

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): SEAN K. WADE, SBN NO. 317431 The Red Brennan Group 3659 Camino Marglesa Escondido, CA 92025 TELEPHONE NO.: (951) 551-5761 FAX NO.: ATTORNEY FOR (Name): The Red Brennan Group et al.		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Bernardino STREET ADDRESS: 247 West Third Street MAILING ADDRESS: CITY AND ZIP CODE: San Bernardino CA 92415-0210 BRANCH NAME: Civil Division of the San Bernardino District		
CASE NAME:		
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less) Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		
CASE NUMBER:		JUDGE: DEPT:

Items 1–6 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
☐ Auto (22)
☐ Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort
☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)
Employment
☐ Wrongful termination (36)
☐ Other employment (15) | Contract
☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)
Real Property
☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)
Unlawful Detainer
☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)
Judicial Review
☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☒ Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
☐ Enforcement of judgment (20)
Miscellaneous Civil Complaint
☐ RICO (27)
☐ Other complaint (not specified above) (42)
Miscellaneous Civil Petition
☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43) |
|--|---|--|
2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. ☐ Substantial amount of documentary evidence | d. ☐ Large number of witnesses
e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. ☐ Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☐ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): **2**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 10/11/2018

Sean K. Wade

(TYPE OR PRINT NAME)

(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 Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) 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 3.400 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 collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CIVIL CASE COVER SHEET

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

The Red Brennan Group et al.

CASE NO.: _____

vs.

CERTIFICATE OF ASSIGNMENT

Board of Supervisors et al.

A civil action or proceeding presented for filing must be accompanied by this Certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the
San Bernardino District of the Superior Court under Rule 404 of this court for the
checked reason:

☒ General

☐ Collection

Nature of Action

- ☐ 1. Adoption
- ☐ 2. Conservator
- ☐ 3. Contract
- ☒ 4. Equity
- ☐ 5. Eminent Domain
- ☐ 6. Family Law
- ☐ 7. Guardianship
- ☐ 8. Harassment
- ☐ 9. Mandate
- ☐ 10. Name Change
- ☐ 11. Personal Injury
- ☐ 12. Personal Property
- ☐ 13. Probate

- ☐ 14. Prohibition
- ☐ 15. Review
- ☐ 16. Title to Real Property
- ☐ 17. Transferred Action
- ☐ 18. Unlawful Detainer
- ☐ 19. Domestic Violence
- ☐ 20. Other _____
- ☐ 21. THIS FILING WOULD

Ground

- Petitioner resides within the district
- Petitioner or conservatee resides within the district.
- Performance in the district is expressly provided for.
- The cause of action arose within the district.
- The property is located within the district.
- Plaintiff, defendant, petitioner or respondent resides within the district.
- Petitioner or ward resides within the district or has property within the district.
- Plaintiff, defendant, petitioner or respondent resides within the district.
- The defendant functions wholly within the district.
- The petitioner resides within the district.
- The injury occurred within the district.
- The property is located within the district.
- Decedent resided or resides within the district or had property within the district.
- The defendant functions wholly within the district.
- The defendant functions wholly within the district.
- The property is located within the district.
- The lower court is located within the district.
- The property is located within the district.
- The petitioner, defendant, plaintiff or respondent resides within the district.

NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designed district is:

The Board of Supervisors of San Bernardino County

385 North Arrowhead Ave. #2

NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR

ADDRESS

San Bernardino

CA

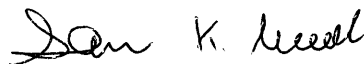
92415

CITY

STATE

ZIP CODE

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed
on 10/11/2018 at Tustin, California



Signature of Attorney/Party

CERTIFICATE OF ASSIGNMENT

1 SEAN K. WADE, Bar No. 317431
The Red Brennan Group
2 3659 Camino Marglesa
Escondido, CA 92025
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4

5 Attorney for The Red Brennan Group, Lucerne Valley Economic Development Association, Henry E.
Hallmark, Kristine E. Hallmark and Eric H. Steinmann
6
7
8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN BERNARDINO - SAN BERNARDINO DISTRICT
11
12

13 THE RED BRENNAN GROUP; LUCERNE) Case No.:
14 VALLEY ECONOMIC DEVELOPMENT)
ASSOCIATION; HENRY E. HALLMARK;) COMPLAINT FOR DECLARATORY AND
15 KRISTINE E. HALLMARK; ERIC H.) INJUNCTIVE RELIEF
STEINMANN)
16)

17 Plaintiffs,)
18)

18 vs.)
19)

19 THE BOARD OF SUPERVISORS OF SAN)
20 BERNARDINO COUNTY; THE BOARD)
OF SUPERVISORS OF SAN)
21 BERNARDINO COUNTY FIRE)
PROTECTION DISTRICT; and DOES 1-
22 10,
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Defendants.
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Plaintiffs allege as follows:

PARTIES

1. Plaintiff The Red Brennan Group ("Red Brennan") is a non-profit voter organization formed and operating under the laws of the State of California. Red Brennan has filed suit in order to protect the interests of taxpayers and voters by preventing the levy of an illegal special tax and an unconstitutional bar on the exercise of the right to vote of affected individuals.

2. Plaintiff Lucerne Valley Economic Development Association ("Lucerne") is a non-profit voter organization formed and operating under the laws of the State of California. Lucerne has filed suit in order to protect the interests of taxpayers and voters by preventing the levy of an illegal special tax and an unconstitutional bar on the exercise of the right to vote of affected individuals.

3. Plaintiffs Henry E. Hallmark and Kristine E. Hallmark are, and at all times mentioned in this complaint were, natural persons residing in San Bernardino County.

4. The Hallmarks are the owners of unincorporated parcels of land in the city of Wrightwood, County of San Bernardino, State of California (APN Nos. 0355-261-07-0-000; 0355-164-05-0-000; 3067-171-05-0-000; 0355-114-00-0-000; 0355-101-02-0-000). Plaintiff Eric H. Steinmann is the owner of an unincorporated parcel of land in the city of Wrightwood, County of San Bernardino, State of California (APN No. 0355-102-16-0000).

5. The Board of Supervisors of the County of San Bernardino ("Board") is, and at all times mentioned was, the governing body that oversees the operation of county government in San Bernardino County.

6. The Board controls the San Bernardino County Fire Protection District ("Fire District") and the same individuals comprise both boards. The Fire District is a legally distinct entity from the Board, however, the Board also acts as the board of directors for the Fire District. As such, the same individuals comprise both panels and both entities are controlled by the same individuals.

7. Defendants Doe 1 through Doe 10, inclusive, are sued here under their fictitious names. Their true names and capacities are unknown to Plaintiffs. When their true names and capacities are ascertained, Plaintiffs will amend this complaint by inserting their true names and capacities herein.

1 8. Plaintiffs are informed and believe and thereon allege that each of the fictitiously named
2 defendants is responsible in some manner for the occurrences alleged in this complaint, and that
3 injuries inflicted upon Plaintiffs as alleged here were proximately caused by those defendants.

4 9. Plaintiffs are informed and believe and thereon allege, that each of the defendants acted
5 on behalf of or as an agent of the other defendants identified herein.

6 **FACTUAL BACKGROUND**

7 10. The Fire District was formed through a Local Area Formation Commission ("LAFCO")
8 process in 2008 to provide fire, rescue and emergency medical services.

9 11. The Fire District is comprised of four geographic quadrants and ten separate Fire
10 Protection ("FP") service zones within those four quadrants.

11 12. The services provided by the Fire District are primarily funded through property taxes,
12 contract revenue, and assessment revenues.

13 13. The Fire District also receives funding from the County of San Bernardino by way of a
14 Memorandum of Understanding ("MOU") entered into between the Fire District and the County of
15 San Bernardino to further enhance the services provided in areas covered by the Fire District.

16 14. The Board has been unable to adequately manage the budget of the Fire District, and
17 the amount of money required for the Fire District to operate continues to increase each year.

18 15. The Fire District has been meeting its budget deficits by using Fire District budget
19 reserves, paired with the receipt of additional funds transferred from the County of San
20 Bernardino's general fund.

21 16. This transfer of monies from the general fund has been authorized by the Board via the
22 MOU between the County and the Fire District for service "enhancements."

23 17. Because the Fire District continues to engage in deficit spending, the Board has
24 proposed to levy a new real property tax on all unincorporated parcels of land in San Bernardino
25 County.

26 18. To accomplish this, the Board has proposed adding all unincorporated parcels within
27 San Bernardino County into the FP service zones and levying a new special tax on each parcel.
28

1 19. These unincorporated parcels of land are subject to a new special tax being proposed by
2 the County, thereby making Plaintiffs, either directly or through their constituent members,
3 affected landowners.

4 20. During its June 12, 2018 budget presentation to the Board, the Fire District proposed
5 expanding the boundaries of FP service zone 5 ("FP-5") to include all unincorporated areas of San
6 Bernardino County, an area of approximately 19,073 square miles.

7 21. At this budget presentation, the Board adopted two resolutions. The first resolution,
8 Resolution No. 2018-99, adopts proposed terms for a new parcel tax on all unincorporated parcels
9 within San Bernardino County. The amount of the parcel tax is \$157.26 per year. Attached here as
10 Exhibit A is a true and correct copy of "Resolution No. 2018-99" ("Expansion Tax Resolution").

11 22. The Expansion Tax Resolution also sets October 16, 2018 at 10:00 am as the date of the
12 statutorily required public hearing through which affected landowners can lodge a protest with the
13 Board against this proposed expansion and special tax.

14 23. The second resolution adopted by the Board at this budget presentation, Resolution No.
15 2018-100, adopts protest procedures through which affected landowners can protest the
16 implementation of this new tax. Attached here as Exhibit B is a true and correct copy of
17 "Resolution 2018-100" ("Protest Procedures Resolution").

18 24. As required by Health and Safety Code section 13950, Plaintiffs are informed and
19 believe and thereon allege that the Fire District sent a notice of hearing to some or all affected
20 landowners on September 14, 2018, to notify them of a public hearing being held regarding the
21 expansion of FP-5 on October 16, 2018. Attached here as Exhibit C is a true and correct copy of
22 the notice of hearing sent by the Fire District ("Notice of Hearing").

23 25. The Notice of Hearing states that "any owner of land within the territory of the
24 aforementioned expansion of the service zone may file a written protest against the change in
25 boundaries of the service zone." Ex. C. This Notice of Hearing also states that a new tax is being
26 proposed as part of the service zone expansion. Ex. C.

27 26. The Notice of Hearing further states that all written protests must be submitted either in
28 person or through the mail. Ex. C.

1 27. The proposed expansion of FP-5 to the entire unincorporated area of the county,
2 coupled with the proposed new parcel tax of \$157.26 per year, is purportedly to "...provide
3 additional revenues in the amount of \$26.9 million with which to maintain current fire protection
4 and emergency response services." Ex. A., pp. 1.

5 28. The Fire District does not explicitly state how the additional revenue to be obtained
6 from taxpayers will be spent and has instead used vague aggregate indicators such as "staffing
7 expenses" and "other operating expenses" to justify why new funding is needed.

8 29. Plaintiffs are informed and believe that affected landowners are being told the
9 expansion of FP-5 and the new levy being proposed are needed, but have not been given specifics
10 as to where their money is going to be spent, why the budget continuously increases at such a high
11 rate, or why the Fire District continues to engage in deficit spending.

12 30. Plaintiffs are informed and believe that not all relevant information is being provided
13 by the County and that affected landowners have no way of discerning what the relevant facts are.
14 Instead, the affected landowners must defer to officials in uniform acting under color of authority
15 telling the landowners only what the public officials believe those landowners need to know at
16 various local presentations campaigning for the service zone expansion.

17 31. Plaintiffs are informed and believe and thereon allege that the County of San
18 Bernardino has no legal obligation to fund the Fire District but continues to do so. Fire Chief Mark
19 Hartwig has also stated at various local presentations made as part of a campaign for the service
20 zone expansion that, as of next year, the Fire District will run out of reserve funds, thus making the
21 new revenues proposed by the expansion of FP-5 necessary due to the Fire District's increasing
22 budget.

23 32. Plaintiffs are informed and believe and thereon allege that funding for the Fire District
24 is dependent on the Fire District receiving additional funds from the County.

25 33. Even after receiving \$17,400,000 from the County's general fund for the 2018/2019
26 fiscal year, Plaintiffs are informed and believe and thereon allege that the Fire District will still
27 have a deficit for the fiscal year of over \$11,400,000 that will be required to be funded from the
28 Fire District's reserves.

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FIRST CAUSE OF ACTION

(For Permanent Injunction Against All Defendants)

34. Plaintiffs incorporate by this reference the allegations of paragraphs 1 through 33 as though fully set forth herein.

35. Beginning on or about June 12, 2018, defendants, and each of them, wrongfully and unlawfully adopted Resolution No. 2018-99 and Resolution No. 2018-100 that would begin procedures to expand Service Zone FP-5.

36. The Protest Procedures Resolution states that: "the Board of Directors of the San Bernardino County Fire Protection District finds that current revenues are insufficient to maintain the current level of services and the capital needs of the District and an expansion of Service Zone FP-5 will raise additional revenues to maintain existing services." Ex. B., pp. 1.

37. According to the Board, this expansion of the boundaries of Service Zone FP-5 necessitates the imposition of a new levy on owners of parcels of unincorporated land in San Bernardino County in order to "maintain current fire protection and emergency response services." Ex. A., pp. 1. The Expansion Tax Resolution states in pertinent part that: "the extension boundaries of Service Zone FP-5 will result in the levy an annual amount of \$157.26, with a maximum 3% annual cost of living increase, on each parcel as defined in Attachment A, except those parcels which are statutorily exempt." Ex. A., pp. 1.

38. The Board adopted procedures for landowners to protest this potential levy as described in the Protest Procedures Resolution. Ex. B., pp. 1. The resolution states that: "the Board of Directors of the San Bernardino County Fire Protection District desires to adopt protest procedures as set forth in Health and Safety Code section 13950". Ex. B., pp. 1. This code section provides the procedure for raising additional revenues within a service zone and mandate that a public hearing be held on the issue. Further, this code section outlines that notice of the hearing must be mailed to all owners of property within the territory of the proposed zone.

39. While Health and Safety Code section 13950 outlines the procedure that must be followed to raise additional revenues within a specific area and provide a public hearing at which

1 affected landowners may protest, it does not set forth the protest procedures. The protest
2 procedures are found in Government Code section 57025 et seq.

3 40. Government Code section 57025(b), which specifies the notice requirements for the
4 expansion of a district, states: "The executive officer shall give mailed notice to all landowners
5 owning land within any affected territory, consistent with Sections 56155 to 56157, inclusive."

6 41. If affected landowners desire to protest the proposed levy, the protest procedures are
7 found in Government Code section 57075. Ex. B., pp. 1.

8 42. These statutory protest procedures set forth in Government Code section 57075 provide
9 that if at least 25 percent of the number of owners of land who also own at least 25 percent of the
10 assessed value of land within the affected territory file a written protest, then the confirmation of a
11 proposed expansion must be put to a vote of the electorate.

12 43. Additionally, these statutory protest procedures set forth in Government Code section
13 57075 provide that if more than 50 percent of the landowners who own at least 50 percent of the
14 total assessed value of land within the affected territory file written protests, then any proposed
15 expansion must be withdrawn.

16 44. Accordingly, the number of affected landowners who can lodge a protest form before
17 the hearing on October 16, 2018, is of crucial importance. None of the statutes listed above,
18 however, provide procedures regarding how protest forms should be transmitted to the affected
19 landowners so they can submit their written protests if desired.

20 45. While notice of this proposed Service Zone expansion must be sent to all affected
21 landowners by statute, not all affected landowners can obtain a protest form which must be
22 submitted before the Fire District meets to discuss this proposed resolution on October 16, 2018.

23 46. According to the Notice of Hearing, the protest forms can only be obtained by going to
24 the San Bernardino County Fire website and downloading a PDF file or by contacting "211". Ex.
25 C.

26 47. A paper copy of the protest forms was not mailed to affected landowners entitled to
27 notice within the affected Service Zone boundary expansion areas.
28

1 48. As such, in order to obtain a protest form, a landowner must either download it from
2 the internet or contact "211". Ex. C.

3 49. To obtain a form online, a landowner must have a computer, internet access, the proper
4 internet browser, the appropriate computer programs to view the protest form file, and a printer
5 with paper to make a copy of the protest form. Not all affected landowners may be able to meet
6 these conditions.

7 50. The second method, which is listed only as "Contact 211" on the notice of hearing
8 provides no further details as to what this means and actually refers to dialing the number 211 on a
9 telephone. Ex. C. To begin obtaining a protest form through this method, every affected landowner
10 must have a telephone.

11 51. Additionally, "211" services seem to exist on a contract basis for each County. This
12 means that affected landowners, who have the right to file a protest form, might not even be able to
13 reach the appropriate "211" service from their phone number if their phone number is attached to a
14 non-San Bernardino County area code.

15 52. An affected landowner needs to call the San Bernardino County "211" service
16 specifically, which is different from simply dialing "211." The affected landowner must then ask
17 for an FP-5 protest form, which then must then be mailed by the San Bernardino County "211"
18 service to the affected landowner before such landowners can fill it out and return it to the Fire
19 District.

20 53. With protest forms only being available 30 days before the hearing on this proposed
21 levy, it is also unclear how early in the process an affected landowner would need to submit a
22 request for a protest form from the "211" service before it actually was received by the landowner,
23 and whether it would then be received in time by the Fire District before the hearing date.

24 54. Once a protest form has been obtained using one of these two methods, only then can a
25 protest form be submitted. Unless an affected landowner is able to meet all of these cumbersome
26 requirements, they cannot file a written protest with the Fire District Board before the October 16,
27 2018 hearing deadline.

1 55. The procedure for obtaining protest forms is invalid in its execution and creates
2 disparate treatment between affected landowners, all of whom have the same right to protest this
3 new proposed levy.

4 56. Defendants are depriving Plaintiffs or their constituent members of their fundamental
5 right to vote on this new proposed tax because enough lodged protests can either bring this special
6 tax to a vote of the electorate or cause it to be withdrawn entirely under the adopted protest
7 procedures.

8 57. This unequal burden on Plaintiffs' fundamental right to vote violates the Equal
9 Protection Clause of the United States Constitution. Plaintiffs have no plain, adequate, or complete
10 remedy at law other than the relief requested in this Complaint.

11 58. A monetary award would not offer relief in this instance because landowners without
12 internet access or the ability to obtain a protest form from the San Bernardino County "211"
13 service lack the ability to protest this real property assessment being levied on their parcels.

14 59. Unless the Board and the Fire District are enjoined by this Court, Plaintiffs and other
15 similarly affected landowners will be irreparably harmed.

16 60. By reason of the foregoing, Defendants, acting under color of state law, have deprived
17 and will continue to deprive Plaintiffs of equal protection under the law secured to them by the
18 Fourteenth Amendment to the United States Constitution.

19 61. Plaintiffs seek a declaration from this Court that the protest procedures adopted by the
20 Board and the Fire District to protest the proposed special tax proposed by Resolution 2018-99 is a
21 violation of Plaintiffs' right to equal protection under the law secured to them by the Fourteenth
22 Amendment to the United States Constitution.

23 **SECOND CAUSE OF ACTION**

24 **(Declaratory Relief As To The Proposed Special Tax**

25 **By Plaintiffs Against All Defendants)**

26 62. Plaintiffs incorporate by this reference the allegations of paragraphs 1 through 61 as
27 though fully set forth here.

1 63. The “levy” as proposed in the Expansion Tax Resolution violates the California
2 Constitution because it is a special tax not approved by two-thirds of the electorate.

3 64. Specifically, the levy proposed by the Expansion Tax Resolution violates the provisions
4 set forth in the language added to the California Constitution by Propositions 13, 26 and 218
5 respectively, which provide that “**No local government may impose, extend, or increase any**
6 **special tax unless and until that tax is submitted to the electorate and approved by a two-**
7 **thirds vote.**” Cal. Const., Art. XIII C, § 2(d) (emphasis added).

8 65. Under the California Constitution, a special tax means “any tax imposed for specific
9 purposes, which is placed into a general fund.” Cal. Const. Art. XIII C, § 1(d).

10 66. The proposed is a tax specifically imposed for the funding of expanding Service Zone
11 FP-5, as such, it meets the definition of a special tax as opposed to a general tax.

12 67. Local government’ means any county, city, city and county, including a charter city or
13 county, any special district, or any other local or regional governmental entity.” Cal. Const., art.
14 XIII C, § 1(b).

15 68. Section 24 of article XIII of the California Constitution provides that “[t]he Legislature
16 may not impose taxes for local purposes but may authorize local governments to impose them.”
17 “**No local government may impose, extend, or increase any special tax unless and until that**
18 **tax is submitted to the electorate and approved by a two-thirds vote.**” Cal. Const., Art. XIII C,
19 § 2(d) (emphasis added). “Cities, Counties and special districts, by a two-thirds vote of the
20 qualified electors of such district, may impose special taxes on such district, except ad valorem
21 taxes on real property or a transaction tax or sales tax on the sale of real property within such City,
22 County or special district.” Cal. Const., Art. XIII A, § 4.

23 69. For all intents and purposes, the imposition of the special tax proposed by Resolution
24 2018-99 is being accomplished without a vote of the electorate. This action challenges any and all
25 future impositions of the special tax without a vote of the electorate.

26 70. Plaintiffs have no plain, speedy, adequate remedy in the ordinary course of law, since
27 they and other members of the public will suffer irreparable harm as a result of defendants’
28 violations of the law, as alleged here.

1 71. Defendants have a ministerial duty to act in accordance with established laws, but have
2 failed to do so by proposing to adopt a tax which is unconstitutional on its face.

3 72. Defendants have and continue to have the ability to propose special and other taxes
4 through a two-third vote of the electorate, as required by the California Constitution, but have
5 instead chosen to propose the imposition of this unconstitutional levy in a manner inconsistent
6 with existing laws.

7 73. To the extent the County is requiring the affected property owners to lodge a formal
8 protest before exercising their right to the franchise, such requirement unlawfully abridges the
9 electorate's right to vote on the special tax under the California Constitution.

10 74. Plaintiffs seek a declaration from this Court that the levy proposed in resolution 2018-
11 99 does not comply with all applicable laws in at least some respect, rendering it null and void,
12 invalid or otherwise in violation of the California Constitution.

13 WHEREFORE, Plaintiffs pray judgment against defendants as follows:

14 1. For an order requiring defendants to show cause, if any they have, why they should not
15 be enjoined as set forth in this complaint, during the pendency of this action;

16 2. For a preliminary injunction and a permanent injunction, all enjoining defendants, and
17 each of them, and their agents, servants, and employees, and all persons acting under, in concert
18 with, or for them, from holding the hearing on October 16, 2018 regarding the proposed special tax
19 in Resolution 2018-99 because not all affected landowners can participate in the written protest
20 process;

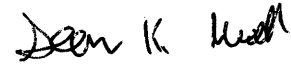
21 3. For a declaration that protest procedures adopted by the Board and the Fire District to
22 protest the proposed special tax proposed by Resolution 2018-99 imposes an unequal burden on
23 Plaintiffs' fundamental right to vote which creates disparate treatment, and thus is a violation of
24 Plaintiffs' right to equal protection under the law secured to them by the Fourteenth Amendment to
25 the United States Constitution;

26 4. For a declaration that the proposed special tax in Resolution 2018-99 violates the
27 California Constitution and may not be enacted;

28 5. For costs of suit incurred in this action; and

1 6. For such other and further relief as the court deems just and proper.
2

3 DATED: October 11, 2018
4



5 SEAN K. WADE

6 Attorney for Plaintiffs

7 The Red Brennan Group

8 Lucerne Valley Economic

9 Development Association

10 Henry E. Hallmark

11 Kristine E. Hallmark

12 Eric H. Steinmann
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EXHIBIT A

RESOLUTION NO. 2018- 99

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT TO INITIATE PROCEEDINGS TO EXPAND THE BOUNDARIES OF SERVICE ZONE FP-5

On Tuesday, June 12, 2018, on motion of Director Ramos, duly seconded by Director Hagman and carried, the following resolution is adopted by the Board of Directors of San Bernardino County Fire Protection District.

WHEREAS, the San Bernardino County Fire Protection District was formed on June 20, 2008 by the Local Agency Formation Commission in Action 3000. Said creation also included Service Zone FP-5.

WHEREAS, pursuant to Health and Safety Code sections 13950-13951, the governing Board of the San Bernardino County Fire Protection District may initiate proceedings for the formation of a new service zone or the change in boundaries of an existing zone by adoption of a resolution.

WHEREAS, the District Board desires to initiate proceedings for the expansion of Service Zone FP-5 by adopting a resolution as required by Health and Safety Code section 13950.

WHEREAS, the District Board desires to expand Service Zone FP-5 to include all territory within the jurisdiction of the District that is not currently included in Service Zone FP-5, which currently includes the area of Helendale and the cities of San Bernardino, Needles, Twentynine Palms and Upland. There is current litigation regarding the expansion of Service Zone FP-5 into Upland and San Antonio Heights and said area is included in the proposed expansion.

WHEREAS, the territory proposed for inclusion in the expanded Service Zone FP-5 is as set forth above and a legal description of the boundaries of the territory proposed to be added is set forth in Attachment A, and by this reference incorporated herein.

WHEREAS, such expansion of the boundaries of Service Zone FP-5 will provide additional revenues in the amount of \$ 26.9 million with which to maintain current fire protection and emergency response services.

WHEREAS, the extension boundaries of Service Zone FP-5 will result in the levy an annual amount of \$157.26, with a maximum 3% annual cost of living increase, on each parcel as defined in Attachment A, except those parcels which are statutorily exempt.

WHEREAS, the revenue projections for San Bernardino County Fire Protection District indicate that anticipated existing revenues are insufficient to continue the current level of service provided within San Bernardino County Fire Protection District.

WHEREAS, the expansion of Service Zone FP-5 and the resulting revenues will enable the continuance of existing service levels within the expanded Service Zone FP-5 and provide for the future capital needs of Service Zone FP-5.

THEREFORE, the Board of Directors of the San Bernardino County Protection District hereby affixes the following date, time, and place for the public hearing on the expansion of the boundaries of Service Zone FP-5:

Date: October 16, 2018
Time: 10:00 a.m.

Place: San Bernardino County Government Center, 1st Floor, Covington Chamber, 385 North Arrowhead Ave., San Bernardino, CA 92415

SECTION 1. The Board of Directors of the San Bernardino County Fire Protection District hereby directs the Secretary of the Board of Directors to publish notice of the hearing, including the information required by Health and Safety Code 13950 (b), pursuant to Government Code section 6061 in one or more newspapers of general circulation in the District. The District shall mail the notice to all owners of property within the area proposed to be included within the expanded boundaries of Service Zone FP-5. In addition, the District Board shall post the notice in at least three public places within the territory of the proposed expanded zone.

SECTION 2. At the date, time and place of the public hearing as set forth above, the District Board shall hear and consider any protest to the expansion of the boundaries of Service Zone FP-5. The hearing shall be conducted in accordance with the protest procedures adopted by the District Board. At the conclusion of the hearing, the District Board may adopt a resolution in accordance with the protest procedures.

NOW THEREFORE, be it resolved by the Board of Directors of San Bernardino County Fire Protection District as follows:

SECTION 1. This resolution is hereby adopted and approved by Board of Directors of San Bernardino County Fire Protection District. The Secretary of the Board of Directors is hereby requested to take all action necessary to publish the notice of hearing as set forth in the resolution.

PASSED AND ADOPTED by the Board of Directors of the San Bernardino County Fire Protection District, by the following vote:

AYES: DIRECTORS: James Ramos, Curt Hagman, Josie Gonzales

NOES: DIRECTORS: Robert A. Lovingood, Janice Rutherford

ABSENT: DIRECTORS: None

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, **LAURA H. WELCH**, Secretary of Board of Directors of the San Bernardino County Fire Protection District, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Directors, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, June 12, 2018. Item #124 jll

LAURA H. WELCH
Secretary

By

Annifer Anna
Deputy Secretary

The seal is circular with a double-lined border. The outer ring contains the text "SAN BERNARDINO COUNTY" at the top and "FIRE PROTECTION DISTRICT" at the bottom, separated by dots. The center of the seal is blank, overlaid by the signature and the word "Deputy".

EXPANSION OF BOUNDARY FOR SERVICE ZONE FP-5 OF THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT

All of the unincorporated territory in the County of San Bernardino, State of California, together with those portions of lands lying within the incorporated boundaries of the following Cities:

City of Grand Terrace (as described in LAFCO Action 3000);
Town of Yucca Valley(as described in LAFCO Action 3000);
City of San Bernardino (as described in LAFCO Action 3198);
City of Needles (as described in LAFCO Action 3206);
City of Upland including the unincorporated portions of San Antonio Heights (as described in LAFCO Action 3216);

Also together with those portions of lands lying within the boundaries of the following Districts:

Helendale Community Services District (as described in LAFCO Action 3175);
City of Twentynine Palms Walter District (as described in LAFCO Action 3200);

Also together with the **Annexation Area** known as the Crest Forest Fire Protection District (as described in LAFCO Action 3186). Said annexation area containing 11,215Acres more or less.

Excepting therefrom those portions of lands lying within the incorporated boundaries of the following Cities:

City of Chino;
City of Chino Hills;
City of Montclair including its Unincorporated Sphere of influence;
City of Ontario;
City of Rancho Cucamonga;
City of Rialto;
City of Colton;
City Loma Linda;
City of Highland;
City of Redlands;
City of Yucaipa;
City of Big Bear Lake;
City of Adelanto;
City of Hesperia;
City of Victorville;
Town of Apple Valley; and,
City of Barstow;

Also excepting therefrom those portions of lands lying within the boundaries of the following Districts:

Fontana Fire Protection District (as modified, per detachments through LAFCO 3000);
Chino Valley Independent Fire Protection District;
Apple Valley Fire Protection District;
Victorville Fire Protection District;
Running Springs Water District;
Morongo Valley Community Services District;
Yermo Community Services District;
Newberry Springs Community Services District;
Rancho Cucamonga Fire Protection District;

Big Bear Lake Fire Protection District;
Hesperia Fire Protection District;
Barstow Fire Protection District;
Arrowbear Park County Water District;
Big Bear City Community Services District;
Baker Community Services District;
Daggett Community Services District; and,
Rubidoux Community Services District.

The total expansion area of the Service Zone FP-5 of the San Bernardino County Fire Protection District contains 12,207,306 acres (19,073 Square Miles) more or less.



This legal description was prepared by me or under my direction.

by: _____

A handwritten signature in black ink, appearing to read "Ryan Hunsicker", written over a horizontal line.

08/14/2018

Ryan Hunsicker, PLS 8302
Deputy County Surveyor

EXHIBIT B

RESOLUTION NO. 2018- 100

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT ADOPTING PROTEST PROCEDURES FOR THE FORMATION OR CHANGING OF BOUNDARIES FOR SERVICE ZONES PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 13950.

On Tuesday, June 12, 2018, on motion of Director Ramos, duly seconded by Director Hagman and carried, the following resolution is adopted by the Board of Directors of San Bernardino County Fire Protection District.

WHEREAS, the Local Agency Formation Commission took action on June 20, 2008 in LAFCO 3000, creating the San Bernardino County Fire Protection District, which included the creation of various service zones.

WHEREAS, Health and Safety Code section 13950 provides a procedure for the formation of service zones that requires the Board of Directors of the San Bernardino County Fire Protection District to hear and consider any protests to the formation or change in boundaries of the zone.

WHEREAS, the Board of Directors of the San Bernardino County Fire Protection District desires to adopt procedures to govern protests as set forth in Health and Safety Code section 13950.

WHEREAS, the Board of Directors of the San Bernardino County Fire Protection District finds that current revenues are insufficient to maintain the current level of services and the capital needs of the District and an expansion of Service Zone FP-5 will raise additional revenues to maintain existing services.

NOW THEREFORE, be it resolved by the Board of Directors of the San Bernardino County Fire Protection District as follows:

SECTION 1. Pursuant to Health and Safety Code Section 13950, the Board of Directors of the San Bernardino County Fire Protection District may form one or more service zones or change the boundaries of existing service zones if it determines that it is in the public's interest to provide different services, to provide different levels of service, or to raise additional revenues within specific areas of the District.

SECTION 2. In response to a resolution forming or changing the boundaries of an existing service zone, the District Board, by resolution, will fix the date, time, and place for the public hearing on the formation or changing boundary of the zone, at which time all protests will be heard.

SECTION 3. Following publication and service as required by Health and Safety Code section 13950 (c), a public hearing will be conducted by the District Board to hear and consider any protests to the formation or change in boundaries of the service zones.

SECTION 4. After publication of notice and prior to the conclusion of the protest hearing, but not thereafter, any owner of land within the territory that is the subject of the proposed formation or change of boundaries for the service zone may file a written protest against the formation or change in boundaries of the service zone. Each written protest shall be dated and state whether it is made by a landowner and so include the address of the property owned by the landowner. Protests may be made on behalf of an owner of land by an agent authorized in writing by the owner to act as agent with respect to that land, but proof of agency must be submitted with the protest and include the address of the property represented by the agent. Protests may be made on behalf of a private

corporation which is an owner of land by any officer or employee of the corporation without written authorization by the corporation to act as agent in making that protest.

SECTION 5. Each written protest shall show the date that each signature was affixed to the protest. All signatures without a date or bearing a date prior to the date of publication of the notice shall be disregarded for purposes of the ascertaining the value of any written protest.

SECTION 6. The protest hearing on the proposed formation or changing boundaries of an existing service zone on the date and time specified on the notice given by the District Board shall be held on the date and time specified in the notice published. Such protest hearing may be continued from time to time but not to exceed sixty (60) days from the date specified for the hearing in the notice.

SECTION 7. At the protest hearing, prior to consideration of protests, the District Board's resolution making determinations regarding the formation or change in boundaries of service zones shall be summarized. At that hearing, the District Board shall hear and receive any oral or written protests, objections, or evidence that is made, presented, or filed. Any person who has filed a written protest may withdraw that protest at any time prior to the conclusion of the hearing.

SECTION 8. Upon conclusion of the protest hearing, the District Board shall determine the value of written protests filed and not withdrawn. If at least 25% of the number of landowners within the affected territory who own at least 25% of the assessed value of land within the territory affected submit a protest, then the District Board shall order by resolution that the formation or change in boundaries of the service zone be submitted for confirmation by the voters.

SECTION 9. If protests constituting greater than 50% of the number of landowners within the affected territory who own at least 50% of the assessed value of land within the territory affected, submit protests, then the action to form or change the boundaries of a service zone will be withdrawn by the District Board.

SECTION 10. In the event that protests of less than 25% of the number of landowners of at least 25% of the assessed value of the affected area are received, then the District Board may, by adoption of the final resolution, form the new service zone or change the boundaries of an existing service zone.

PASSED AND ADOPTED by the Board of Directors of the San Bernardino County Fire Protection District, by the following vote:

AYES: DIRECTORS: James Ramos, Curt Hagman, Josie Gonzales
NOES: DIRECTORS: Robert A. Lovingood, Janice Rutherford
ABSENT: DIRECTORS: None

* * * * *

STATE OF CALIFORNIA)
)
COUNTY OF SAN BERNARDINO) ss.

I, **LAURA H. WELCH**, Secretary of Board of Directors of the San Bernardino County Fire Protection District, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Directors, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, June 12, 2018. Item #124 jll

LAURA H. WELCH
Secretary

By

Deputy

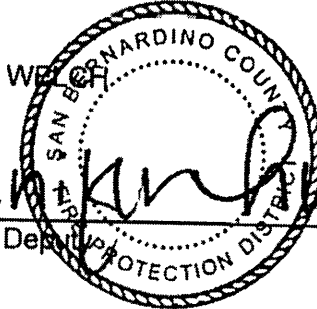


EXHIBIT C

**THE BOARD OF DIRECTORS OF THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT
ANNOUNCES A PUBLIC HEARING ON A RESOLUTION TO EXPAND THE BOUNDARIES OF
SERVICE ZONE FP-5**

10:00 AM OCTOBER 16, 2018
SAN BERNARDINO COUNTY GOVERNMENT CENTER
1ST FLOOR COVINGTON CHAMBER
385 NORTH ARROWHEAD AVENUE
SAN BERNARDINO, CA 92415

Pursuant to Health & Safety Code 13950-13951 (Fire Protection District Law of 1987) and Government Code Section 6061; the District Board is acting in the public's interest by proposing the expanding of Service Zone FP-5 to raise additional revenue for maintenance of existing services. Service Zone FP-5 will be expanded to include all territory within the jurisdiction of the District that is not currently included in Service Zone FP-5. Although the city of Upland and the area of San Antonio Heights were previously annexed into Service Zone FP-5, they are included in this proposal to address concerns raised by a taxpayer's group. A description of the boundaries to be added and those areas which are statutorily exempt are listed in Attachment A of the proposed Resolution (June 12, 2018).

Service Zone FP-5 will result in the levy of an annual amount of \$157.26, with a maximum 3% inflationary factor, on each parcel, for annual revenue of ~\$26.9 million. The levy is intended to replace any San Bernardino County Fire Protection District existing tax or fee to include FP-1,2,3,4 & 6 and PM 1,2,3 & 4. Anticipated revenue will enable the continuance of existing service levels and provide for future capital needs.

After the publication of this notice and prior to the conclusion of the public hearing, but not thereafter, any owner of land within the territory of the aforementioned expansion of the service zone may file a written protest against the change in boundaries of the service zone. All written protests shall be considered public records.

The public hearing may be continued from time to time but not to exceed sixty (60) days from the above date. At the hearing, the District Board shall hear and receive any oral or written protests, objections, or evidence that is made, presented, or filed. Any person who has filed a written protest may withdraw that protest at any time prior to the conclusion of the hearing.

The district is not responsible for any delays caused by the Postal Service for any protest submitted by regular mail. Allow sufficient time for the mail to be delivered prior to the protest hearing.

Visit www.sbcfire.org to view:

- Protest Form and Instructions
- Frequently Asked Questions
- Map of the territory impacted
- District Board Proposed Resolutions
- Attachment A

To obtain a protest form:

- Visit www.sbcfire.org
- Contact "211"

Mail Protests to:

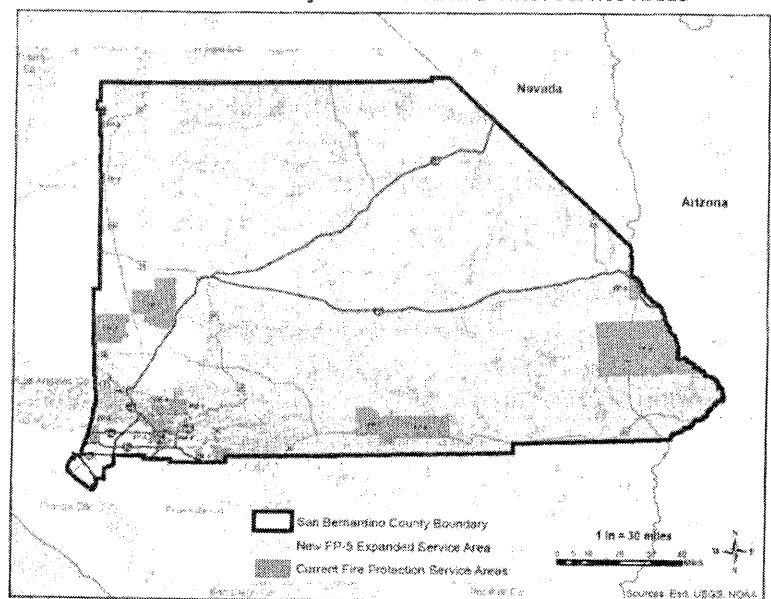
Service Zone FP-5 Expansion Protest

157 W 5th Street 2nd Floor
San Bernardino, CA 92415 - 0451

Return Protests in person:

San Bernardino County Fire Protection District
157 W 5th Street 2nd Floor
San Bernardino, CA 92415

San Bernardino County Fire Protection District Service Areas



**SUMMONS
(CITACION JUDICIAL)**

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

THE BOARD OF SUPERVISORS OF SAN BERNARDINO
COUNTY; Additional Parties Attachment form is Attached

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

THE RED BRENNAN GROUP; Additional Parties Attachment form is
Attached

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): San Bernardino County Superior Court
247 West Third Street
San Bernardino CA 92415-0210

CASE NUMBER:
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Sean K. Wade, 3659 Camino Marglesa, Escondido, CA 92025, (951) 551-5761

DATE: 10/11/2018
(Fecha)

Clerk, by _____, Deputy
(Secretario) _____ (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

SHORT TITLE:

The Red Brennan Group et al. v. Board of Supervisors et al.

CASE NUMBER:

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☒ Plaintiff ☐ Defendant ☐ Cross-Complainant ☐ Cross-Defendant

Lucerne Valley Economic Development Association
 Henry E. Hallmark
 Kristine E. Hallmark
 Eric H. Steinmann

SHORT TITLE:

The Red Brennan Group et al. v. Board of Supervisors et al.

CASE NUMBER:

INSTRUCTIONS FOR USE

- ➔ This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
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List additional parties (Check only one box. Use a separate page for each type of party.):

☐ Plaintiff ☒ Defendant ☐ Cross-Complainant ☐ Cross-Defendant

THE BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT