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11 Attorney for Petitioner
12 COMMUNITY VENTURES PARTNERS, INC.

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN

COMMUNITY VENTURES PARTNERS,)
INC.,)

Petitioner/Plaintiff,)

vs.)

COUNTY OF MARIN,)

Respondent/Defendant.)

Case No.: CV 1404718

**REPLY MEMORANDUM OF POINTS AND
AUTHORITIES TO OPPOSITION TO
MOTION TO COMPEL ATTENDANCE
AT DEPOSITIONS**

[Code of Civ. Pro. Section 1005]

Date: July 22, 2015

Time: 8:30 am

Dept.: B

Honorable Roy O. Chernus

I.

Introduction and Summary

CVP filed a Notice of Motion and Motion for Order to Compel Defendants Brian Crawford, Katie Rice, Judy Arnold to Attend and Testify at Deposition and Produce Documents ("Motion to Compel") on June 26, 2015. The Motion to Compel relates only to CVP's allegations that the County has violated numerous provisions of the California Code of Civil Procedure ("CCP") regarding discovery. The allegations in the Motion to Compel are that the County failed to comply with CCP procedural requirements to: 1) timely and substantively object to discovery; 2) meet and confer to resolve discovery objections; and 3) submit a motion for a protective order to shield parties from discovery.

1 First, the County did not serve CVP with its Opposition to CVP's Motion to Compel nine court
2 days before the hearing as required by CCP Section 1005(b). A *partial* copy of County's Memorandum
3 of Points and Authorities in Opposition to Motion to Compel Attendance at Depositions ("Opposition")
4 was served electronically on July 8 and the same partial copy was served by mail on July 13, only 4 days
5 before the hearing. CVP has still not received a full copy of County's Opposition. This is the third
6 failure in this case to meet a statutory deadline and the Court should not consider the County's
7 Opposition in considering the merits of the Motion to Compel.

8 Second, the County's Opposition does not deny, address or even cite the Motion to Compel or
9 reference any allegations made in the Motion to Compel. Instead the County submitted a previously
10 planned brief on an entirely different motion – to terminate discovery. The Opposition: 1) argues the
11 merits of the case itself, including issues already decided by this court; and 2) contends that a party must
12 provide prior notice to an opposing Party's satisfaction that the discovery involves "material facts." The
13 first argument is irrelevant to the Motion to Compel. The County has provided no legal authority for the
14 second argument of prior notice and, in any case, CVP repeatedly gave such notice. Importantly, the
15 County waived any objections by not making timely objections as required by the CCP.

16 The County's only legal argument is that because there are supposedly no facts in dispute, that
17 discovery is not allowed in this case. Such a contention is not supported by the history in the case at
18 hand and the County provides no application of the law to the case at hand. Case law does in fact
19 support extra-record evidence for ministerial actions in mandamus cases where there was no hearing and
20 the Petitioner had no ability to attend or comment during public discussion.

21 Further, the County, while claiming there are no facts in dispute; has submitted: its own version
22 of the facts in its motion for judgment; evidentiary affidavits to support its version of the facts; and
23 disputed CVP facts in its Opposition. CVP believes much of that evidence is not credible and disputes
24 many of the facts used by the County to support its arguments.

25 Thus, since the County: served its Opposition in violation of statutory deadlines and gave CVP
26 only 3 days to respond; did not deny or address the actual legal allegations made in the Motion to
27 Compel; did not submit timely objections, meet and confer requests or a protective order; and relied on
28 disputed evidence and facts in its own pleadings, the Court should grant the Motion to Compel.

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II.

Background regarding Timeline and Filings in This Case

On December 16, 2014, CVP commenced this action. CVP seeks a peremptory writ of mandate ordering the County to only discuss and take action on matters within its subject matter jurisdiction after it has been properly noticed on a posted agenda.

On February 17, 2014, before Petitioner had even started its discovery in this matter, the County filed a Motion to Deny Judgment on the Writ of Mandate.

On March 11, 2015, Petitioner filed an Opposition to Motion for Judgment on the Writ of Mandate.

On March 17, 2015, the County served CVP with a Reply brief by U.S. mail. This Reply was not served in a timely manner as required by the CCP § 1005(b). After CVP communicated that service was not proper, County admitted this violation. (See Exhibit A.)

On June 26, 2015, CVP filed the Motion to Compel. The Motion to Compel relates only to CVP's allegations that the County has violated numerous provisions of the California Code of Civil Procedure regarding discovery. Those CVP allegations in the Motion to Compel are that the County failed to comply with CCP procedural requirements to: 1) timely and substantively object to discovery; 2) meet and confer to resolve discovery objections; and 3) submit a motion for a protective order to shield parties from discovery.

On July 8, the County emailed CVP a version of its Opposition to the Motion to Compel. This version did not include page 8 of the Points and Authorities or any exhibits. (Exhibit B.)

On July 13, the Opposition was received by U.S. mail by CVP at 11:30. On July 13, the County provided page 8 of the Points and Authorities but did not provide any exhibits. (Exhibit C.)

III.

County committed a prejudicial error by not serving CVP with its Reply until July 13, 2015

The County did not serve CVP with its Opposition to CVP's Motion to Compel Discovery nine court days before the hearing as required by CCP Section 1005(b); Cal Rules of Ct. 3.1300(a). Also, "all papers opposing a motion and all reply papers shall be served by personal delivery, facsimile transmission, express mail, or other means consistent with Sections 1010, 1011, 1012, and 1013, and

1 reasonably calculated to ensure delivery to the other party or parties not later than the close of the next
2 business day after the time the opposing papers or reply papers, as applicable, are filed.” (CCP Section
3 1005(c).)

4 The County sent a version of the Opposition electronic copy on July 8 but that version did not
5 include all the pages in the Points Authorities and did not include any exhibits. (Exhibits B & C.)
6 According to the County’s Proof of Service, the Opposition was sent by normal mail on July 8, 2015.
7 Such a manner of service for a reply violates CCP Section 1005(c). CVP received service of the
8 County's "Opposition" by mail at 11:30 on July 13. (Exhibit C.). The mailed version was the same
9 incomplete version sent by email. CVP notified the County of this lapse and the County sent page 8 on
10 July 13 but never sent any exhibits.

11 Thus, a partial copy was sent on July 13, 2015, only 2 days before the hearing and a full copy
12 was never served. Since CVP only received a partial Opposition three days before the hearing and still
13 does not have the Exhibits, CVP has been given inadequate time to respond to the County’s Opposition
14 and prepare this Reply. For instance, CVP has no way of responding to the County’s remarkable claim
15 that *this Court* had stated that additional discovery was inappropriate and unnecessary. (Opposition,
16 Page 5, Lines 2-3.)

17 This is the third failure in this case to meet a statutory deadline. The County also violated CCP
18 requirements and was late in sending its Reply to the Opposition to Motion for Judgment on the Writ of
19 Mandate. (“Reply”.) The County mailed the Reply on March 17, 2015 instead of sending it by personal
20 delivery, express mail or electronic mail as required by CCP § 1005(b). The County admitted this error.
21 (See Exhibit A.) The County also did not respond in statutorily required manner to CVP’s request for
22 Production of Documents. (Motion to Compel, page 4, line 8.)

23 This latest failure was a particularly prejudicial error that resulted in harm to the complaining
24 party, CVP because CVP was not able to review all of the County’s argument. Therefore, the Court
25 should not consider the County’s Opposition in considering the Motion to Compel.

26 IV.

27 **The County Should Have Previously Made Objections to the Motion to Compel**

1 The County has waived any objections made in its opposition because it did not include any such
2 discussion in a timely objection, meet and confer or motion for a protective order. CCP Section
3 2025.410 (a) states; [a]ny party served with a deposition notice that does not comply with Article 2
4 (commencing with Section 2025.210) waives any error or irregularity unless that party promptly serves
5 a written objection specifying that error or irregularity at least three calendar days prior to the date for
6 which the deposition is scheduled, on the party seeking to take the deposition and any other attorney or
7 party on whom the deposition notice was served.” As explained in the Memorandum for the Motion to
8 Compel, the County could have and should have previously made the arguments it now makes in its
9 Opposition. The County’s arguments in its Opposition are simply too late.

10 V.

11 **County’s Opposition does not respond to the Motion to Compel.**

12 The County's Opposition to the Motion to Compel includes a lengthy Statement of the Case
13 (Opposition, pages 3-6) which does not cite or address the Motion to Compel but essentially presents a
14 new and different motion. Therefore, since the County has not responded to the allegations in the
15 Motion to Compel, the County has essentially admitted to CVP’s allegations that the County violated the
16 CCP by not timely submitting objections, initiating meet and confer or filing a protective order.

17 The County's Statement of Case in its Opposition addresses three issues. In the first issue, the
18 County attempts to convince the Court of its position on the merits of this case - whether a 26 minute
19 planned discussion and prepared presentation is exempted from Brown Act noticing requirements
20 because it is supposedly “a brief report of his or her own activities.” That discussion is not relevant to
21 the claims alleged in the Motion to Compel before this court.

22 Second, the County attempts to re-litigate an issue already briefed and decided by this Court,
23 whether an "action" by an agency is necessary for a cause of action and relief under the Brown Act.
24 This issue is not relevant to the Motion to Compel and has already been decided by this court in its
25 Ruling on the County’s Motion to Deny Judgment.

26 Third, the County's Statement of the Case attempts to present an argument that CVP is not
27 allowed to proceed with discovery because the County filed an unusual motion under CCP Section 1094
28 and CVP did not, prior to the motion, or in opposition to the motion, sufficiently provide notice to the

1 County that discovery was going to be conducted. Yet the County provides no authority for such an
2 argument that notice is required of parties who choose to conduct discovery in civil cases, including
3 traditional mandamus cases.

4 Even if such notice were required, the County's declaration shows that CVP provided such notice
5 at various times in this proceeding. CVP provided such notice to the County in an email of January 15,
6 2015 (See Exhibit D). CVP also specifically mentioned its desire to engage in discovery in its
7 Opposition to County's Motion to Deny Judgment (Page 5, Line 20, Page 6, Line 8). The County
8 misrepresented this fact at the hearing on March 25, 2015 and now conveniently omits this fact again.

9 **VI.**

10 **County's Self-serving Contention That There Are No Facts in Dispute Does Not Make It So**

11 The County's claims that because the County unilaterally declared in its Motion to Deny
12 Judgment that it did not dispute any issues of fact, that there are no material facts at issue in the case.
13 (See Opposition Page 4, Lines 5-7.)

14 If the court is going to consider this argument, the court should consider that the County itself
15 made this self-serving declaration about material facts to enable it to submit a highly unusual motion to
16 deny judgment under CCP Section 1094. The Court never ruled on this material facts claim and CVP
17 never stipulated to this claim or conceded this as contended by the County. CVP simply urged the Court
18 to ignore the numerous items of evidence introduced by The County. The claim of no material facts was
19 unilateral and has no authority in this case.

20 What is more disturbing is that the County made this claim that there were no facts at issue while
21 *simultaneously introducing facts and evidence to prove its case.* And CVP disputes much of that
22 evidence as shown below.

23 **VII.**

24 **CVP has Cited Good Cause Related to Depositions and the Need for Additional Evidence**

25 In the Motion to Compel (Page 4, Lines 23-28) CVP stated why good cause existed for
26 production of documents and testimony and listed areas of evidence and why they need to be addressed
27 (Page 5, Lines 1-11). The County has ignored CVP's statement of good cause and thus does not
28

1 adequately respond to the Motion to Compel's citation of potential documents and testimony that would
2 dispute the County's facts.

3 Instead, the County presents a completely new argument that discovery of evidence not included
4 in an administrative record is not allowed by California law. The first flaw in this argument is that there
5 is no administrative record in this case. None was prepared and since there was no hearing or noticed
6 discussion, there was not even any agenda item.

7 The County's argument conflicts with California discovery law. Unless a statutory exception
8 applies, the Civil Discovery Act covers "every civil action and special proceeding of a civil nature."
9 CCP §§2016.010 - 2036.050; *Leake v Superior Court* (2001) 87 CA4th 675, 682. In this case, CVP
10 seeks a Writ of Mandate and Declaratory Relief for Violations of the Ralph M. Brown Act. The Act has
11 been held applicable to declaratory relief and mandamus proceeding. See *Darbee v Superior Court*
12 (1962) 208 Cal.App.2d 680; *Bagration v Superior Court* (2003) 110 Cal.App.4th 1677, 1687.

13 California courts have repeatedly held that the discovery provisions are to be liberally construed
14 in favor of disclosure. *Emerson Elec. Co. v Superior Court* (1997) 16 Cal.4th 1101, 1107, citing
15 *Greyhound Corp. v Superior Court* (1961) 56 Cal.2d 355, 377. In general, any party may obtain
16 discovery about any unprivileged matter that is relevant to the subject matter of the action. This concept
17 of liberal discovery is codified in the Civil Discovery Act, CCP section 2017.010, which states:

18 Unless otherwise limited by order of the court in accordance with this title, any party may obtain
19 discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the
20 pending action or to the determination of any motion made in that action, if the matter either is itself
admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence.

21 In ruling on a protective order, the Court should only limit the scope of discovery if it determines
22 that the burden, expense or intrusiveness of that discovery clearly outweighs the likelihood that the
information sought will lead to the discovery of admissible evidence. (Code Civ. Proc. § 2017.020(a).)

23 The County has not even attempted to show the evidence is not relevant or a burden.¹

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26 ¹The County's cites CEB Civil Writ Practice Guide Section 7.9, which refers to evidence in the administrative mandamus
27 cases and the case at hand is a traditional mandamus case. The County's discussion makes it uncertain if it agrees that this is
28 a traditional mandamus case. When a petition challenges an agency's failure to perform an act required by law, rather than
the conduct or result of an administrative hearing required by law to be held, the remedy is by traditional mandate and
Section 1085, not by administrative mandate under CCP Section 1094.5. *Conlan v Bonta* (2002) 102 CA4th 745, 748;
Unnamed Physician v Board of Trustees (2001) 93 CA4th 607, 618. Here, there is no hearing. The Petition addresses the
County's failure to provide notice of the August 19 discussion of Housing Element and requests a cease and desist from such
future discussions if the item is not placed on the agenda and public notice is not given.

1 The County’s argument conflicts with evidence rules in mandamus cases. Extra record evidence
2 is admissible in traditional mandamus actions that regard ministerial actions and are not quasi-legislative
3 actions. This rule was made clear in the only case cited by County, *Western States Petroleum Assn. v.*
4 *Superior Court* (1995) 9 Cal. 4th 559, 575-576; “However, we will continue to allow admission of
5 extra-record evidence in traditional mandamus actions challenging ministerial or informal administrative
6 actions if the facts are in dispute.” *Western States* also emphasized that admission of extra-record
7 evidence is allowable, and in fact necessary, in challenges to ministerial or informal administrative
8 actions when the facts of the case are in dispute because there is often little to no administrative record
9 in these cases. *Id.*

10 Other authority further explains why extra record evidence is appropriate in the case at hand. In
11 the absence of a formal quasi adjudicative or legislative hearing, the record documenting the agency’s
12 action will not provide an adequate basis for judicial review and in such a case a reviewing court may
13 hear extra-record evidence. (2 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act
14 (Cont.Ed.Bar 2003) Judicial Review, § 23.52, pp. 969-970.)” In both *Stockton Citizens for Sensible*
15 *Planning v. City of Stockton* (2010) 48 Cal. 4th 481 and *California Oak Foundation v. Regents of the*
16 *University of California* (2010) 188 Cal.App.4th 227, the court allowed the parties to admit extra record
17 evidence to address disputes regarding facts. In the case at hand, the Motion to Compel (Page 5, Lines
18 1-11.), there is even more reason to allow additional evidence to address such a dispute – there is no
19 record at all.

20 In regard to County’s unilateral declaration that there is no evidence in dispute, CVP identified
21 numerous evidential issues in question in the Motion to Compel. These include the following.

22 A. Timeline and Letters. Regarding the *underlying facts* in the case, the County claims that Mr.
23 Crawford and Supervisor Rice and Arnold’s discussion, presentations, and question and answer period
24 were ad hoc and based on questions from the public at open time. The County’s essential argument is
25 that; “County staff are allowed to make brief reports about their activities at meetings even though the
26 matter is not listed on the agenda for the meeting, especially where such report will respond to questions
27 from the public at “open time.”” Memorandum of Points and Authorities in Support of Motion for
28 Denying the Peremptory Writ, Page 2, Lines 18-21.

1 Yet the video clearly shows that the public comment period was well *after* Mr. Crawford's and
2 Supervisor Rice and Arnold's discussion and presentation. CVP disputes the County's version of the
3 facts in its brief because Supervisor Arnold and Rice declare that County was responding to public
4 questions submitted *before* the hearing.

5 Unfortunately, the County has refused to produce any of letters or emails from with the public
6 with these questions and again, since the County has denied these letters and emails exist, CVP should
7 be able to question Supervisor Rice and Arnold of the existence and content of these letters.

8 B. Record of Brian Crawford's Presentation. The County argues that the formal presentation by
9 Mr. Crawford could be construed as a "brief report on his activities" and CVP disagrees. The County
10 attached two declarations from Supervisors Rice and Arnold which were curiously identical and made
11 claims that were in apparent conflict with the video tape of the August 19, 2014 meeting and CVP's
12 statement of facts. The declarations both claim that Mr. Crawford's presentation was only requested at
13 the time of the hearing. Yet it is obvious from Mr. Hymels' statements and Mr. Crawford reading from a
14 prepared formal presentation that Mr. Crawford had prepared the presentation ahead of the meeting.

15 In order to determine the true facts regarding the contention that the discussions, presentations
16 and question periods were simply brief reports on his or her own activities, CVP submitted a Request for
17 Production of Documents and its Notice for Discovery that requested all documents held by the County
18 relating to the hearing. The County responded that there were none.

19 Yet, the video clearly shows that Mr. Crawford had prepared a written presentation. While it
20 does not seem credible that the County does not have an electronic or hard copy of Mr. Crawford's
21 formal presentation, the County claims it does not and therefore, CVP has good cause to depose Mr.
22 Crawford and Supervisors Rice and Arnold about whether a brief report on Mr. Crawford's activities
23 was requested or whether Mr. Crawford was asked to prepare and provide a presentation on County
24 wide General Plan and Housing Element issues.

25 C. No Agenda Item Thus no Administrative Record to Limit Evidence. Another reason that
26 additional facts are allowed in traditional mandamus cases is that there is little evidence surrounding the
27 ministerial act. "The court was persuaded by commentators who pointed out that "the administrative
28 record developed during the quasi-legislative process is usually adequate to allow the courts to review

1 the decision without recourse to such evidence,” and that “extra-record evidence is usually necessary
2 only when the courts are asked to review ministerial or informal administrative actions, because there is
3 often little or no administrative record in such cases.” (*Western States*, supra, at p. 575.) In the case at
4 hand, the missing ministerial act is not the discussion at the hearing, but instead is the requirements to
5 agendaize discussion items. Because the meeting was not noticed, CVP and other members of the public
6 had no opportunity to comment or create a record. CVP has good cause to request documents and
7 testimony surrounding these issues of noticing.

8 **VIII.**

9 **Sanctions**

10 In the Motion to Compel, CVP requested sanctions and provided authority. Counsel for CVP
11 has spent additional hours as set out in the attached Declaration of Edward Yates. The total requested
12 sanctions are therefore, \$8365.00

13 **IX.**

14 **Conclusion**

15 In sum, the County: served its Opposition in violation of statutory deadlines and gave CVP only 3 days
16 to respond; did not deny or address the actual legal allegations made in the Motion to Compel; did not
17 submit timely objections, meet and confer requests or a protective order; and relied on disputed evidence
18 and facts in its own pleadings. Therefore, CVP urges the Court to grant the Motion to Compel and
19 assess sanctions against the County and its attorneys.

20 Dated: July 14, 2015

21 Respectfully Submitted,

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23 Edward E. Yates
24 Attorney for Petitioner
25 Community Ventures Partners
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1 **SUPPORTING DECLARATION OF Edward E. Yates**

2 (C.C.P. §§ 446 and 2015.5)

3 For Petitioner, Community Ventures Partners

4 COMMUNITY VENTURES PARTNERS, INC., Petitioner, v. COUNTY OF MARIN, Petitioner

5 I, Edward E. Yates declare:

6 1. I am an attorney at law duly admitted to practice before all the courts of the State of California and the
7 attorney of record herein for Plaintiff, Community Ventures Partners, Inc., in the action described above.

8 2. I received an email on June 8 and a letter on June 13, 2015 that included the County's Opposition. The
9 Opposition did not include page 8 of the Points and Authorities and did not include any exhibits. After I
10 informed the County of this deficiency, the County sent page 8 but not the Exhibits. I have not received
11 the County's Exhibits. See Exhibit B & C.

12 3. Community Ventures Partners, Inc. has spent additional time in preparing the Reply to the County's
13 Opposition. Community Ventures Partners, Inc. previously estimated 3 hours for preparation of the Reply
14 but I have spent an additional 3.30 hours and co-counsel has spent an additional .40 hours over the
15 estimated time in preparing the Reply.

16 4. Community Ventures Partners, Inc. now bases its request for the imposition of monetary sanctions in
17 the amount of \$8,365.00 on the basis 23.90 total hours, including 22.20 hours of my work at the rate of
18 \$350 per hour, which includes: .90 hours of correspondence with co-counsel with expertise in discovery
19 and Brown Act motions, 7.40 hours drafting of the notice of motion, declaration, request for sanctions and
20 memorandum of points and authorities, 12.30 hours to prepare a reply brief and declaration and to
21 correspond with co-counsel and County regarding the delayed Opposition, 1.00 estimated hour to attend
22 a hearing on this subject; .60 hours for service and filing done personally by me due to staffing issues
23 (only .60 hours is charged to reflect a cost similar to a process company; and 1.7 hours of co-counsel time
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1 for advice and editing at \$350 per hour;. I declare under penalty of perjury under the laws of the State of
2 California that the foregoing is true and correct.

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4
5 Dated this 14th day of July, 2015

LAW OFFICES OF EDWARD E. YATES

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8 

9 Edward E. Yates
10 Attorney for Petitioner
11 Community Ventures Partners, Inc.

EXHIBIT A



Edward Yates <eyates@marinlandlaw.com>

Brown Act Suit

Edward Yates <eyates@marinlandlaw.com>

Thu, Mar 19, 2015 at 5:31 PM

To: "Zaltsman, David" <DZaltsman@marincounty.org>

David,

I have not been served with a reply and the court has no record of the County filing a reply.

Have you filed a reply? If not, do you plan to do so?

Thanks,

Ed

[Quoted text hidden]



Edward Yates <eyates@marinlandlaw.com>

Brown Act Suit

Cassidy, Lisa <LCassidy@marincounty.org>
To: Edward Yates <eyates@marinlandlaw.com>
Cc: "Zaltsman, David" <DZaltsman@marincounty.org>

Fri, Mar 20, 2015 at 9:11 AM

Hi Ed – Attached is the Reply. I apologize if I was supposed to email to you on the 17th.

Lisa

From: Edward Yates [mailto:eyates@marinlandlaw.com]
Sent: Friday, March 20, 2015 8:33 AM
To: Zaltsman, David
Cc: Cassidy, Lisa

[Quoted text hidden]

[Quoted text hidden]

Email Disclaimer: <http://www.marincounty.org/main/disclaimers>

 **CV1404718_reply.pdf**
309K

EXHIBIT B



Edward Yates <eyates@marinlandlaw.com>

CV1404718 - Community Ventures Partners v. COM/Pg. 8

Cassidy, Lisa <LCassidy@marincounty.org>
To: Edward Yates <eyates@marinlandlaw.com>
Cc: "Zaltsman, David" <DZaltsman@marincounty.org>

Mon, Jul 13, 2015 at 2:13 PM

Attached is page 8 of the P&A in Opp. to Motion to Compel Attendance at Deposition.

The Exhibits to David's Declaration in Support thereto will be forthcoming.

.

Lisa Cassidy
Office of the County Counsel
3501 Civic Center Drive, Suite 275
San Rafael, CA 94903
415 473 6128 T; 415 473 3796 F

From: Edward Yates [mailto:eyates@marinlandlaw.com]
Sent: Monday, July 13, 2015 12:57 PM
To: Cassidy, Lisa
Cc: Zaltsman, David
Subject: Re: CV1404718 - Community Ventures Partners v. COM

Ms. Cassidy,

My office received the County's Opposition today that was sent by U.S. mail.

This version - as the email version - did not include page 8 of the Points and Authorities and didn't include any exhibits.

Ed Yates

On Sat, Jul 11, 2015 at 12:11 PM, Edward Yates <eyates@marinlandlaw.com> wrote:

Ms. Cassidy,

www.marinlandlaw.com

This communication (including any attachments) contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive messages for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the communication. If you have received the communication in error, please advise the sender by reply e-mail and delete the communication.

--

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Email Disclaimer: <http://www.marincounty.org/main/disclaimers>

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EXHIBIT C



Edward Yates <eyates@marinlandlaw.com>

Receipt of Pleading from Marin County

1 message

Edward Yates <eyates@marinlandlaw.com>

Mon, Jul 13, 2015 at 10:48 AM

To: Kelly London <kelly@apexsuites.com>

Hi Kelly,

I just left you another voicemail. On July 8, the County emailed me an incomplete version of an Opposition to my Motion to Compel Discovery. But that e-version was incomplete. I have asked them to send the entire copy but have not heard back from them.

The County also claims on its proof of service that it sent a copy by U.S. mail on July 8th. However, I spoke with the Apex receptionist on Friday, July 12 and she reported that no pleadings from the County or anywhere else had arrived last week.

I am working at home today, so could you scan and email me the County's pleading when it arrives by mail?

Thank you,

Ed

--

Law Office of Edward E. Yates

1000 Fourth Street, Suite 800

San Rafael, CA 94901

415-990-4805

www.marinlandlaw.com

This communication (including any attachments) contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive messages for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the communication. If you have received the communication in error, please advise the sender by reply e-mail and delete the communication.



Edward Yates <eyates@marinlandlaw.com>

Mail

1 message

Kelly London <kelly@apexsuites.com>
To: Edward Yates <eyates@marinlandlaw.com>

Mon, Jul 13, 2015 at 12:04 PM

Dear Ed,

Two items you've been expecting have arrived in this morning's mail at 11:15 am.

1. A Marin County Counsel Memo in Opposition, metered on July 8th.
2. A Sonoma County Counsel correspondence, metered on July 10th.

Best regards,
Kelly



Kelly London
Operations Coordinator
APEX SUITES
1000 4th Street, Suite 800
San Rafael, CA 94901

(415) 526-2600

(415) 526-2525 Fax

www.apexsuites.com kelly@apexsuites.com

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1 **PROOF OF SERVICE**

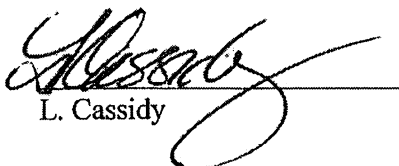
2 I am a resident of the State of California, over the age of eighteen years, and not a party to the
3 within action. My business address is County Counsel of Marin County, Suite 275, Civic Center, San
4 Rafael, CA 94903. On the date set forth below, I served the within documents:

5 **Points and Authorities in Opposition to Motion Compel Attendance at Deposition and**
6 **Declaration of David Zaltsman in Opposition to Motion to Compel Attendance at Deposition**

- 7 by transmitting via email the document(s) listed above to the email address set forth below on this
8 date before 5:00 p.m.
- 9 by placing the document(s) listed above in a sealed envelope for collection and mailing on that date
10 following ordinary business practices. I am readily familiar with the County's practice of collection
11 and processing correspondence for mailing. Under that practice it would be deposited with the U. S.
12 postal service on that same day with postage thereon fully prepaid in the ordinary course of
13 business.
- 14 by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in
15 the United States mail at San Rafael, California addressed as set forth below.
- 16 by causing personal delivery by _____ of the document(s) listed above to the person(s)
17 at the address(es) set forth below.
- 18 by personally delivering the document(s) listed above to the person(s) at the address(es) set forth
19 below.
- 20 by overnight delivery to an overnight delivery carrier with delivery fees provided for, addressed to
21 the person(s) set forth below.

22 Via Email eyates@marinlandlaw.com & U.S. Mail:
23 Edward E. Yates, Esq.
24 Law Offices of Edward Yates
25 1000 Fourth Street, Suite 800
26 San Rafael, CA 94901

27 I declare under penalty of perjury that the foregoing is true and correct. Executed on July 8, 2015,
28 at San Rafael, California.


L. Cassidy

69528

EXHIBIT D



Edward Yates <eyates@marinlandlaw.com>

Brown Act Suit

Edward Yates <eyates@marinlandlaw.com>

Thu, Jan 15, 2015 at 4:56 PM

To: "Zaltsman, David" <DZaltsman@marincounty.org>

Dave, Sorry I could not get to you earlier as it was a jammed day. I was up at a community meeting last night till 10, was out of the office this morning and then had to prep for an afternoon pre CMC conference call on a federal case I have and I am still on the move.

So, sure I agree to a 15 day extension for your answer. Today, though, is the 30th day by my count.

Since this is traditional mandamus and not an administrative mandamus case, there won't be a administrative record. But I will have some additional exhibits to attach to future motions or briefs. And you are right - it is a noticed motion course.

Ed

[Quoted text hidden]

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San Rafael, CA 94901

415-990-4805

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