

1 THE SILVERSTEIN LAW FIRM, APC
2 ROBERT P. SILVERSTEIN (State Bar No. 185105)
3 J. MIGUEL FLORES (State Bar No. 240535)
4 215 North Marengo Avenue, 3rd Floor
5 Pasadena, CA 91101-1504
6 Telephone: (626) 449-4200
7 Facsimile: (626) 449-4205
8 Robert@robertsilversteinlaw.com

9 Attorneys for
10 NEIGHBORS FOR SMART RAIL

FILED
Los Angeles Superior Court

AB151
9/20/17
ORIGINAL

John A. Clarke, Executive Officer/Clerk
By Dorothy Swain, Deputy

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

13 NEIGHBORS FOR SMART RAIL, a non-
14 profit California corporation,

15 Petitioner,

16 vs.

17 EXPOSITION METRO LINE
18 CONSTRUCTION AUTHORITY, a public
19 entity; EXPOSITION METRO LINE
20 CONSTRUCTION AUTHORITY BOARD;
21 PETER M. ROGOFF, in his official
22 capacity as Administrator of the FEDERAL
23 TRANSIT ADMINISTRATION; FEDERAL
24 TRANSIT ADMINISTRATION, a federal
25 agency; and DOES 1 through 10, inclusive

26 Respondents,

27 LOS ANGELES COUNTY
28 METROPOLITAN TRANSPORTATION
AUTHORITY, a public entity; LOS
ANGELES COUNTY METROPOLITAN
TRANSPORTATION AUTHORITY
BOARD; and ROES 1-10, inclusive,

Real Parties in Interest.

Case No. BS125233

PETITION FOR WRIT OF
MANDAMUS

CI/CASE: BS125233 LEA/DEEN;
RECEIPT #: OCH18792034
DATE PAID: 03/05/10 02:26:52 PM
PAYMENT: \$355.00 0310
RECEIVED:
CHECK: 355.00
CASH:
CHANGE:
CARD:

THE SILVERSTEIN LAW FIRM, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Case assigned to Judge

Printed by: [illegible]

1 known as the Expo Phase 1 project. Work on the second phase of the project to Santa
2 Monica was deferred. After a Final Environmental Impact Statement/Environmental
3 Impact Report (“FEIS/FEIR”) was prepared, the FTA signed a Record of Decision in
4 February 2006 for the Expo Phase 1 project.

5 4. On February 4, 2010, the Expo Authority Board certified the Final
6 Environmental Impact Report (“FEIR”) for the Expo Phase 2 project, the extension of the
7 Expo Line from Culver City to Santa Monica. Although the Expo Authority commenced
8 the EIS process and underwent significant NEPA review for the Expo Phase 2 project,
9 unlike for the Phase 1 project, the Expo Authority did not conduct a Final EIS under the
10 National Environmental Policy Act (“NEPA”) for the Expo Phase 2 project, and the FTA
11 did not finally review the Expo Phase 2 project under NEPA.

12 5. The Expo Phase 2 project is an approximate 6.6-mile extension of the Expo
13 Phase 1 project. The Expo Phase 2 project would utilize the existing Exposition Blvd.
14 Right-Of Way (“ROW”) from the Expo Phase 1 terminus in Culver City to its intersection
15 with Olympic Boulevard in Santa Monica. From that point, the alignment would continue
16 within the Exposition ROW to west of 19th Street, then diverge from the ROW and enter
17 onto Colorado Avenue east of 17th Street and follow the center of Colorado Avenue to the
18 proposed terminus between Fourth and Fifth Streets in Santa Monica.

19 6. This petition challenges the Expo Authority’s February 4, 2010 approvals
20 for the Expo Phase 2 project, as well as the Expo Authority and FTA’s omissions in
21 connection therewith. This petition seeks to ensure that the Expo Authority and FTA fully
22 comply with the requirements of CEQA and NEPA prior to initiating construction of the
23 Expo Phase 2 project. NFSR does not oppose the Expo Line per se, but opposes
24 construction of the project without the opportunity for the public, the Expo Authority, and
25 the FTA to have a proper and legally valid environmental study which, *inter alia*,
26 factually discusses and considers a reasonable range of alternatives as required, including
27 grade separations at key intersections.

28 7. The Expo Authority’s Expo Phase 2 project approvals constitute a clear

1 violation of law.

2 8. NFSR seeks a writ of mandamus invalidating the Expo Authority's
3 certification of the Expo Phase 2 FEIR and invalidating and setting aside the Expo Phase
4 2 project approvals.

5 PARTIES

6 9. Petitioner Neighbors For Smart Rail ("NFSR") is a non-profit California
7 corporation (26 U.S.C. § 501(c)(3)) comprised of a coalition of homeowners'
8 associations, community groups and unaffiliated citizens who support the development of
9 intelligent transportation solutions for Los Angeles that are safe, well-planned, efficient
10 and conform to the highest federal and state standards for safety, transportation benefits,
11 and mitigation of environmental impacts. Many of its members live and work in the
12 immediate vicinity of the proposed Expo Phase 2 project.

13 10. NFSR has a substantial interest in ensuring that the Expo Authority and
14 FTA's decisions are in conformity with the requirements of law, and in having those
15 requirements properly executed and the public duties of the Expo Authority and FTA
16 enforced. NFSR will be adversely affected by impacts resulting from the Expo Authority
17 and FTA's actions, approvals and omissions described herein, and is aggrieved by the
18 acts, decisions and omissions of the Expo Authority and FTA as alleged in this petition.
19 NFSR is suing on its behalf, and on behalf of others who will be affected by the Expo
20 Line, including the Expo Phase 2 project, as well as all citizens of the County of Los
21 Angeles.

22 11. Respondent Exposition Metro Line Construction Authority is and at all
23 times herein mentioned was a public entity duly organized and existing under the laws of
24 the State of California.

25 12. Respondent Exposition Metro Line Construction Authority Board is the
26 governing body of the Expo Authority, and is the body responsible for the decisions at
27 issue herein.

28 13. Respondent Peter M. Rogoff, sued in his official capacity, is the

1 Administrator of the Federal Transit Administration. As Administrator, Respondent
2 Rogoff has ultimate responsibility for the activities of the Federal Transit Administration,
3 including those actions complained of herein.

4 14. Respondent Federal Transit Administration ("FTA") is an agency or
5 instrumentality of the United States, and is responsible for National Environmental Policy
6 Act ("NEPA") compliance and oversight, including regarding the Expo Phase 2 project.
7 The FTA maintains an office in California, at 888 South Figueroa Street, Suite 1850, Los
8 Angeles, CA 90017.

9 15. NFSR is informed and believes, and based thereon alleges, that the Los
10 Angeles County Metropolitan Transportation Authority ("Metro"), named as a real party
11 in interest, is and at all times herein mentioned was, a public entity duly organized and
12 existing under the laws of the State of California.

13 16. NFSR is informed and believes, and based thereon alleges, that the Los
14 Angeles County Metropolitan Transportation Authority Board, named as a real party in
15 interest, is the governing body of Metro.

16 17. NFSR is ignorant of the true names of respondents sued herein as DOES 1
17 through 10, inclusive, and therefore sues said respondents by those fictitious names.
18 NFSR will amend its petition to allege their true names and capacities when the same
19 have been ascertained. NFSR is informed and believes, and based thereon alleges, that
20 each of these fictitiously named respondents is in some manner responsible for the
21 wrongful conduct alleged in this petition. NFSR is informed and believes, and based
22 thereon alleges, that these fictitiously named respondents were, at all times mentioned in
23 this petition, the agents, servants, and employees of their co-respondents and were acting
24 within their authority as such with the consent and permission of their co-respondents.

25 18. NFSR is ignorant of the true names of real parties sued herein as ROES 1
26 through 10, inclusive, and therefore sues said real parties by those fictitious names. NFSR
27 will amend its petition to allege their true names and capacities when the same have been
28 ascertained. NFSR is informed and believes, and based thereon alleges, that each of these

1 fictitiously named real parties is in some manner responsible for the wrongful conduct
2 alleged in this petition. NFSR is informed and believes, and based thereon alleges, that
3 these fictitiously named real parties were, at all times mentioned in this petition, the
4 agents, servants, and employees of their co-real parties and were acting within their
5 authority as such with the consent and permission of their co-real parties.

6 **GENERAL ALLEGATIONS**

7 19. The Expo Authority caused an EIR for the Expo Phase 2 project to be
8 prepared and circulated.

9 20. NFSR is informed and believes, and based thereon alleges, that a Notice of
10 Determination to carry out the Expo Phase 2 project was filed by the Expo Authority on or
11 about February 5, 2010.

12 21. NFSR as well as members of the general public will suffer irreparable harm
13 if the relief requested herein is not granted and the Expo Phase 2 project is allowed to
14 commence.

15 22. NFSR and other interested parties and individuals made oral and written
16 comments on the EIR and Expo Phase 2 project approvals, and raised each of the legal
17 deficiencies asserted in this petition. NFSR has exhausted all administrative remedies,
18 and has no adequate remedy at law.

19 23. NFSR has performed all conditions imposed by law precedent to filing this
20 action, including complying with the requirement of Public Resources Code Section
21 21167.5 by mailing notice to the Expo Authority that this action would be filed.

22 24. NFSR will also serve a copy of this Petition on the California Attorney
23 General as required by law.

24 25. NFSR has no plain, speedy or adequate remedy available to it in the
25 ordinary course of law to redress the claims alleged in this petition. NFSR and the public
26 generally will suffer irreparable harm if the Expo Authority and the Expo Authority Board
27 are not required to comply with CEQA and to vacate and set aside the above-described
28 approvals.

1 FIRST CAUSE OF ACTION

2 **(The Expo Authority Violated CEQA In Adopting An Inadequate EIR)**

3 26. NFSR realleges and incorporates herein by reference the allegations of
4 Paragraphs 1 through 25, inclusive, of this petition.

5 27. The Expo Authority's actions in adopting the EIR approvals for the Expo
6 Phase 2 project constitute a prejudicial abuse of discretion in that the Expo Authority
7 failed to proceed in the manner required by law and failed to support its decisions by
8 substantial evidence, including but not limited to as follows:

- 9 a. The Expo Authority and the EIR failed to evaluate properly, and with
10 a good faith effort at full disclosure, the Expo Phase 2 project's
11 significant impacts on, *inter alia*, transportation and traffic; parking;
12 pedestrian and bicycle safety; utilities; land use; aesthetics; light and
13 glare; historic and cultural resources; noise and vibration; public
14 services; hazards, human health and public safety; global warming
15 impacts; growth inducing impacts; hydrology and water quality;
16 socioeconomic impacts; construction impacts; and cumulative
17 impacts.
- 18 b. The Expo Authority and the EIR failed to consider and analyze a
19 reasonable range of alternatives, and to adopt environmentally
20 superior alternatives that could have eliminated or substantially
21 lessened the Expo Phase 2 project's significant environmental
22 impacts.
- 23 c. The Expo Authority failed to adopt legally adequate findings as
24 required by law with regard to its approvals.
- 25 d. The Expo Authority failed to adopt a legally adequate Statement of
26 Overriding Considerations as required by law with regard to its
27 approvals.
- 28

1 e. The Expo Authority failed to adopt a legally adequate mitigation
2 monitoring program.

3 28. The Expo Authority violated its duties with regard to its EIR approvals, and
4 failed to adopt findings conforming to the requirements of CEQA and the CEQA
5 Guidelines. Accordingly, the Expo Authority's EIR approvals for the Expo Phase 2
6 project must be set aside.

7 **SECOND CAUSE OF ACTION**

8 **(The Expo Authority Was Required To Recirculate The FEIR)**

9 29. NFSR realleges and incorporates herein by reference the allegations of
10 Paragraphs 1 through 28, inclusive, of this petition.

11 30. Recirculation of an EIR is required where new information discloses: (1) a
12 new substantial environmental impact resulting from the project or from a new mitigation
13 measure proposed to be implemented; (2) a substantial increase in the severity of an
14 environmental impact unless mitigation measures are adopted that reduce the impact to a
15 level of insignificance; (3) a feasible project alternative or mitigation measure that clearly
16 would lessen the environmental impacts of the project, but which the project's proponents
17 decline to adopt; or (4) that the draft EIR was so fundamentally and basically inadequate
18 and conclusory in nature that public comment on the draft was in effect meaningless.

19 31. NFSR is informed and believes, and based thereon alleges, that recirculation
20 of the Expo Phase 2 project EIR was required for any and all of the reasons articulated in
21 the immediately preceding paragraph, including because the FEIR contained, for the first
22 time, detailed evaluation of new impacts, as well as a vast number of substantial changes
23 to the scope and design of the Expo Phase 2 project. The project description as presented
24 in the FEIR had changed from what was presented in the DEIR, and included several new
25 design options that had not been previously circulated and analyzed as part of the DEIR.
26 NFSR is informed and believes, and based thereon alleges, that the FEIR presented
27 significant new information, including significantly revised technical studies, and imposed
28 new and revised mitigation measures, all of which mandated recirculation of the EIR

1 before the Expo Authority could consider approval of an FEIR for the project.

2 32. NFSR is informed and believes, and based thereon alleges, that because the
3 FEIR evaluated new impacts, as well a vast number of substantial changes to the scope
4 and design of the Expo Phase 2 project, the EIR required recirculation.

5 33. NFSR is informed and believes, and based thereon alleges, that the Expo
6 Authority failed to recirculate the EIR in violation of CEQA.

7 **THIRD CAUSE OF ACTION**

8 **(The Expo Authority Has Illegally Piecemealed Analysis)**

9 34. NFSR realleges and incorporates herein by reference the allegations of
10 Paragraphs 1 through 33, inclusive, of this petition.

11 35. NFSR is informed and believes, and based thereon alleges, that the EIR for
12 the Expo Phase 2 project was illegally segmented from the environmental review process
13 for the entire Expo Line, including but not limited to the Expo Phase 1 project, which
14 resulted in a failure to adequately analyze the impacts of the entire Expo Line as required
15 by CEQA. A “project” under CEQA is “the whole of an action, which has a potential for
16 resulting in either a direct physical change in the environment, or a reasonably foreseeable
17 indirect physical change in the environment” As the Supreme Court has held, “[A]n
18 EIR must include an analysis of the environmental effects of future expansion or other
19 action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the
20 future expansion or action will be significant in that it will likely change the scope or
21 nature of the initial project or its environmental effects.”

22 36. NFSR is informed and believes, and based thereon alleges, that the Expo
23 Phase 1 project and the Expo Phase 2 project should have been considered together in a
24 single EIR. NFSR is informed and believes, and based thereon alleges, that at the time
25 that the FEIS/EIR for Phase 1 was certified, it was reasonably foreseeable that the Expo
26 Line would be extended to include a Phase 2 to end in Santa Monica. This has, in fact,
27 been the objective of the Expo Line all along. NFSR is informed and believes, and based
28 thereon alleges, that the Expo Authority’s authorizing legislation states that the objective

1 of the agency is to oversee construction of the line to Santa Monica.

2 **FOURTH CAUSE OF ACTION**

3 **(The Expo Authority's Project Description Is Inadequate And Inaccurate)**

4 37. NFSR realleges and incorporates herein by reference the allegations of
5 Paragraphs 1 through 36, inclusive, of this petition.

6 38. NFSR is informed and believes, and based thereon alleges, that the EIR's
7 description of the Expo Phase 2 project is not accurate, nor is it adequate under CEQA,
8 because it fails to acknowledge the fact that the Expo Phase 2 project is intended as an
9 extension of the service to be offered on the Expo Phase 1 project of the same Expo Line.
10 An EIR must contain a general description of a proposed project along with a clear
11 statement of the objectives sought by the proposed project, which will help the lead
12 agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the
13 decision makers in preparing findings or a statement of overriding considerations, if
14 necessary. An accurate, stable and finite description of a project is basic to an informative
15 and legally sufficient EIR.

16 39. NFSR is informed and believes, and based thereon alleges, that the EIR
17 describes the purpose of the Expo Phase 2 project without almost any reference to the
18 Expo Phase 1 project. NFSR is informed and believes, and based thereon alleges, that the
19 environmental analysis examines the Expo Phase 2 project in total isolation from the
20 broader context of the Expo Line, including the Expo Phase 1 project. NFSR is informed
21 and believes, and based thereon alleges, that the Expo Authority's analysis ignores the
22 interconnection between the Expo Phase 1 project and the Expo Phase 2 project and fails
23 to fully capture the extent of either one; thus presenting an incomplete and inaccurate
24 project description in violation of CEQA.

25 **FIFTH CAUSE OF ACTION**

26 **(The Expo Authority's Baseline Evaluation Is Flawed)**

27 40. NFSR realleges and incorporates herein by reference the allegations of
28 Paragraphs 1 through 39, inclusive, of this petition.

1 proposed alternatives, the Expo Authority failed to proceed in the manner required by law.

2 **SEVENTH CAUSE OF ACTION**

3 **(The Expo Authority Illegally Deferred the Identification And**
4 **Implementation of Mitigation Measures)**

5 45. NFSR realleges and incorporates herein by reference the allegations of
6 Paragraphs 1 through 44, inclusive, of this petition.

7 46. A fundamental requirement of an EIR is that the proposed mitigation
8 measures be made available for public review and comment before the EIR is certified.
9 This requirement furthers the policy behind CEQA that environmental review should be
10 conducted at the earliest possible point in the planning process. NFSR is informed and
11 believes, and based thereon alleges, that the Expo Authority has deferred study and
12 identification of mitigation measures, including but not limited to study and mitigation of
13 noise and vibration impacts, aesthetics impacts, land use impacts, traffic and circulation
14 impacts, parking impacts, bicycle path and bicycle route impacts, and economic impacts
15 to businesses.

16 **EIGHTH CAUSE OF ACTION**

17 **(The Expo Authority Failed To Study The Impacts of Implementing**
18 **Required Mitigation Measures)**

19 47. NFSR realleges and incorporates herein by reference the allegations of
20 Paragraphs 1 through 46, inclusive, of this petition.

21 48. NFSR is informed and believes, and based thereon alleges, that the FEIR
22 neglected to provide the required analysis of the impacts of its proposed mitigation
23 measures. CEQA provides that if a mitigation measure would cause one or more
24 significant effects in addition to those that would be caused by the project as proposed, the
25 effects of the mitigation measure shall be discussed but in less detail than the significant
26 effects of the project as proposed. NFSR is informed and believes, and based thereon
27 alleges, that the FEIR failed to evaluate any impacts from the mitigation measures it
28 proposed, including several measures that are likely to have significant impacts on the

1 surrounding communities. NFSR is informed and believes, and based thereon alleges,
2 that the FEIR imposes several new mitigation measures dealing with traffic, safety, and
3 security (e.g., fencing and/or walls along the entirety of the line), but without having
4 evaluated the impacts of those measures.

5 **NINTH CAUSE OF ACTION**

6 **(The Expo Authority Failed To Adequately Evaluate Alternatives)**

7 49. NFSR realleges and incorporates herein by reference the allegations of
8 Paragraphs 1 through 48, inclusive, of this petition.

9 50. The purpose of CEQA's alternatives analysis is to identify potentially
10 feasible alternatives that may have fewer environmental impacts than a proposed project.
11 The Expo Phase 2 project FEIR failed in that task. NFSR is informed and believes, and
12 based thereon alleges, that by the Expo Authority refusing to conduct a meaningful
13 analysis of grade separated alternatives to the crossings along the residential portion of the
14 ROW, the FEIR failed to identify a reasonable alternative that would eliminate or greatly
15 reduce the impacts of the Expo Phase 2 project.

16 51. In addition, NFSR is informed and believes, and based thereon alleges, that
17 Metro's Grade Crossing Policy, which the Expo Authority purported to have applied,
18 contains fatal deficiencies which undermined the CEQA and EIR process by designating
19 at-grade crossings before CEQA review had commenced, thus eliminating a proper
20 alternatives analysis of other grade-crossing design options.

21 52. CEQA requires agencies not to take any action that significantly furthers a
22 project in a manner that forecloses alternatives or mitigation measures that would
23 ordinarily be part of CEQA review of the public project. NFSR is informed and believes,
24 and based thereon alleges, that the Expo Authority illegally foreclosed alternatives and
25 mitigation measures by only considering alternatives that have at-grade crossings along
26 the ROW between Sepulveda and Overland.

27 53. NFSR is informed and believes, and based thereon alleges, that the Expo
28 Authority improperly excluded alternatives during the scoping process and provided

THE SILVERSTEIN LAW FIRM, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504

Case No. 1:19-cv-00001-00000
Case No. 1:19-cv-00001-00000

1 misleading and inaccurate information to the public during the scoping process. This
2 includes, but is not limited to, the elimination of Venice Boulevard to Santa Monica as a
3 potential route. Additionally, NFSR is informed and believes, and based thereon alleges,
4 that the Expo Authority improperly evaluated the Venice/Sepulveda Alternative almost
5 entirely with costly elevated crossings and alignment, and compared that to an evaluation
6 of the Expo ROW Alternative with mostly at-grade crossings and alignment, resulting in a
7 false comparison of the cost/benefit analysis, resulting in the selection of the Expo ROW
8 as the locally preferred alternative and eliminating the Venice/Sepulveda Alternative as a
9 possible route.

10 54. NFSR is further informed and believes, and based thereon alleges, that the
11 Expo Authority illegally foreclosed study of alternatives by only considering construction
12 impacts rather than operational impacts.

13 **TENTH CAUSE OF ACTION**

14 **(The Expo Authority Pre-Committed Itself Prior To Certification Of The EIR)**

15 55. NFSR realleges and incorporates herein by reference the allegations of
16 Paragraphs 1 through 54, inclusive, of this petition.

17 56. NFSR is informed and believes, and based thereon alleges, that the outcome
18 of the FEIR was determined before environmental review was completed, in violation of
19 the requirements of CEQA. CEQA requires that environmental review be conducted early
20 enough to serve, realistically, as a meaningful contribution to public decisions. CEQA
21 cannot be reduced to a process whose result will be largely to generate paper.

22 57. NFSR is informed and believes, and based thereon alleges, that in violation
23 of CEQA, the Expo Authority had already committed funds and entered into agreements
24 prior to the completion of environmental review of the Expo Phase 2 project.

25 58. NFSR is informed and believes, and based thereon alleges, that the Expo
26 Authority, prior to the certification of the FEIR, approved the award of a preliminary
27 engineering contract on the Venice aerial structure, the first crossing on the Expo Phase 2
28 project. NFSR is informed and believes, and based thereon alleges, that the vote to award

1 this preliminary engineering contract was an illegal precommitment of funds prior to
2 certification of the FEIR, and it revealed that the Expo Authority fully intended to
3 construct the light rail on the ROW, regardless of the result of environmental review.

4 **ELEVENTH CAUSE OF ACTION**

5 **(The Expo Authority And The FTA Violated**
6 **The National Environmental Policy Act)**

7 59. NFSR realleges and incorporates herein by reference the allegations of
8 Paragraphs 1 through 58, inclusive, of this petition.

9 60. This action arises under the provisions of the National Environmental Policy
10 Act of 1969 ("NEPA"), 42 U.S.C.A. §§ 4321 et. seq. (1970), and the Administrative
11 Procedures Act, 5 U.S.C.A. §§ 701 et seq. (1966).

12 61. NFSR is informed and believes, and based thereon alleges, that the Expo
13 Phase I project is a federally-funded project. NFSR is informed and believes, and based
14 thereon alleges, that the Expo Authority, Metro and/or the FTA conducted NEPA
15 environmental review for the Expo Phase 1 project.

16 62. NFSR is informed and believes, and based thereon alleges, that the Expo
17 Authority in conjunction with the FTA intended to prepare an Environmental Impact
18 Statement ("EIS") for the Expo Phase 2 project to satisfy the requirements of NEPA.
19 NFSR is informed and believes, and based thereon alleges, that on or about February 19,
20 2007 a Notice of Preparation was issued naming the FTA as NEPA Lead Agency of the
21 Expo Phase 2 project.

22 63. NFSR is informed and believes, and based thereon alleges, that the Expo
23 Authority intended to seek federal funding for the Expo Phase 2 project, including hiring a
24 lobbyist to seek amendments to federal legislation that would have permitted the Expo
25 Authority to use the local funds spent on the Expo Phase 1 project as a match for the Expo
26 Phase 2 project.

27 64. NFSR is informed and believes, and based thereon alleges, that the Expo
28 Authority made a determination that NEPA compliance was too burdensome and time-

1 consuming, and decided that, due to the passage of Measure R, the Expo Phase 2 project
2 would no longer be a federally-funded project so that the Expo Authority could escape the
3 requirements of NEPA. NFSR is informed and believes, and based thereon alleges, that
4 the Expo Authority's attempt to evade NEPA is contrary to the law, and is fatal to the
5 validity of the Expo Phase 2 project's environmental review.

6 65. NFSR is informed and believes, and based thereon alleges, that the FTA
7 improperly and illegally withdrew from preparing an EIS pursuant to the requirements of
8 NEPA.

9 66. NEPA applies to all "major federal actions significantly affecting the quality
10 of the human environment." (42 U.S.C.A. § 4332, subd. (c).)

11 67. NFSR is informed and believes, and based thereon alleges, that NEPA
12 requires that a federal agency contemplating action consider every significant aspect of
13 the environmental impact of the proposed action, and inform the public that it has indeed
14 considered environmental concerns in its decision-making process.

15 68. NFSR is informed and believes, and based thereon alleges, that the Expo
16 Phase 2 project will have major environmental impacts on the environment within the
17 cities of Los Angeles, Culver City and Santa Monica, including, but not limited to traffic,
18 public health, and safety impacts. NFSR is informed and believes, and based thereon
19 alleges, that the Expo Phase 2 project is a "major federal action" that significantly affects
20 the quality of the human environment, thereby requiring NEPA review.

21 69. NFSR is informed and believes, and based thereon alleges, that it and its
22 members are adversely affected by the decisions of the FTA and the Expo Authority not
23 to proceed with an EIS for the Expo Phase 2 project.

24 70. NFSR is informed and believes, and based thereon alleges, that its members
25 have attended numerous public meetings relating to the issues posed by the Expo Phase 2
26 project and the Expo Line. NFSR is informed and believes, and based thereon alleges,
27 that its members utilize the street network in the immediate vicinity of the Expo Phase 2
28 project and will be impacted by the project's traffic, noise, safety and other impacts.

1 NFSR is informed and believes, and based thereon alleges, that its members will
2 adversely and irreparably be affected by the Expo Phase 2 project because its members
3 and other members of the public, including school children, will be put at risk by the Expo
4 Phase 2 project, including by the at-grade crossings of the Expo Phase 2 project.

5 71. NFSR is informed and believes, and based thereon alleges, that the Expo
6 Authority has disingenuously taken the position that, although it is using federal funds to
7 construct the Expo Phase 1 tracks which will tie into the Expo Phase 2 tracks, and is using
8 federal funds to purchase the rail cars used on the Expo Phase 1 project which cars will be
9 used on the Expo Phase 2 project, that the Expo Phase 2 project can stand as an entirely
10 separate project that does not require, or benefit from, the use of federal funding. NFSR is
11 informed and believes, and based thereon alleges, that the Expo Authority's maneuver to
12 withdraw from seeking federal funding for construction of the Expo Phase 2 project was
13 for the purpose of terminating the federal environmental review process for the Expo
14 Phase 2 project, and was contrary to the requirements of NEPA. NFSR is informed and
15 believes, and based thereon alleges, that the Expo Phase 2 project is so imbued with a
16 "federal character," including because of its inextricable interconnection with the Expo
17 Phase 1 project, that the Expo Authority was required to comply with federal
18 environmental statutes, including NEPA, even if, *arguendo*, the Expo Authority withdrew
19 the Expo Phase 2 project from some or all federal funding participation.

20 72. NFSR is informed and believes, and based thereon alleges, that the Expo
21 Authority cannot "defederalize" a segment of a "major federal action" by foregoing some
22 or all federal funding in order to avoid NEPA oversight and compliance.

23 73. NFSR is informed and believes, and based thereon alleges, that NEPA
24 requires disclosure and analysis in environmental areas beyond what is required under
25 CEQA. NFSR is informed and believes, and based thereon alleges, that to the detriment
26 of NFSR, its members, and the general public, the FTA and the Expo Authority failed to
27 comply with NEPA by omitting, or allowing to be omitted, required NEPA analysis of the
28 Expo Phase 2 project and its environmental impacts.

1 74. NFSR is informed and believes, and based thereon alleges, that the FTA
2 along with the Expo Authority must complete the EIS process in compliance with NEPA
3 prior to any Expo Phase 2 project approvals being made. NFSR is informed and believes,
4 and based thereon alleges, that the discontinuance of the EIS process and the FTA's
5 withdrawal as a NEPA Lead Agency from the Expo Phase 2 project was a violation of
6 NEPA.

7 75. NFSR is informed and believes, and based thereon alleges, that federal
8 oversight under NEPA was required with regard to the Expo Phase 2 project, and that the
9 Expo Authority's approval of the Expo Phase 2 project in the absence of federal oversight,
10 including under NEPA, was a violation of law, and prejudiced NFSR and all members of
11 the community and neighborhoods surrounding the Expo Phase 2 project.

12 76. NFSR is informed and believes, and based thereon alleges, that the Expo
13 Authority illegally attempted to evade, bypass, and otherwise avoid federal oversight
14 under NEPA.

15 77. NFSR is informed and believes, and based thereon alleges, that the Expo
16 Phase 2 project is sufficiently interrelated to the federally funded Expo Phase 1 project to
17 constitute a single "federal action" under NEPA. NFSR is informed and believes, and
18 based thereon alleges, that the Expo Phase 1 project and the Expo Phase 2 project are one
19 continuous project that begins in downtown Los Angeles and ends in Santa Monica.
20 NFSR is informed and believes, and based thereon alleges, that the Expo Phase 2 project
21 does not have independent utility from the Expo Phase 1 project, in that the stated purpose
22 of both the Expo Phase 1 and Expo Phase 2 projects is to increase mobility and provide
23 high capacity east/west transit service from downtown Los Angeles to Santa Monica on
24 the Westside. NFSR is informed and believes, and based thereon alleges, that the FTA
25 along with the Expo Authority have foreclosed the opportunity to consider alternatives in
26 relation to the Expo Phase 2 project. NFSR is informed and believes, and based thereon
27 alleges, that there has been an irretrievable commitment of federal funds for the Expo
28 Phase 2 project including from, through and in relation to the Expo Phase 1 project.

1 NFSR is informed and believes, and based thereon alleges, that the Expo Authority has
2 received and/or will receive federal funds and/or resources for the benefit of the Expo
3 Phase 2 project

4 78. NFSR is informed and believes, and based thereon alleges, that a desire to
5 clear an “environmental road block” from a project, or to expedite a local project in an
6 effort to limit public review, is not justification for terminating the NEPA process, based
7 upon the facts at issue in this case.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, NFSR prays entry of judgment as follows:

10 1. That this Court issue a writ of mandamus directing the Expo Authority to
11 vacate and set aside its Expo Phase 2 project approvals, and to vacate and set aside its
12 approval of the FEIR for the Expo Phase 2 project.

13 2. That this Court issue a writ of mandamus suspending the authority of the
14 Expo Authority, the Expo Authority Board, the FTA, their officers, employees, agents,
15 boards, commissions and other subdivisions, to grant any authority, permits or
16 entitlements as part of the Expo Phase 2 project until a valid and adequate EIR or EIR/EIS
17 is prepared, circulated, and certified as complete consistent with CEQA, the CEQA
18 Guidelines, NEPA, and all other applicable laws.

19 3. That this Court issue a temporary restraining order and a permanent
20 injunction enjoining the Expo Authority, the Expo Authority Board, the FTA, their
21 officers, boards, commissions, subdivisions, employees, agents, consultants, contractors
22 and subcontractors from undertaking any activities, demolition, or construction pursuant
23 to the Expo Authority’s approvals as described herein, and further enjoining the Expo
24 Authority, the Expo Authority Board, their officers, boards, commissions, subdivisions,
25 employees, agents, consultants, contractors and subcontractors from taking any actions to
26 change the environment, including demolition, site clearance, other site preparation, or in
27 any other way to take property in furtherance of the Expo Phase 2 project, prior to the
28 Expo Authority and FTA’s full compliance with CEQA and NEPA.

1 4. That the Court declare that the Expo Authority and the FTA have violated
2 CEQA and NEPA, and that the Court preliminarily and, after a final hearing, permanently,
3 enter an order enjoining the Expo Authority and the FTA from proceeding with the
4 development of the proposed Expo Phase 2 project unless and until an EIR or EIS/EIR
5 fully complying with CEQA and NEPA, and considering all reasonable alternatives, is
6 completed and approved by the Expo Authority and FTA.

7 5. That this Court award NFSR its attorney fees, including under California
8 Code of Civil Procedure Section 1021.5 and 28 U.S.C.A. Section 2412.

9 6. That this Court award NFSR its costs of suit herein.

10 7. That this Court award such other and further relief as it deems just and
11 proper.

12
13
14 DATED: March 5, 2010

THE SILVERSTEIN LAW FIRM, APC

15
16 By: 

ROBERT P. SILVERSTEIN

Attorneys for NEIGHBORS FOR SMART
RAIL

VERIFICATION

1
2 STATE OF CALIFORNIA)
3 COUNTY OF LOS ANGELES) SS:

4
5 I, Terri Tippit, declare as follows:

6 I am an officer of NEIGHBORS FOR SMART RAIL, Petitioner in this action. I
7 am authorized to make this verification on its behalf.

8 I have read the foregoing Petition for Writ of Mandamus and am familiar with its
9 contents. The same is true of my own knowledge, except as to those matters which are
10 therein stated on information and belief, and, as to those matters, I believe them to be true.

11 I declare under penalty of perjury under the laws of the State of California that the
12 foregoing is true and correct. Executed at Los Angeles, California on the 5th day of
13 March, 2010.

14
15 *Terri Tippit*
16 TERRI TIPPIT
17
18
19
20
21
22
23
24
25
26
27
28

THE SILVERSTEIN LAW FIRM, APC
215 North Main Street, 3rd Floor
Pasadena, CA 91101-1504

Printed on Recycled Paper

SHORT TITLE: NFSR v. Exposition Metro Line Construction Auth. et al.	CASE NUMBER BS125233
---	--------------------------------

**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL ⁶ HOURS/ DAYS

Item II. Select the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

Step 3: In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked.

For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|---|--|
| 1. Class Actions must be filed in the County Courthouse, Central District. | 6. Location of property or permanently garaged vehicle. |
| 2. May be filed in Central (Other county, or no Bodily Injury/Property Damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner Office. |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action <i>(Check only one)</i>	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage	2.
		<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1., 2., 4.
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 2., 4.
Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 2., 4. 1., 2., 4. 1., 2., 3. 1., 2., 4.	
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.

Non-Personal Injury/Property Damage/
Wrongful Death Tort (Cont'd.)

Employment

Contract

Real Property

Judicial Review Unlawful Detainer

SHORT TITLE: NFSR v. Exposition Metro Line Construction Auth. et al.	CASE NUMBER
---	-------------

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons -See Step 3 Above
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.

SHORT TITLE: NFSR v. Exposition Metro Line Construction Auth. et al. CASE NUMBER

Judicial Review (Cont'd.)
Provisionally Complex Litigation
Enforcement of Judgment
Miscellaneous Civil Complaints
Miscellaneous Civil Petitions

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Writ of Mandate (02)	<input checked="" type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2, 8 2. 2.
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	<input type="checkbox"/> A6007 Construction defect	1., 2., 3.
Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Partnership Corporation Governance(21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

LACIV 109 (Rev. 01/07)

SHORT TITLE: NFSR v. Exposition Metro Line Construction Auth. et al.	CASE NUMBER
---	-------------

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE		ADDRESS: 707 Wilshire Boulevard	
<input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input checked="" type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.			
CITY: Los Angeles	STATE: CA	ZIP CODE: 90017	

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)).

Dated: March 5, 2010


(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev. 01/07), LASC Approved 03-04.
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

LACIV 109 (Rev. 01/07) LASC Approved 03-04

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): ROBERT P. SILVERSTEIN State Bar No. 185105 215 North Marengo Avenue, Third Floor Pasadena, CA 91101-1504 TELEPHONE NO.: (626) 449-4200 FAX NO.: (626) 449-4205		FOR COURT USE ONLY FILED Los Angeles Superior Court MAR 05 2010 John A. Clarke, Executive Officer/Clerk By <i>[Signature]</i> , Deputy DOROTHY SWAIN
ATTORNEY FOR (Name): Neighbors For Smart Rail SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012-3014 BRANCH NAME: <i>Central District</i>		
CASE NAME: NFSR v. Exposition Metro Line Construction Authority		CASE NUMBER: BS125233
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 1811)
		JUDGE: DEPT.:

All five (5) items below must be completed (see instructions on page 2).

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

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input checked="" type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 1800-1812) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental /Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	---	---

2. This case is is not complex under rule 1800 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

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

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

4. Number of causes of action (specify): 11

5. This case is is not a class action suit.
 Date: March 5, 2010

Robert P. Silverstein, Esq.

(TYPE OR PRINT NAME)

[Signature]

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate, Family, or Welfare and Institutions Code). (Cal. Rules of Court, rule 201.8.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 1800 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet will be used for statistical purposes only.