1 2 3 4 5	LAW OFFICES OF WILLIAM D. ROSS A Professional Corporation WILLIAM D. ROSS, ESQ. (State Bar No. 64538) 400 Lambert Avenue Palo Alto, CA 94306 Telephone Number: (650) 843-8080 Facsimile Number: (650) 843-8093 wross@lawross.com	
6	Attorneys for Petitioner and Plaintiff	
7	NORTH SONOMA COAST FIRE PROTECTION DISTRICT	
8		
9	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
10	COUNTY OF SONOMA	
11		
12	NORTH SONOMA COAST FIRE PROTECTION DISTRICT,	CASE NO.
13	Petitioner and Plaintiff,	VERIFIED PETITION FOR WRIT
14	V.	OF MANDAMUS TO COMPEL CORRECT CALCULATION OF
15 16	DONNA DUNK, AUDITOR-CONTROLLER- TREASURER-TAX COLLECTOR, AND DOES	EDUCATIONAL REVENUE AUGMENTATION FUND REDUCTION TO PROPERTY TAX
17	1-10, INCLUSIVE,	ALLOCATION (Code of Civil Procedure Section
18	Respondents and Defendants,	1085)
19		Trial Date:
20		Dept.:
21		
22		
23	Petitioner and Plaintiff, NORTH SONOMA COAST FIRE PROTECTION DISTRICT ("Petitioner" or "District"), a California Special District formed and existing under the Fire Protection District Law of 1987 (Health & Safety Code Section 13800, the "Act") alleges as follows:	
24		
25		
26		
27		
28		
I.		

INTRODUCTION

- 1. This Action challenges certain acts and omissions of Respondents and Defendants, Donna Dunk Auditor-Controller-Treasurer-Tax Collector and Does 1-10, Inclusive, (collectively, ("Respondents"), with respect to the calculation of the Education Revenue Augmentation Fund ("ERAF") deduction from the initial allocation of property taxes to the District after District formation.
- 2. Respondents calculated a reduction to the District's property tax totaling approximately 47.2% of its gross allocation of property taxes of \$2,109,831, or the amount of \$995,681. This calculation is almost three times the amount of any similarly situated special district which provides fire services.

PARTIES

- 3. Petitioner is at all times referenced herein and was an independent fire protection district existing within the County of Sonoma ("County"), State of California under provisions of the Act.
- 4. Respondent is the duly authorized Auditor-Controller-Treasurer-Tax Collector consistent with the provisions of Government Code Sections 26881 *et seq.*, 27000 *et seq.* & 24300.5 within the County.
- 5. The true names and capacities of the Respondents named at DOES herein as DOES 1-10, inclusive, are unknown to Petitioner who therefore sues such Respondents by such fictitious names. Petitioner will amend this Verified Petition to allege the true names and capacities of such Respondents, together with any necessary additional charging allegations, at such time as the same have been fully ascertained. Petitioners are informed and believe, and thereon allege that each of the Respondents designated as a DOE is responsible in some matter for the events and actions referenced or referred to in the Verified Petition.
- 6. At all times, relevant to this Verified Petition, Respondents and Does 1-10, inclusive, and each of them were the agents and employees of every other Respondent and

Defendant, and, in doing the things alleged in this Petition were acting within the course and scope of said agency in employment and with the permission of each and every other Respondent.

VENUE

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

FACTUAL BACKGROUND

- 8. The Sea Ranch Volunteer Fire Department, Inc. (the "Applicant") filed Application No. 2015-09 (the "Application") with the Executive Officer of the Local Agency Formation Commission of the County of Sonoma (the "Commission") consistent with the provisions of the Cortese-Knox-Hertzberg Reorganization Act of 2000 (Government Code Section 56000, et seq.) proposing a reorganization of territory consisting of a new District, the North Sonoma Coast Fire Protection District ("District") and detachment from County Service Area No. 40. The Commission Executive Officer accepted the Application and found it to be completed on November 3, 2015. Subsequently the Commission, on December 9, 2015, approved Reorganization No. 2015-09 making specific findings and that the matter was exempt from provisions of the California Environmental Quality Act specifically approving the formation of the District and detachment from No. 40 in establishing a Sphere of Influence for the new District and ordering a protest proceeding for the proposal.
- 9. The Sea Ranch Volunteer Fire Department and the County of Sonoma executed a Property Tax Allocation Agreement effective January 11, 2016 contingent upon the formation of the District. The agreement, among other things, authorized the County Auditor-Controller-Treasurer-Tax Collector to make adjustments to the allocation of property tax revenue to the District, consistent with all applicable State law including that required by the ERAF.
- 10. A protest hearing was concluded on February 9, 2016 by the Commission with a Certificate of Completion being subsequently filed.

11. A part of the Application approved by the Commission was the Service Plan prepared by the District with projected revenues of \$2,109,831 for the District's operation.

APPLICABLE LAW

- 12. In 1988, California voters enacted Proposition 98, which established a minimum guaranteed state funding entitlement for schools. (Cal. Const., art. XVI, § 8, subd. (b); see *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1275, fn. 8 [under Prop. 98, non-excess-tax school entities are entitled to additional revenue from the state General Fund according to one of three formulas].) Under Proposition 98, schools are entitled to additional revenue from the state General Fund in order to supplement the funds received from local property taxes. (*Los Angeles Unified School Dist. v. County of Los Angeles* (2010) 181 Cal. App. 4th 414, 420).
- 13. The state's ability to meet its increased financial obligation to schools under Proposition 98 was severely tested in fiscal year 1991–1992, when the state "faced an unprecedented budgetary crisis ... with expenditures projected to exceed revenues by more than \$14 billion." (Department of Personnel Administration v. Superior Court (1992) 5 Cal.App.4th 155, 163.
- 14. In response to this economic crisis, the Legislature enacted the 1992 ERAF legislation ("ERAF I"), Revenue and Taxation Code former section 97.03 (presently § 97.2). The ERAF legislation lessened the burden imposed by Proposition 98 on the state General Fund by reducing the property tax allocation of cities, counties, and special districts, and shifting amounts equal to those reductions county ERAF's for distribution to schools. (*Los Angeles Unified School Dist. v. County of Los Angeles* (2010) 181 Cal. App. 4th 414, 420).
- 15. By 1993, the recessionary economy and the growing revenue requirements of schools jeopardized the state's ability to finance even essential state functions. Given the bleak economic circumstances, the Governor determined that education, along with public safety, had to receive priority over state funding of other local services. The result was that the 1993-1994 budget again reduced the amount of the post-Proposition 13 bailout to local government and

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

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

GENERAL ALLEGATIONS

- 17. The District has exhausted all applicable administrative remedies concerning the inaction of the Respondent to correctly calculate the ERAF deduction. The District has met several times with Respondent and its representatives to ascertain the basis for the decisions without an accepted factual representation concerning the difference between the District and other reorganized fire protection districts as to the amount of the ERAF reduction.
- 18. The District has no plain, speedy, or adequate remedy in the ordinary course of law other than the Court's issuance of a Writ of Mandamus compelling Respondents to perform their clear and present mandatory duty under applicable law in calculating the ERAF reduction. The District will not receive its legally adequately portion of the one percent *ad valorem* property tax allocation and will be limited in the type and scope of fire and lifesaving services which it provides.
- 19. The District has a beneficial interest in obtaining issuance of the Writ of Mandamus compelling Respondents to correctly calculate its ERAF deduction in order to adequately fund life and property services of the fire services.

FIRST CAUSE OF ACTION

(WRIT OF MANDUMUS-FAILURE TO ACCURATELY CALCULATE THE ERAF REDUCTION TO PETITIONER'S SHARE OF PROPERTY TAXES)

- 20. The District realleges and incorporates by this reference paragraphs 1 through 19 of this Petition as though fully set forth.
- 21. The District alleges that the Respondents calculation of the ERAF is legally inadequate for the following reasons:
- a. it was not computed consistent with the specific requirements of ERAF I or ERAF II;
- b. that the use of Guidelines prepared on a Statewide basis for the calculation was incorrect in that the Guidelines themselves are inconsistent with the statutory requirements of ERAF I and ERAF II; and,
- c. as a dependent special district the predecessor to the District, CSA No. 6 received Special District Augmentation Funds (former Revenue & Taxation Code Section 98.6) for which there is no documentation as to amount, a specific component of the calculation under ERAF I.
- 22. Unless this Court orders the Respondents to correctly calculate the ERAF reduction to the District's share of the *ad valorem* property taxes, the District will continue to be damaged by not receiving the fully allocated amount of property tax to perform its functions under the Act.
- 23. As a result of the Respondents' actions, the District has been forced to incur attorneys' fees and costs and expenses which are recoverable under Code of Civil Procedure Section 1021.5.

PRAYER

Wherefore, the Petitioner District prays for judgment against Respondent and DOES 1-10, inclusive, as follows:

1. For the issuance of Peremptory Writ of Mandamus directing Respondents to comply with their mandatory duties under Revenue and Taxation Code Section 97.2, *et al.* to correctly calculate the ERAF and to refund to the District amounts incorrectly withheld;

LAW OFFICES OF WILLLIAM D. ROSS A PROFESSIONAL CORPORATION

1

2 3

5

6 7

8 9

10

11

12

13 14

15

16

17

18

19

20

21 22

23

24

25

26 27

W OFFICES OF

Ross

PROFESSIONAL CORPORATION

28

VERIFICATION

I, JON MCMAHAN (District to designate Director) have been authorized for the Board of Directors of the North Sonoma Coast Fire Protection District to execute this verification for the District. I have read the forgoing 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) and know its contents. To the best of my actual knowledge, the facts alleged herein are true of my own knowledge, except those of which have been alleged on information and belief, and based thereon that the matter stated in the foregoing 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) are true.

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

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

Board of Directors

North Sonoma Coast Fire Protection District

LAW OFFICES OF WILLLIAM D. ROSS A PROFESSIONAL CORPORATION