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18 A FACILITY OF ANTELOPE VALLEY HEALTHCARE DISTRICT; and
19 ANTELOPE VALLEY HEALTHCARE DISTRICT

20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
21 **FOR THE COUNTY OF LOS ANGELES**
22 **UNLIMITED JURISDICTION**

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Superior Court of California
County of Los Angeles

SEP 15 2015

Sherril R. Carter, Executive Officer/Clerk
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23 ANTELOPE VALLEY HOSPITAL, A
24 FACILITY OF ANTELOPE VALLEY
25 HEALTHCARE DISTRICT; and
26 ANTELOPE VALLEY HEALTHCARE
27 DISTRICT,

28 Petitioners and Plaintiffs,

v.

COUNTY OF LOS ANGELES; BOARD
OF SUPERVISORS OF THE COUNTY
OF LOS ANGELES; and
DOES 1 to 100, inclusive,

Respondents and Defendants.

Case No.

BC 594620

By Fax

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT:**

**1. TO COMPEL COMPLIANCE WITH
LOS ANGELES COUNTY MEASURE
B (PRESERVATION OF TRAUMA
CENTERS AND EMERGENCY
MEDICAL SERVICES;
BIOTERRORISM RESPONSE);**

2. FOR INJUNCTIVE RELIEF;

3. FOR DECLARATORY RELIEF;

4. FOR DAMAGES;

**5. FOR VIOLATIONS OF
CALIFORNIA CONSTITUTION
ARTICLE II, SECTION 10(c) AND
ARTICLE IV, SECTION 9; AND**

6. FOR AN ACCOUNTING

(DEMAND FOR JURY TRIAL)

VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT

Petitioners and Plaintiffs ANTELOPE VALLEY HOSPITAL, A FACILITY OF ANTELOPE VALLEY HEALTHCARE DISTRICT; and ANTELOPE VALLEY HEALTHCARE DISTRICT (collectively, “Petitioners”) hereby allege as follows:

INTRODUCTION

1. This Petition for Writ of Mandate and Complaint (the “Petition”) arises out of the failure of Respondents and Defendants Los Angeles County and its Board of Supervisors (collectively, “Respondents”) to properly administer and allocate billions of dollars of property tax revenue approved by the voters in a 2002 ballot measure – Measure B – for the “maintenance and expansion of trauma centers and emergency medical services.”

2. Specifically, Respondents have failed to properly allocate Measure B funds to reimburse the fourteen trauma centers within the County's trauma system – and most particularly Petitioners – for the treatment of patients who are unable to pay for their care and who have no third-party insurance coverage.

3. Further, Respondents have consistently failed to conduct comprehensive assessments of the County's trauma system, failed to use Measure B funds to address the County's most pressing trauma needs, and failed to fulfill the intent of Measure B to expand trauma services countywide.

4. Respondents long ago disbanded the Measure B Oversight Committee, further depriving Petitioners, trauma centers, doctors, patients, and taxpayers of their rights to know where Measure B funds have been allocated and to determine whether such allocations are consistent with Measure B.

5. Accordingly, and as alleged herein, Petitioners seek judicial relief by way of writ of mandate and judgment compelling compliance with Measure B on a past, present, and future basis; injunctive and declaratory relief; damages; and an accounting, so that the County's voters – and particularly those of the Antelope Valley Healthcare District – will

1 receive the benefits for which they voted and paid, and such other relief as the Court
2 deems just and proper.

3 **PARTIES**

4 6. Petitioner and Plaintiff Antelope Valley Hospital ("AV Hospital") is a non
5 County-operated hospital located within the County of Los Angeles in the City of
6 Lancaster, California. AV Hospital, which is a public hospital and a facility of the
7 Antelope Valley Healthcare District, is tasked with providing all trauma and emergency
8 related care within the Antelope Valley portion of Los Angeles County.

9 7. Petitioner and Plaintiff Antelope Valley Healthcare District (the
10 "District") is a public healthcare district pursuant to California law and oversees the
11 operations of AV Hospital.

12 8. Respondent and Defendant County of Los Angeles (the "County") is a
13 subdivision of the State of California and is charged, through its elected Board of
14 Supervisors and its staff, with properly administering Measure B via comprehensive
15 assessments of the County's trauma system, maintaining Measure B oversight, and taking
16 other actions to properly collect and allocate funds pursuant to Measure B.

17 9. Among the agents of the County who failed to properly discharge their
18 duties on behalf of the County with regard to Measure B are Mitchell H. Katz, M.D., who
19 has served as Director of the County's Department of Health Services from 2010 to the
20 present, and Allan Wecker, who has served as Chief Financial Officer of the County's
21 Department of Health Services from 2010 to the present.

22 10. Respondent and Defendant Los Angeles County Board of Supervisors (the
23 "Board of Supervisors") is the governing body for the County of Los Angeles and is
24 charged by law with the discharge of duties related to the implementation of Measure B,
25 including properly administering Measure B via comprehensive assessments of the
26 County's trauma system, maintaining Measure B oversight, and taking other actions to
27 properly collect and allocate funds pursuant to Measure B.

1 11. Among the agents of the Board of Supervisors from 2010 to the present,
2 who failed to properly discharge their duties on behalf of the Board of Supervisors with
3 regard to Measure B are Supervisor Michael D. Antonovich, Supervisor Don Knabe,
4 Supervisor Sheila Kuehl, former Supervisor Gloria Molina, Supervisor Mark Ridley-
5 Thomas, Supervisor Hilda L. Solis, and former Supervisor Zev Yaroslavsky.

6 12. The true and correct capacities of Respondents and Defendants DOES 1
7 through 100, and each of them, are unknown to Petitioners at this time, and therefore
8 Petitioners sue said Respondents and Defendants by such fictitious names. Petitioners
9 will file DOE amendments and/or ask leave of court to amend this Petition to assert the
10 true names and capacities of these Respondents and Defendants when they have been
11 ascertained.

12 13. Petitioners are informed and believe, and based upon such information and
13 belief allege, that each Respondent and Defendant herein designated as a DOE was and is
14 in some manner, negligently, wrongfully, or otherwise responsible and liable to
15 Petitioners for the injuries and damages hereinafter alleged, and that Petitioners' damages
16 as herein alleged were proximately caused by these DOES' conduct.

17 **JURISDICTION AND VENUE**

18 14. At all times relevant hereto, Petitioners, and each of them, were residing in
19 the City of Lancaster, the Antelope Valley Healthcare District, the County of Los
20 Angeles, and the State of California.

21 15. At all times relevant hereto, Respondents and Defendants, and each of
22 them, were residing in the County of Los Angeles, State of California.

23 16. The wrongful conduct alleged against Respondents and Defendants, and
24 each of them - where tens of millions of dollars of Measure B funds should have been
25 received, but were not received, by Petitioners – occurred in the City of Lancaster, the
26 Antelope Valley Healthcare District, the County of Los Angeles, and the State of
27 California.

1 17. This Court - the Michael Antonovich Antelope Valley Courthouse - is the
2 proper court for this action because the wrongful acts that are the subject of this action,
3 and the injuries and damages alleged herein, occurred in the Antelope Valley.

4 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

5 18. Petitioners are exempted from having to comply with and/or exhaust any
6 government claims statutes, administrative or internal remedies, and/or grievance
7 procedures pursuant to Government Code section 905(i) and other provisions of law.

8 19. In the alternative, to the extent Petitioners are required to comply with
9 government claims statutes, administrative or internal remedies, and/or grievance
10 procedures, in an abundance of caution Petitioners have so complied.

11 20. On April 13, 2015, Petitioners filed with the Clerk of the Board of
12 Supervisors their "Claim Against County of Los Angeles and Board of Supervisors of the
13 County of Los Angeles."

14 21. On May 28, 2015, County Counsel wrote a letter to Petitioners' counsel
15 acknowledging that Petitioners' claim was presented on April 13, 2015 and assigning file
16 numbers 15-1121512*001 and *002 to the claim.

17 22. In County Counsel's May 28, 2015 letter, Petitioners' counsel were
18 informed that the portion of the claim that pertained to activities occurring before April
19 13, 2014 was returned because according to County Counsel, it was not timely presented,
20 and no action was taken on that portion of the claim.

21 23. As to the portion of Petitioner's claim that pertained to activities occurring
22 since April 13, 2014, County Counsel informed Petitioners' counsel that the claim failed
23 to comply substantially with the claim requirements and that therefore County Counsel
24 would not be able to investigate the claim.

25 24. In County Counsel's May 28, 2015 letter, Petitioners' counsel were invited
26 to present an amended claim.

1 25. On June 12, 2015, Petitioners' counsel presented to the Clerk of the Board
2 of Supervisors their "First Amended Claim Against County of Los Angeles and Board of
3 Supervisors of the County of Los Angeles," which was file-stamped on June 17, 2015.
4 The First Amended Claim provided more particularity than the earlier-filed claim, based
5 on the request of County Counsel.

6 26. On July 17, 2015, County Counsel wrote a letter to Petitioners' counsel
7 acknowledging that Petitioners' First Amended Claim was presented on June 12, 2015
8 and stating that on July 16, 2015, Petitioners' claims – as they pertained to activities
9 occurring since April 13, 2014 – were rejected.

10 27. In the July 17, 2015 letter, County Counsel reiterated its position that the
11 portion of the claim that pertained to activities occurring before April 13, 2014 was not
12 timely presented.

13 28. Petitioners take issue with County Counsel's conclusions in this regard and
14 intend to demonstrate to the Court that Petitioners are entitled to pursue claims against
15 Respondents that pre-date April 13, 2014. In the meantime, as to activities occurring
16 since April 13, 2014, there is no dispute that Petitioners' claim is timely as to such
17 activities.

18 **FACTUAL BACKGROUND AND GENERAL ALLEGATIONS**

19 **Measure B: Preservation of Trauma Centers and**

20 **Emergency Medical Services; Bioterrorism Response**

21 29. Los Angeles County Measure B, entitled "Preservation of Trauma Centers
22 and Emergency Medical Services; Bioterrorism Response," was a ballot measure placed
23 on the ballot by Respondent Los Angeles County Board of Supervisors (the "Board of
24 Supervisors") and voted into law by the voters of the County at the November 2002
25 election.

1 30. By way of background, and according to the California State Auditor, in
2 1983 Los Angeles County's trauma system became operational and within two years grew
3 to include 22 county-operated and non-county-operated trauma centers. However, shortly
4 after the trauma system reached this peak, trauma centers began to withdraw from the
5 system, citing the costs of uncompensated care – for patients who are unable to pay for
6 their care and have no third-party insurance coverage – as the reason for their withdrawal.
7 This left some areas of the County without a trauma center.

8 31. By 2002, Los Angeles County's Department of Health Services was facing
9 a significant budget deficit, which was threatening the already weakened trauma system.
10 To, among other things, address the deficit and preserve and expand the trauma system,
11 the Board of Supervisors for the County of Los Angeles submitted a parcel tax measure to
12 the voters in the November 2002 general election, referred to as Measure B, which voters
13 ultimately approved.

14 32. With the passage of the measure, the Board of Supervisors implemented a
15 parcel tax of 3 cents per square foot on generally all structural improvements, which it has
16 increased over time. In fiscal year 2011–12, the measure generated more than \$256
17 million in revenue.

18 33. Measure B created a special property tax to be used exclusively to fund the
19 countywide system of trauma centers, emergency medical services, and bioterrorism
20 response (in the wake of the September 11, 2001 terrorist attacks).

21 34. The stated purpose of Measure B's special tax was to avoid the life-
22 threatening shutdown of Los Angeles County's trauma network, maintain and expand the
23 trauma network countywide, ensure more timely response to critical and urgent medical
24 emergencies, and respond effectively to biological or chemical terrorism.

1 35. The measure empowers the Board of Supervisors to set the special tax rate
2 depending on the fiscal needs of the systems and programs that Measure B was designed
3 to protect and strengthen. Unfortunately, the Board of Supervisors has failed in its duty to
4 effectuate the requirements and intent of the voters in passing Measure B.

5 **The County's and Board of Supervisors' Failure to**
6 **Comprehensively Assess the County's Trauma System**

7 36. The County and the Board of Supervisors have consistently failed to
8 conduct comprehensive assessments of the County's trauma system, so they are "flying
9 blind" when it comes to allocating Measure B funds in a rational and appropriate way to
10 satisfy the County's trauma and emergency medical needs. By their inaction with regard
11 to assessing the County's trauma system, Respondents have violated the legally required
12 accountability measures and reporting requirements established by California
13 Government Code sections 50075.1 and 50075.3.

14 **The County's and Board of Supervisors' Lack of Oversight Regarding Measure B**

15 37. Following its passage in 2002, the Board of Supervisors created the
16 Measure B Oversight Committee to help provide oversight and ensure proper use of the
17 billions of dollars that would be generated by the Measure B tax. Yet, the Board of
18 Supervisors quickly disbanded the Oversight Committee within a year of its inception,
19 leaving the Board of Supervisors with no independent oversight whatsoever.

20 **The County's and Board of Supervisors' Failure**
21 **to Properly Allocate Measure B Funds**

22 38. The County and the Board of Supervisors have consistently failed to use
23 Measure B funds to address the County's most pressing trauma needs and have failed to
24 fulfill the mandates and intent of Measure B.

Antelope Valley Hospital

39. Petitioner AV Hospital is a 420-bed acute care accredited hospital and is the only full-service hospital in the Antelope Valley. AV Hospital is the only hospital with emergency and trauma services in the entire Antelope Valley, which spans over 2,200 square miles and is home to over 475,000 people. In fact, the State Auditor acknowledges the challenges faced by AV Hospital by stating that “only one trauma center is located in the expansive Antelope Valley.”

40. Despite serving five percent of the County’s population, AV Hospital receives less than one-half of one percent of all Measure B funds annually, which is far less than other trauma centers and even non-trauma centers throughout the County.

41. As an example of the inequitable and unjustified allocations of funds that the County and the Board of Supervisors have visited upon AV Hospital, it should be noted that with a more favorable payer mix and lower trauma volume, St. Francis Medical Center and California Hospital receive nearly \$8 million and \$9 million per year, respectively, while AV Hospital receives less than \$1 million per year.

42. AV Hospital’s emergency department sees the second highest volume of patients in the County and, when compared to St. Francis Medical Center or California Hospital, treats far more unfunded emergency room patients and twice as many traumatic injury patients.

43. The County’s and the Board of Supervisors’ failure to provide meaningful and appropriate financial support to AV Hospital has left it on the brink of shutting its doors, the consequences of which would be dire not only for AV Hospital and its dedicated employees and vendors, but for the entire Antelope Valley and indeed the entire County. This is not what the voters’ intended in enacting Measure B in 2002.

44. Despite full knowledge of AV Hospital’s significant caseload, broad geographic reach, financial difficulties and the immense challenge of providing trauma and urgent care services to such a large and dispersed community in the Antelope Valley,

1 the County and the Board of Supervisors has not changed its allocation approach in more
2 than ten years. In fact, the Board of Supervisors has avoided any meaningful type of
3 accountability with regard to Measure B funds.

4 45. Moreover, the Board of Supervisors has obfuscated the allocation process
5 as to Measure B funds by allocating those funds within the context of the broader County
6 budget and without regard to where the funds are truly needed in order to fulfill the
7 mandates of Measure B.

8 46. In fact, the Board of Supervisors routinely fails to allocate millions of
9 Measure B dollars each year, despite lacking any authority to do so and despite the fact
10 that AV Hospital is in desperate need of additional funds so that it may continue to
11 provide quality trauma and emergency health care services to the Antelope Valley
12 community.

13 47. The lack of accountability and proper allocation of funds essentially places
14 the County and the Board of Supervisors in the position of judge, jury, and executioner –
15 literally making decisions with life and death consequences as a result of an ad hoc and
16 unjustified system of Measure B funds distribution.

17 48. The County and the Board of Supervisors, has, for more than a decade,
18 distributed Measure B funds as it wished, with no reasonable or rational basis and with no
19 consequences whatsoever for the resulting unfairness to Petitioners and indeed all County
20 residents.

21 **The County and the Board of Supervisors Have**

22 **Failed to Properly Allocate Funds to AV Hospital**

23 49. The County's and the Board of Supervisors' failure to reimburse AV
24 Hospital for the very costs Measure B's special tax were meant to cover has caused clear
25 and substantial damage to AV Hospital, the entire Antelope Valley, and other
26 stakeholders.

1 50. The lack of Measure B funds to which AV Hospital was and is entitled has
2 led to substantial underfunding of AV Hospital, its infrastructure, and the significant and
3 much-needed life-saving and trauma and emergency care services it provides.

4 51. AV Hospital's current emergency room was built in 1988 and was designed
5 to accommodate no more than 36,000 patients per year. Presently, however, AV
6 Hospital's now-antiquated facility sees over 113,000 patients per year.

7 52. Additionally, AV Hospital is struggling to simply maintain current
8 operations and is barely solvent from month to month. Nursing and ancillary staffing are
9 skeletal and many licensed beds are left unstaffed.

10 53. Further, the County's and Board of Supervisors's failures have caused such
11 a financial strain for AV Hospital over the last four years that AV Hospital's bond rating
12 was downgraded to "junk," thus increasing borrowing costs and cutting off access to
13 many potential lenders.

14 54. The harm inflicted by the County and the Board of Supervisors on AV
15 Hospital and, by extension, to the larger Antelope Valley community it serves is precisely
16 the type of harm Measure B was meant to prevent.

17 55. Given AV Hospital's dire financial situation and the County's and Board of
18 Supervisors' refusal to act even though the situation was brought to their attention, AV
19 Hospital and its fellow Petitioners have no choice but to bring this action and seek
20 judicial relief to correct these terrible financial wrongs.

21 **The California State Auditor Is Extremely Critical of the County and Its**
22 **Board of Supervisors Regarding Its Poor Administration of Measure B Funds**

23 56. In a February 20, 2014 letter to California Governor Jerry Brown and the
24 leaders of the California Legislature, State Auditor Elaine M. Howle (the "State Auditor")
25 set forth the following conclusions about the County and the Board of Supervisors
26 regarding its terribly flawed administration of Measure B:

1 (a) “Los Angeles [County] cannot demonstrate that it has used Measure
2 B funds to address the most pressing trauma needs.”

3 (b) “Los Angeles [County] cannot demonstrate that it has . . . fulfilled
4 the intent of [Measure B] by expanding trauma services countywide.”

5 (c) “. . . existing trauma centers remain far removed from some
6 geographical areas of the county. . . .”

7 (d) “Los Angeles [County’s] Emergency Medical Services Agency
8 (EMS) . . . has not conducted a comprehensive assessment that would allow it to
9 demonstrate whether its trauma system is meeting the needs of all areas and
10 populations in the county.” (emphasis added.)

11 57. On the State Auditor’s website ([https://www.bsa.ca.gov/reports/summary](https://www.bsa.ca.gov/reports/summary/2013-116)
12 /2013-116), the audit of Los Angeles County’s Measure B funds highlights the following:

13 (a) “More than a decade after voters approved the measure, existing
14 trauma centers remain far removed from certain areas within Los Angeles [County]
15 despite Measure B’s stated intent.”

16 (b) “Although the director of Los Angeles [County’s] Emergency
17 Medical Services Agency maintains that the trauma system is adequate and meeting
18 the needs of all areas of the county, it has not conducted a comprehensive assessment
19 that would allow it to support such a claim.”

20 (c) “The Board of Supervisors for the County of Los Angeles [Board of
21 Supervisors] has not revisited its approach to allocating Measure B funds in roughly
22 a decade, hindering its ability to demonstrate to the public that it distributes
23 Measure B funds to address the most pressing trauma needs.”

24 (d) The [Board of Supervisors] initially funded helicopter services as an
25 interim solution to locating trauma centers in underserved areas, however, it has not
26 regularly monitored, assessed, and reported on the helicopter transport services
27 used to transport trauma patients.” (emphasis added.)

1 **The County and the Board of Supervisors Have Failed**
2 **to Follow the State Auditor's Recommendations, and**
3 **This Court Should Order the Recommendations to be Followed**

4 58. Remarkably, even though the State Auditor was intensely critical of the
5 County's and the Board of Supervisors' actions and inactions with regard to Measure B,
6 the County and the Board have failed to follow the State Auditor's simple
7 recommendations.

8 59. **Recommendation 1** is "To determine whether its trauma system is
9 appropriately designed and serving the needs of residents in underserved areas and the
10 needs of the most at-risk populations, the Board should use Measure B funds to engage
11 the [American] College of Surgeons ("ACS") by July 2014 to perform a comprehensive
12 assessment of the trauma system and then make the results available to the public. To the
13 extent the assessment identifies weaknesses in the trauma system, the Board should
14 develop strategies to address those weaknesses where feasible. Specifically, the Board
15 should ask the College of Surgeons to do the following: assist the Board in better defining
16 and identifying underserved areas in Los Angeles [County]." The County and the Board
17 have responded that they will not implement this recommendation. Petitioners ask this
18 Court to order the County and the Board to implement this recommendation.

19 60. **Recommendation 2** concluded that "the Board [of Supervisors] should ask
20 the College of Surgeons to do the following: review Measure B allocations to ensure that
21 they are addressing the most pressing needs of at-risk populations in Los Angeles
22 [County]." The County and the Board have responded that "the benefits of having ACS
23 review the Measure B allocations are unclear" and thus they have not implemented this
24 recommendation. Petitioners ask this Court to order the County and the Board to
25 implement this recommendation.

1 **61. Recommendation 3** concluded that “the Board [of Supervisors] should ask
2 the College of Surgeons to do the following: assess the adequacy of helicopter services it
3 provides in underserved areas.” The County and the Board have responded that “the
4 benefits of having ACS review the helicopter services are unclear” and thus they have not
5 implemented this recommendation. Petitioners ask this Court to order the County and the
6 Board to implement this recommendation.

7 **62. Recommendation 4** concluded that the Board [of Supervisors] should ask
8 the College of Surgeons to do the following: analyze how EMS might better use the data
9 it collects to evaluate, improve, and report continuously on its trauma system.” The
10 County and the Board have responded that “the benefits of having ACS analyze how
11 EMS collects its data are unclear” and thus they have not implemented this
12 recommendation. Petitioners ask this Court to order the County and the Board to
13 implement this recommendation.

14 **63. Recommendation 5** is “[t]o ensure that it allocates Measure B funds to
15 address the most significant needs of residents within its trauma system, the Board should
16 reinstate a Measure B oversight committee, with participation from departments with
17 trauma, EMS, and bioterrorism preparedness expertise, as well as representatives of the
18 public. The oversight committee should review trauma system and other county needs
19 annually and advise the board on Measure B expenditures. As part of its responsibilities,
20 the oversight committee should reevaluate the Measure B allocation approach, taking into
21 consideration the results of Los Angeles [County’s] comprehensive assessment and the
22 effects of the Act, and issue a report on its findings no later than December 2015.” The
23 County and the Board have responded that “DHS will discuss with the Board the
24 preferred process for evaluating, establishing, and reporting on the Measure B allocation
25 approach, including consideration of the impact of the Affordable Care Act on such
26 allocation.” The County and Board further responded that “The County’s Health Services
27 Department will work with the Board to consider establishment of an Advisory
28

1 Committee to evaluate and advise Measure B allocation, assess the impact of the Patient
2 Protection and Affordable Care Act on the trauma care system, and prepare reports as
3 requested by the Board.” The State Auditor and Petitioners view the County’s and the
4 Board’s responses as having not implemented this recommendation. Petitioners ask this
5 Court to order the County and the Board to implement this recommendation.

6 **First Cause of Action**

7 **(Petition for Writ of Mandate to Compel Compliance with**
8 **Los Angeles County Measure B - CCP section 1085, et seq.)**
9 **(Against All Respondents and Defendants)**

10 64. Petitioners hereby reallege and incorporate herein by this reference
11 paragraphs 1 through 63 of this Petition/Complaint as if fully set forth herein.

12 65. Respondents have failed in their duties to provide a comprehensive
13 assessment of the efficacy of their efforts to effectuate the purpose and intent of Measure
14 B, failed to properly allocate Measure B funds consistent with Measure B, and failed to
15 provide adequate oversight over its allocation of Measure B funds.

16 66. Accordingly, Petitioners ask this court to issue a writ of mandate
17 compelling Respondents to provide a comprehensive assessment of the efficacy of their
18 efforts to effectuate the purpose and intent of Measure B, to properly allocate Measure B
19 funds consistent with Measure B, and to provide adequate oversight over their allocation
20 of Measure B funds.

21 67. Petitioners also ask this court to issue a writ of mandate compelling
22 Respondents to fulfill State Auditor recommendations 1 through 5 as set forth above.

23 68. The issuance of the writ is indispensable to the enforcement of Petitioners’
24 rights in that Petitioners are beneficially interested in the writ and yet have no plain,
25 speedy, or adequate remedy in the ordinary course of law whereby their rights can be
26 upheld or whereby Respondents can be compelled to comply with Measure B.

1 **Second Cause of Action**

2 **(Injunctive Relief With Regard to Los Angeles County**

3 **Measure B - CCP section 526, et seq.)**

4 **(Against All Respondents and Defendants)**

5 69. Petitioners reallege and incorporate herein by this reference paragraphs 1
6 through 63 of this Petition/Complaint as if fully set forth herein.

7 70. Petitioners allege that Measure B requires Respondents to, and they should
8 be ordered to, provide a comprehensive assessment of the efficacy of their efforts to
9 effectuate the purpose and intent of Measure B, properly allocate Measure B funds
10 consistent with Measure B, or provide adequate oversight over their allocation of
11 Measure B funds. Petitioners also allege that Respondents should be ordered to fulfill
12 State Auditor recommendations 1 through 5 as set forth above.

13 71. Petitioners allege that they are entitled to a preliminary and permanent
14 injunction as set forth in the preceding paragraph and request that the court issue such
15 equitable relief.

16 **Third Cause of Action**

17 **(Declaratory Relief With Regard to the Parties' Rights and Duties**

18 **Under Los Angeles County Measure B - CCP section 1060, et seq.)**

19 **(Against All Respondents and Defendants)**

20 72. Petitioners reallege and incorporate herein by this reference paragraphs 1
21 through 63 of this Petition/Complaint as if fully set forth herein.

22 73. Respondents are of the view that Measure B does not require them to, and
23 they need not, provide a comprehensive assessment of the efficacy of their efforts to
24 effectuate the purpose and intent of Measure B, properly allocate Measure B funds
25 consistent with Measure B, or provide adequate oversight over their allocation of
26 Measure B funds.

74. Respondents also are of the view that they need not fulfill State Auditor recommendations 1 through 5 as set forth above.

75. Petitioners are of the view that Measure B requires Respondents to, and Respondents should be ordered to, provide a comprehensive assessment of the efficacy of their efforts to effectuate the purpose and intent of Measure B, properly allocate Measure B funds consistent with Measure B, or provide adequate oversight over their allocation of Measure B funds.

76. Petitioners are also of the view that Respondents also should be ordered to fulfill State Auditor recommendations 1 through 5 as set forth above.

77. An actual controversy exists relating to the legal rights and duties of the respective parties with regard to Measure B, and Petitioners desire a judicial determination and declaration that Measure B requires Respondents to, and Respondents should be ordered to, provide a comprehensive assessment of the efficacy of their efforts to effectuate the purpose and intent of Measure B, properly allocate Measure B funds consistent with Measure B, or provide adequate oversight over their allocation of Measure B funds.

78. Petitioners are also of the view that, and seek a judicial determination and declaration that, Respondents also need to fulfill State Auditor recommendations 1 through 5 as set forth above.

Fourth Cause of Action

(Damages)

(Against All Respondents and Defendants)

79. Petitioner realleges and incorporates herein by this reference paragraphs 1 through 63 of this Petition/Complaint as if fully set forth herein.

80. Respondents' actions and inactions with regard to Measure B funds have violated Measure B and have directly and proximately harmed Petitioners in this action and caused them to suffer damages.

81. Petitioner AV Hospital is entitled to a sum of money from Respondents, in an amount to be determined at trial, based on an updated allocation method that correctly addresses the County's most pressing trauma care needs, fulfills the purpose and intent of Measure B, and should have been in effect since 2003.

Fifth Cause of Action

(Violation of California Constitution, Article II,

Section 10(c) and Article IV, Section 9)

(Against All Respondents and Defendants)

82. Petitioners reallege and incorporate herein by this reference paragraphs 1 through 63 of the Petition/Complaint as if fully set forth herein.

83. Measure B does not provide Respondents with the authority to withhold any funds collected by Measure B's special tax.

84. Yet, each year, Respondents fail to allocate millions of dollars generated by the Measure B tax and instead divert the money into the County's general fund via the County's general budgetary process.

85. Because Respondents do not have the authority to divert Measure B funds, Respondents have impermissibly amended and reenacted Measure B without a vote of the people and therefore are in violation of Article II, Section 10(c) and Article IV, Section 9 of the California Constitution.

86. Petitioners desire a judicial determination and declaration that Respondents have amended Measure B by diverting millions of dollars in Measure B funds for purposes other than those demanded by Measure B. Such a declaration is necessary to protect taxpayer funds which were meant to further the purpose and intent of Measure B, but have since been used by Respondents for other purposes.

87. Additionally, Respondents have caused direct harm to Petitioner AV Hospital by diverting hundreds of millions of dollars in Measure B funds, tens of millions

1 of which rightly belong to Petitioner AV Hospital, thereby impermissibly amending
2 Measure B.

3 88. Petitioner Antelope Valley Hospital is therefore entitled to a portion of the
4 sum of money, to be determined at trial, that Respondents have impermissibly diverted.

5 **Sixth Cause of Action**

6 **(For an Accounting)**

7 **(Against All Respondents and Defendants)**

8 89. Petitioners reallege and incorporate herein by this reference paragraphs 1
9 through 63 of the Petition/Complaint as if fully set forth herein.

10 90. The relationship between Respondents and Petitioners is such that
11 Respondents owe Petitioners a duty to properly account for, manage, and distribute
12 Measure B funds, including accounting for and distributing the appropriate amount of
13 funds to Petitioners.

14 91. Respondents have received billions of dollars of Measure B funds and yet
15 have failed to properly account for those funds, especially with regard to the amounts due
16 to Petitioners.

17 92. The precise amount of Measure B funds due to Petitioners is unknown to
18 Petitioners and cannot be properly ascertained without Respondents engaging in an
19 accounting of such funds.

20 93. Petitioners are informed and believe, and based thereupon allege, that they
21 are entitled to approximately \$57,500,000 from Respondents for the period from 2010
22 through 2014.

23 94. Petitioners have demanded an accounting from Respondents and payment
24 of the amounts due, but Respondents have failed and refused to render such an accounting
25 and to pay Petitioners the amounts due to them pursuant to Measure B.

1 **PRAYER**

2 WHEREFORE, Petitioners pray:

3 **On their First Cause of Action:**

4 1. That this court issue a Peremptory Writ of Mandate compelling
5 Respondents and Defendants Los Angeles County and its Board of Supervisors to provide
6 a comprehensive assessment of the efficacy of their efforts to effectuate the purpose and
7 intent of Measure B, to properly allocate Measure B funds consistent with Measure B, to
8 provide adequate oversight over their allocation of Measure B funds, and to fulfill State
9 Auditor recommendations 1 through 5 as set forth above.

10 **On their Second Cause of Action:**

11 2. That this court issue a Preliminary and Permanent Injunction ordering
12 Respondents and Defendants Los Angeles County and its Board of Supervisors to provide
13 a comprehensive assessment of the efficacy of their efforts to effectuate the purpose and
14 intent of Measure B, to properly allocate Measure B funds consistent with Measure B, to
15 provide adequate oversight over their allocation of Measure B funds, and to fulfill State
16 Auditor recommendations 1 through 5 as set forth above.

17 **On their Third Cause of Action:**

18 3. That this court issue a Declaration that Respondents and Defendants Los
19 Angeles County and its Board of Supervisors are required to provide a comprehensive
20 assessment of the efficacy of their efforts to effectuate the purpose and intent of Measure
21 B, to properly allocate Measure B funds consistent with Measure B, to provide adequate
22 oversight over their allocation of Measure B funds, and to fulfill State Auditor
23 recommendations 1 through 5 as set forth above.

24 **On their Fourth Cause of Action:**

25 4. That Petitioner AV Hospital be awarded damages as against Respondents
26 and Defendants Los Angeles County and its Board of Supervisors in an amount to
27 determined at trial.

1 **On their Fifth Cause of Action:**

2 5. That this court determine that Respondents and Defendants Los Angeles
3 County and its Board of Supervisors' impermissibly amended Measure B without a vote
4 of the people by diverting Measure B funds for purposes other than those authorized by
5 Measure B and rectify the harm caused to Petitioners thereby.

6 **On their Sixth Cause of Action:**

7 6. That the court order Respondents and Defendants Los Angeles County and
8 its Board of Supervisors to prepare an accounting of all Measure B funds, and award to
9 Petitioners the amount determined to be due to Petitioners as a result of the accounting,
10 along with interest thereon.

11 **On all Causes of Action:**

12 7. That the court award Petitioners' attorneys' fees and costs pursuant to
13 California Code of Civil Procedure section 1021.5 or other applicable law, as permitted to
14 be recovered, from Respondents and Defendants Los Angeles County and its Board of
15 Supervisors.

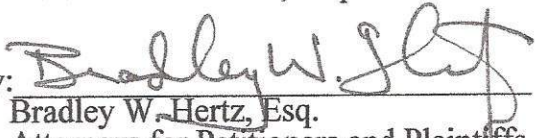
16 8. That this court grant such other and further relief as may be just and
17 proper.

18 Respectfully Submitted:

19 McNICHOLAS & McNICHOLAS, LLP
20 Patrick McNicholas, Esq.

21 THE SUTTON LAW FIRM, PC
22 Bradley W. Hertz, Esq.
23 James R. Sutton, Esq.
24 Matthew C. Alvarez, Esq.

25 Dated: September 15, 2015

26 By: 
27 Bradley W. Hertz, Esq.
28 Attorneys for Petitioners and Plaintiffs
 ANTELOPE VALLEY HOSPITAL,
 A FACILITY OF ANTELOPE VALLEY
 HEALTHCARE DISTRICT; and
 ANTELOPE VALLEY HEALTHCARE
 DISTRICT

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I have read the foregoing Verified Petition for Writ of Mandate and Complaint and know its contents.

Such parties are absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of those parties for that reason.

Executed this 15th day of September, 2015 at Lancaster, California.

Bradley W. Hertz
Bradley W. Hertz

Bradley W. Hertz