; fees could not exceed the cost of the service for which they were charged, and they had to be separately accounted for in their own fund, not commingled with the General Fund. The law at that time did not use the term

"tax" or "tax levies" loosely to refer to all financial transactions between individuals and the government. "Tax" at that time – as today – meant a compulsory exaction to fund general governmental operations. A recent decision on this subject quoted the 1850 *Naglee* case to make that very point. The court observed that, unlike fees which pay for a specific commodity or service provided at the behest of the payer:

> "[G]enerally speaking, a tax has two hallmarks: (1) it is compulsory, and (2) it does not grant any special benefit to the payor. [¶] First, 'The word tax, in its common acceptation, *denotes some compulsory exaction*, which a government makes upon persons or property within its jurisdiction, for the supply of the public necessities.' [¶] Second, as Witkin succinctly puts it, '*no compensation is given to the taxpayer* except by way of governmental protection and other general benefits.' Taxation 'promises nothing to the person taxed beyond what may be anticipated from an administration of the laws for individual protection and the general public good.'" (*Cal. Chamber of Commerce v. State Air Res. Bd.* (2017) 10 Cal.App.5th 604, 640-41 (quoting *Naglee*, 1 Cal. at 253, ital. in orig., citations omitted).)

The 1915 case of *Western Indemnity Co. v. Pillsbury* (1915) 170 Cal. 686, similarly illustrates that, at that time, compulsion and general public purpose were hallmarks of a "tax." The case challenged the California Workmen's Compensation, Insurance and Safety Act of 1913, which made employers liable to compensate their employees for injuries sustained at work, regardless of fault, and required employers to purchase insurance from the State or from a private carrier. (*Western Indemnity*, 170 Cal. at 691.) In

sustaining California's requirement that employers buy their own insurance, the Court contrasted it with Washington's approach where employers paid a tax to the state and the state compensated all injured workers:

> "[F]or example, [in] Washington all employers are required to contribute sums, proportioned to their pay-roll and graduated according to the nature of the industry, into a fund out of which all claims for compensation are to be paid. The essential question is whether liability for injury suffered by employees through accident may be imposed upon employers who have been guilty of no breach of duty. Once this question is answered in the affirmative, the mode of imposing the liability, whether it be by way of a proportionate contribution having some of the characteristics of a *tax* [Washington's approach], or by fixing a *direct* liability upon each employer for each accident as it occurs [California's approach], is a matter for legislative determination. ... [U]nder the California law the employer has it in his power to protect himself against personal liability by taking out the insurance provided for, *paying therefor, of course, the premiums* fixed in accordance with the hazards of the industry and the circumstances surrounding the particular work affected." (*Western Indemnity*, 170 Cal. at 700.)

Although *Western Indemnity* distinguished taxes from insurance premiums, the case explains that payments made by Washington employers to a state benevolence fund for *everyone's* benefit was described – in 1915 – as a "tax," but payments made by California employers to a state insurance fund to protect only the employer and his own employees was not a "tax."

Yosemite Lumber Company v. Industrial Accident Commission (1922) 187 Cal. 774, cited by the Court in *Amador*, is no different. After the Supreme Court upheld California's Workmen's Compensation Act in the 1915 *Western Indemnity* case discussed above, the Legislature in 1919 amended the Act to provide that "when an employee receives a fatal injury ... and 'does not leave surviving him any person entitled to a death benefit, the employer ... shall pay into the treasury of the State of California the sum of three hundred and fifty dollars.' ... [T]he moneys so paid 'shall be covered into a special fund' ... [which] goes to other persons not related to the deceased workman nor connected with his employer. It goes to the state to enable it to carry on a benevolent enterprise for the benefit of a class of workmen throughout the state – and to provide funds for the insurance bureau of the Industrial Accident Commission." (*Yosemite Lumber*, 187 Cal. at 776-77.)

This new amendment resembled the Washington approach. The employer was now being required to pay money to the State to fund a program for the benefit of "workmen throughout the state." *That*, the Court held, was a "tax" – not the premiums paid by the employer for his own insurance under the provisions upheld in *Western Indemnity*:

> "*In so far as* the act purports to exact from employers a sum to be used by the state for disabled workmen in general, it is in reality a taxing law, a revenue measure. ... [T]he fund thus raised is to be used for vocational re-education of workmen not connected in any way with such employer, and the surplus, if any, to go to pay the expenses of the state in carrying on the department or bureau administered by the Industrial Accident Commission, *all of which are public purposes*. This is purely a

tax. 'A tax is a charge upon persons or property to raise money for *public* purposes.'" (*Yosemite Lumber*, 187 Cal. at 782-83.)

In sum, when the referendum power was added to the constitution in 1911, the law at that time differentiated between taxes and fees in largely the same way it does today. If the drafters of the referendum provision wanted to include fees, they could have added the word "fees" or used more generic terminology. They didn't.

Moreover, the wording they did choose to describe the referendum exception signals a conscious decision to limit the exception to taxes, not fees. Excepted are "tax *levies*." In 1911, California had no income or sales tax, but it had a property tax. (https://lao.ca.gov/2007/tax_primer/tax_primer_040907.aspx.) Property taxes become a lien on the property as of January 1st. (http://www.boe.ca.gov/ proptaxes/pdf/pub29.pdf at 10.) If property taxes are not timely paid, the property is "levied" through foreclosure and sale. (*Id.* at 13.) That was the sense of the word in 1911: "The word 'levy' ... in its usual sense means the obtaining of money by seizure and sale of property. (2 Bouvier's Dictionary, 194; Standard Dictionary; Webster's Dictionary; *State v. Camp Sing*, 18 Mont. 145 [etc.].)" (*Hayne v. San Francisco* (1917) 174 Cal. 185, 195.) "Taxes are a public imposition, levied by authority of the government, *upon the property of the citizen* generally, for the purpose of carrying on the government." (*Wood v. Brady* (1885) 68 Cal. 78, 80.) Their "payment is enforced ... *by the sale of property*." (*People ex rel. Atty. Gen. v. Naglee* (1850) 1 Cal. 232, 253.)

With user fees such as water rates, there is no automatic lien created on the customer's property. In fact, one need not own the property where he resides to have water service. Half the water customers in a typical California

city or water district are renters who own nothing the agency could levy. If they don't pay their bill, the agency simply turns off the service.

Informed of these many distinctions between taxes and fees, the drafters of the referendum provision used terminology ("[1] tax [2] levies ... [3] for usual current expenses") applicable to taxes, but inapplicable to fees. Fees were not classified as taxes, but were distinguished from taxes by the courts at that time. Fees were not compulsory exactions secured by property that could be levied, but were triggered by the payer's volition. And fees were limited in their use to the regulation, commodity or service provided to the payer. They could not be used for "usual current expenses" of the State. *Amador*'s "expansive construction of 'tax'" is not justified by the 1911-era caselaw. Nor is it justified by statutory law at that time.

D. *1911-Era Statutes Distinguished Taxes From Assessments and Fees*

Amador's "expansive construction of 'tax'" is unsupported not only by the many 1911-era cases that distinguished taxes from assessments and fees, it is also unsupported by 1911-era legislation. In the same year that the referendum power was added to the constitution, the Improvement Act of 1911 was added to the Streets and Highways Code, providing a procedure for property owners to propose and vote on the formation of assessment districts for the construction of public improvements that would specially benefit their private property, to be financed by assessments apportioned according to each parcel's benefit. (Sts. & Hwy. Code §§ 5000 *et seq.*) This obviously disproves *Amador*'s claim that in 1911, "the word 'tax' generally had an inclusive definition that included exactions for assessments ...." (*Amador*, 36 Cal.App.5th at 285.)

1911-era legislation also distinguished taxes from user fees. Again, in the same year the referendum power was added to the constitution, the Legislature passed the Municipal Water Act of 1911 (Stats. 1911, ch. 671, pg. 823, now Water Code §§ 71000 *et seq.*, see Leg. Archives at https://clerk.assembly.ca.gov/sites/clerk.assembly.ca.gov/files/archive/Statutes/1910_11/1911.pdf#page=53), providing for the formation of Municipal Water Districts. Section 12 of the Act authorized such Districts to sell water to purveyors within their territory or directly to the inhabitants thereof. Districts could also borrow money by issuing bonds to finance the acquisition of land and water rights, and the construction of waterworks and storage facilities. Section 22 authorized such Districts to fix "rates" for the "sale" of water. But if the revenues from "rates" were inadequate to service the District's bond debt, then sections 23 and 24 authorized the District to cause a "tax" to be "levied" on "all real property" within the District. (*Id.*) This shows that, not only the courts, but also the Legislature distinguished between compulsory "tax levies" and voluntary purchases of water, for which "rates" (*i.e.*, user fees) were established.

The drafters of Proposition 7, the 1911 amendment that added the referendum power to the constitution, were working within the framework of these 1911-era cases and statutes when they chose terminology ("[1] tax [2] levies ... [3] for usual current expenses") applicable to taxes, but inapplicable to fees.

E. *California Has a Long History of Referending Fees*

According to *Amador*, the people *never* had the power to referend fees. (*Amador*, 36 Cal.App.5th at 286 ["water fees were *never* subject to referendum"].) Yet California has a long history of referending fees. For

nearly a century, referendum measures have appeared on statewide ballots giving voters the chance to vote on non-tax fees, including the following:

- Proposition 67, November 2016 (plastic bag fee);
- Proposition 72, November 2004 (state health insurance fee)
- Proposition 5, November 1939 (oil conservation fee)
- Propositions 3, 4, November 1939 (regulatory fee on property brokers)
- Proposition 8, November 1928 (vehicle registration fee)
- Proposition 3, November 1926 (oleomargarine fee)

The fact that Californians have voted on fee referenda multiple times over the years shows that they possessed the power, and utilized the power, contrary to *Amador*'s erroneous statement that fees have been exempt from the people's referendum power since the beginning.

CONCLUSION

The decision on review in *Wilde v. City of Dunsmuir* correctly ruled that fees are subject to the people's referendum power. The new *Amador* decision erred by broadly construing the exception for "tax levies," based on its misinterpretation of California's judicial, legislative, and electoral history. *Amador* should not be followed.

DATED: September 3, 2019.

Respectfully submitted,
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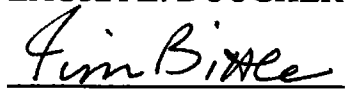

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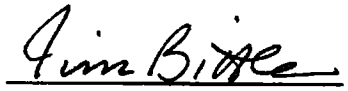
WORD COUNT CERTIFICATION

I certify, pursuant to Rule 8.204(c) of the California Rules of Court, that the attached brief, including footnotes but excluding the caption page, tables, and this certification, as measured by the word count of the computer program used to prepare this pleading, contains 4,389 words.

DATED: September 3, 2019.



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PROOF OF SERVICE
SUPREME COURT OF CALIFORNIA

I, Kiaya Heise, declare:

I am employed in the County of Sacramento, California. I am over the age of 18 years, and not a party to the within action. My business address is: 921 11th Street, Suite 1201, Sacramento, California 95814. On September 3, 2019, I served **SUPPLEMENTAL BRIEF (CRC Rule 8.520(d))** on the interested parties below, using the following means:

SEE ATTACHED SERVICE LIST

_X_ **BY UNITED STATES MAIL** I enclosed the document in sealed envelopes or packages addressed to the respective addresses of the parties stated above and placed the envelopes for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid at Sacramento, California.

_X_ **BY ELECTRONIC MAIL** I electronically transmitted the following document(s) in a PDF or Word processing format to the persons listed below with prior approval of recipients at their respective electronic mailbox addresses.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 3, 2019, at Sacramento, California.

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