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6 Attorneys for Petitioner and Plaintiff  
NORTH SONOMA COAST  
7 FIRE PROTECTION DISTRICT

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF SONOMA**

11  
12 NORTH SONOMA COAST FIRE PROTECTION  
DISTRICT,

13 Petitioner and Plaintiff,

14 v.

15 DONNA DUNK, AUDITOR-CONTROLLER-  
16 TREASURER-TAX COLLECTOR, AND DOES  
1-10, INCLUSIVE,

17 Respondents and Defendants,  
18

CASE NO.

**VERIFIED PETITION FOR WRIT  
OF MANDAMUS TO COMPEL  
CORRECT CALCULATION OF  
EDUCATIONAL REVENUE  
AUGMENTATION FUND  
REDUCTION TO PROPERTY TAX  
ALLOCATION  
(Code of Civil Procedure Section  
1085)**

Trial Date:

Dept.:

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23 Petitioner and Plaintiff, NORTH SONOMA COAST FIRE PROTECTION DISTRICT  
24 (“Petitioner” or “District”), a California Special District formed and existing under the Fire  
25 Protection District Law of 1987 (Health & Safety Code Section 13800, the “Act”) alleges as  
26 follows:  
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1 **INTRODUCTION**

2 1. This Action challenges certain acts and omissions of Respondents and Defendants,  
3 Donna Dunk Auditor-Controller-Treasurer-Tax Collector and Does 1-10, Inclusive, (collectively,  
4 (“Respondents”), with respect to the calculation of the Education Revenue Augmentation Fund  
5 (“ERAF”) deduction from the initial allocation of property taxes to the District after District  
6 formation.

7 2. Respondents calculated a reduction to the District’s property tax totaling  
8 approximately 47.2% of its gross allocation of property taxes of \$2,109,831, or the amount of  
9 \$995,681. This calculation is almost three times the amount of any similarly situated special  
10 district which provides fire services.

11 **PARTIES**

12 3. Petitioner is at all times referenced herein and was an independent fire protection  
13 district existing within the County of Sonoma (“County”), State of California under provisions of  
14 the Act.

15 4. Respondent is the duly authorized Auditor-Controller-Treasurer-Tax Collector  
16 consistent with the provisions of Government Code Sections 26881 *et seq.*, 27000 *et seq.* &  
17 24300.5 within the County.

18 5. The true names and capacities of the Respondents named at DOES herein as  
19 DOES 1-10, inclusive, are unknown to Petitioner who therefore sues such Respondents by such  
20 fictitious names. Petitioner will amend this Verified Petition to allege the true names and  
21 capacities of such Respondents, together with any necessary additional charging allegations, at  
22 such time as the same have been fully ascertained. Petitioners are informed and believe, and  
23 thereon allege that each of the Respondents designated as a DOE is responsible in some matter  
24 for the events and actions referenced or referred to in the Verified Petition.

25 6. At all times, relevant to this Verified Petition, Respondents and Does 1-10,  
26 inclusive, and each of them were the agents and employees of every other Respondent and  
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1 Defendant, and, in doing the things alleged in this Petition were acting within the course and  
2 scope of said agency in employment and with the permission of each and every other Respondent.

3 **VENUE**

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5 7. The Sonoma County Superior Court is the proper venue for this action under Code  
6 of Civil Procedure Section 393(b), as the Petition causes arose in the County where the Petitioner  
7 would be injured by the actions complained of, specifically, denial of the use of the property tax  
8 revenue improperly calculated by the ERAF dedication to its allocation of property taxes to  
9 perform life and property saving services as specific in the Act.

10 **FACTUAL BACKGROUND**

11 8. The Sea Ranch Volunteer Fire Department, Inc. (the “Applicant”) filed  
12 Application No. 2015-09 (the “Application”) with the Executive Officer of the Local Agency  
13 Formation Commission of the County of Sonoma (the “Commission”) consistent with the  
14 provisions of the Cortese-Knox-Hertzberg Reorganization Act of 2000 (Government Code  
15 Section 56000, *et seq.*) proposing a reorganization of territory consisting of a new District, the  
16 North Sonoma Coast Fire Protection District (“District”) and detachment from County Service  
17 Area No. 40. The Commission Executive Officer accepted the Application and found it to be  
18 completed on November 3, 2015. Subsequently the Commission, on December 9, 2015,  
19 approved Reorganization No. 2015-09 making specific findings and that the matter was exempt  
20 from provisions of the California Environmental Quality Act specifically approving the formation  
21 of the District and detachment from No. 40 in establishing a Sphere of Influence for the new  
22 District and ordering a protest proceeding for the proposal.

23 9. The Sea Ranch Volunteer Fire Department and the County of Sonoma executed a  
24 Property Tax Allocation Agreement effective January 11, 2016 contingent upon the formation of  
25 the District. The agreement, among other things, authorized the County Auditor-Controller-  
26 Treasurer-Tax Collector to make adjustments to the allocation of property tax revenue to the  
27 District, consistent with all applicable State law including that required by the ERAF.

28 10. A protest hearing was concluded on February 9, 2016 by the Commission with a  
Certificate of Completion being subsequently filed.



1 reallocated local property tax revenues to ERAFs (“ERAF II”). (*County of Sonoma v.*  
2 *Commission on State Mandates* (2000) 84 Cal. App. 4th 1264, 1275)

3 16. In short, the collective ERAF legislation required the annual shift of property taxes  
4 from other local entities to ERAF's for distribution to schools (Rev. & Tax Code §§ 97.2, 97.3)  
5 the overall result of which is that the tax revenues of counties, cities, and special districts were  
6 decreased, school revenues remained the same, and the minimum school funding guarantee of  
7 Proposition 98 was satisfied in part by the ERAF funds. (*County of Sonoma v. Commission on*  
8 *State Mandates* (2000) 84 Cal. App. 4th 1264, 1276).

9 **GENERAL ALLEGATIONS**

10 17. The District has exhausted all applicable administrative remedies concerning the  
11 inaction of the Respondent to correctly calculate the ERAF deduction. The District has met  
12 several times with Respondent and its representatives to ascertain the basis for the decisions  
13 without an accepted factual representation concerning the difference between the District and  
14 other reorganized fire protection districts as to the amount of the ERAF reduction.

15 18. The District has no plain, speedy, or adequate remedy in the ordinary course of  
16 law other than the Court’s issuance of a Writ of Mandamus compelling Respondents to perform  
17 their clear and present mandatory duty under applicable law in calculating the ERAF reduction.  
18 The District will not receive its legally adequately portion of the one percent *ad valorem* property  
19 tax allocation and will be limited in the type and scope of fire and lifesaving services which it  
20 provides.

21 19. The District has a beneficial interest in obtaining issuance of the Writ of  
22 Mandamus compelling Respondents to correctly calculate its ERAF deduction in order to  
23 adequately fund life and property services of the fire services.

24 **FIRST CAUSE OF ACTION**

25 **(WRIT OF MANDUMUS-FAILURE TO ACCURATELY CALCULATE THE ERAF**  
26 **REDUCTION TO PETITIONER’S SHARE OF PROPERTY TAXES)**



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- 2. For an order from this Court retaining jurisdiction to the effect and appropriately remedy at law or equity as may be necessary to enforce the issuance of a Writ of Mandamus;
- 3. For cost and reasonable attorney fees incurred in this action pursuant to, among others things, Code of Civil Procedure Section 1021.5; and,
- 4. For such other and further relief as the Court may deem just and proper.

DATED: January 11, 2017

LAW OFFICES OF WILLIAM D. ROSS  
A Professional Corporation

By:



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William D. Ross  
Attorneys for Petitioner  
North Sonoma Coast Fire Protection District

**VERIFICATION**

1  
2 I, DON McMAHAN (District to designate Director) have been authorized for the Board of  
3 Directors of the North Sonoma Coast Fire Protection District to execute this verification for the  
4 District. I have read the forgoing Verified Petition for Writ of Mandamus to Compel Correct  
5 Calculation of Educational Revenue Augmentation Fund Reduction to Property Tax Allocation  
6 (Code of Civil Procedure Section 1085) and know its contents. To the best of my actual  
7 knowledge, the facts alleged herein are true of my own knowledge, except those of which have  
8 been alleged on information and belief, and based thereon that the matter stated in the foregoing  
9 Verified Petition for Writ of Mandamus to Compel Correct Calculation of Educational Revenue  
10 Augmentation Fund Reduction to Property Tax Allocation (Code of Civil Procedure Section  
11 1085) are true.

12 I declare under penalty of perjury of the law of the State of California that the foregoing is  
13 true and correct.

14 Executed on December 19, 2016 in Santa Rosa, California.

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17 Don F. McMahan, Chairman  
18 Board of Directors  
19 North Sonoma Coast Fire Protection District  
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O. Leigh Mueller

1  
2 I, A (District to designate Director) have been authorized for the Board of  
3 Directors of the North Sonoma Coast Fire Protection District to execute this verification for the  
4 District. I have read the forgoing Verified Petition for Writ of Mandamus to Compel Correct  
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8 been alleged on information and belief, and based thereon that the matter stated in the foregoing  
9 Verified Petition for Writ of Mandamus to Compel Correct Calculation of Educational Revenue  
10 Augmentation Fund Reduction to Property Tax Allocation (Code of Civil Procedure Section  
11 1085) are true.

12 I declare under penalty of perjury of the law of the State of California that the foregoing is  
13 true and correct.

14 Executed on December 15, 2016 in Santa Rosa, California.

15   
16 O. Leigh Mueller, District Director  
17 Board of Directors  
18 North Sonoma Coast Fire Protection District