Docket No. 16-56255

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

COLONY COVE PROPERTIES, LLC
Plaintiff and Appellee,

vs.

CITY OF CARSON and CITY OF CARSON MOBILEHOME PARK RENTAL REVIEW BOARD
Defendants and Appellants.

Appeal from the United States District Court
for the Central District of California
Case No. CV14-03242 PSG (PJWx)

APPELLANTS' REPLY BRIEF

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PRELIMINARY STATEMENT

Plaintiff Colony Cove Properties, LLC made a highly leveraged investment in a rent-regulated mobile home park, wagering that Defendant City of Carson Mobilehome Park Rental Review Board would allow it to pass through the cost of its debt service to park residents. Consistent with the City's Mobile Home Space Rent Control Ordinance and California's rent-control law, the Board applied a maintenance of net operating income ("MNOI") methodology, which disregards the debt service a park owner has elected to take on. In doing so, the Board balanced Plaintiff's right to a fair return against the burden on park residents of excessive, and indeed unprecedented, rent increases and granted Plaintiff smaller rent increases than it had sought. The Board's increases were nonetheless some of the largest ever awarded by the Board.

The California courts unanimously affirmed that the Board's decisions had allowed Plaintiff a fair return. They recognized that MNOI "has been praised by courts and commentators for 'its fairness and ease of administration'" and "upheld by every court to have considered it." *Colony Cove Props., LLC v. City of Carson,* 220 Cal. App. 4th 840, 869-70 (2013). And in Plaintiff's subsequent federal case, this Court agreed that the Ordinance allowed the Board to apply MNOI. *Colony Cove Props., LLC v. City of Carson,* 640 F.3d 948, 961 (9th Cir. 2011) ("*Colony Cove I*").

Plaintiff nevertheless continues to insist that the Board's decisions took its property. The district court made an unprecedented de-

cision to allow a jury to apply the regulatory takings test established in *Penn Central Transportation Co. v. City of New York*, 438 U.S. 104 (1978), and that unprepared jury reached a conclusion inconsistent with decades of precedent.

ARGUMENT

I. The jury erred as a matter of law in applying the *Penn Central* test.

Plaintiff repeatedly claims that no one of the *Penn Central* factors can be dispositive. Appellee's Brief ("AB") 26, 49-50. On the contrary, although the court must carefully consider all of the factors, "it is possible for a single factor to have such force that it disposes of the whole takings claim." *Mehaffy v. United States*, 499 F. App'x 18, 22 (Fed. Cir. 2012) (collecting cases). Here, *none* of the *Penn Central* factors support the jury's finding of a taking. But even if the Court concludes that one of the factors supports the verdict, the jury plainly reached a result that cannot be squared with the regulatory takings case law.

A. The standard of review does not dictate the outcome.

As demonstrated in the Opening Brief ("Opening" or "AOB"), the jury never should have been asked to apply the *Penn Central* test because it involves a mixed question of law and fact in which legal issues predominate. AOB 28-29 (discussing *United States v. McConney*, 728 F.2d 1195 (9th Cir. 1984) (en banc)). Because the district court asked the jury to perform a fundamentally judicial task,

this Court is in the remarkable position of reviewing a jury's conclusions of law.

Plaintiff complains that the de novo standard of review cannot apply to those legal conclusions because they were rendered by a jury. AB 30-32. It argues that this Court has "expressly refused to extend *McConney* to the civil jury-trial context." AB 32 (citing *Harper v. City of L.A.*, 533 F.3d 1010, 1021-22, nn.9, 11 (9th Cir. 2008)). In fact, *Harper* did not mention *McConney,* let alone "expressly" refuse to apply it. *Harper* declined to apply de novo review because of "the specific, animating factual disputes" of that case. 533 F.3d at 1021 n.9.

But whether the standard of review is substantial evidence or de novo, the result is the same. The City is not asking this Court to "review . . . facts found by the jury." AB 31 (quoting *In re Cinematronics, Inc.,* 916 F.2d 1444, 1451 (9th Cir. 1990)). Rather, the City contends that those facts do not show a taking as a matter of law.

B. Plaintiff failed to prove the economic impact of the challenged decisions.

Plaintiff fails to explain away the most significant defect in its case. This and other courts have emphasized that only truly severe interference with property rights can effect a taking. AOB 36. Here, Plaintiff put on *no evidence* of the "denominator," however measured, and thus the jury could not determine the severity of the impact of

the Board's decisions. AOB 31-35. Nor does Plaintiff's brief justify its failure to comply with that requirement.

Contrary to Plaintiff's argument (AB 36), the City does not contend that diminution in the market value of property is the only way to demonstrate the economic impact necessary for a taking. Although the overwhelming majority of cases look to diminution in market value (AOB 36), a few cases have also recognized that regulation that greatly impairs income from a property over a substantial period can effect a taking. But Plaintiff failed to demonstrate a taking based on this measure too. AOB 33-34. To show a taking—based on whatever measure of impact—the plaintiff must demonstrate that impact on its entire interest in the affected property. AOB 34. Indeed, just last month, the Supreme Court reaffirmed that parcel-as-a-whole rule. *Murr v. Wisconsin*, No. 15-214, 2017 U.S. Lexis 4046, at *34-35 (June 23, 2017).

The rule applies equally to the temporal dimension of a property interest. AOB 35 (citing *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Reg'l Planning Agency*, 535 U.S. 302, 331-32 (2002)). Plaintiff admits it owns the perpetual fee interest in the park (AB 9), and it intended the purchase to be a long-term investment (AOB 35). Showing two years of negative cash flows from a fee simple property interest that will generate cash flows over the decades of the park's useful life does not demonstrate the significance, or insignificance, of the

burden on Plaintiff's property. Temporary losses of $3 million[1] may sound significant, but compared to what? In *MHC Financing Limited Partnership v. City of San Rafael,* after a bench trial, the district court found a diminution of *$97 million* in the value of a property previously worth $120 million, yet this Court held that was insufficient to establish a taking. 714 F.3d 1118, 1127 (9th Cir. 2013). The jury here had no evidence from which it could determine whether the impact claimed by Plaintiff was significant as compared to the whole interest that Plaintiff possesses. Plaintiff presented no evidence about what that whole interest is, let alone its value, and it offers no explanation of that interest on appeal; it simply ignores the issue.

Instead, Plaintiff contends that because it presented evidence of negative cash flows from the park for the two years "just after the government action," it met the before-and-after value test of *Keystone Bituminous Coal Association v. DeBenedictis*, 480 U.S. 470, 497 (1987). AB 35 n.5. But *Keystone* requires that courts examine "the nature of the interference with rights *in the parcel as a whole*," which considers revenue over the property's lifetime. 480 U.S. at 497 (quoting *Penn Central*, 438 U.S. at 130-31). Plaintiff's assertion that it was enough to put on expert testimony as to the "rental value" of the park based on only two years' income and expenses thus lacks merit.

[1] Plaintiff claims a loss of $5.7 million in "rental value." AB 36. However, the jury found a lesser loss of $3.3 million. AOB 34 n.5.

Plaintiff attempts to distinguish *Cienega Gardens v. United States*, 503 F.3d 1266 (Fed. Cir. 2007), on which, ironically, Plaintiff relied below, Excerpts of Record ("ER") 2:200-01. Plaintiff leans heavily on *CCA Associates v. United States*, 667 F.3d 1239 (Fed. Cir. 2011). *See* AB 37-38. But far from repudiating *Cienega*, *CCA Associates* repeatedly acknowledged that it was *bound by* the court's holding in *Cienega*. *Id.* at 1244, 1246, 1247. Although the court referred vaguely to a different, putative "traditional … approach," *id.* at 1247, it cited no exemplary case, and Plaintiff offers none. The court suggested that the parcel-as-a-whole rule was inapplicable because it supposedly applies only to distinguish the "total" takings governed by *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992), from partial takings subject to *Penn Central*. 667 F.3d at 1246 n.3. This dictum is both curious, given that the concept originated in *Penn Central*, and inconsistent with established circuit precedent: "the regulatory takings analysis, *with respect to both categorical takings and partial takings*, must be applied to the 'parcel as a whole.'" *Appolo Fuels, Inc. v. United States*, 381 F.3d 1338, 1346 (Fed. Cir. 2004) (citing *Penn Central*, 438 U.S. at 130-31) (emphasis added). Furthermore, the Federal Circuit continues to cite *Cienega Gardens'* holding after *CCA Associates*. *See Piszel v. United States*, 833 F.3d 1366, 1378 (Fed. Cir. 2016).

Plaintiff also complains that it could have been forced into foreclosure during the brief period of negative cash flows. AB 35. No court has ever suggested that a mere risk—one that never resulted

in a loss—can be a cognizable economic impact. Given that there was no foreclosure, that risk is no impact at all.

Because the "test for regulatory taking requires [the court] to compare the value that has been taken from the property with the value that remains in the property," Plaintiff's failure to prove "the denominator of the fraction" is fatal. *See Murr,* 2017 U.S. Lexis 4046, at *19 (quoting *Keystone*, 480 U.S. at 497). The numerator alone, whatever its magnitude, cannot demonstrate that the challenged "'regulation of private property [is] so onerous that its effect is tantamount to a direct appropriation or ouster.'" *Rancho De Calistoga v. City of Calistoga*, 800 F.3d 1083, 1088-89 (9th Cir. 2015) (quoting *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 537 (2005)). Plaintiff thus failed to carry its burden of proof. AOB 31-32.

Finally, the City took specific actions that *added value* to the park, approving Plaintiff's applications for conversion to condominiums and the addition of 15 to 16 non-rent-controlled units. *See* AOB 33. Plaintiff contends that these approvals had "limited value" given the time it took to attain them and the location of the new units within the park (AB 39), but added value of any amount diminishes Plaintiff's claim of economic impact. In fact, the City's approvals allow Plaintiff to realize significant profits from its long-term investment in the park (AOB 33), underscoring that Plaintiff cannot show a sufficiently severe economic impact to establish a taking.

C. Plaintiff's erroneous prediction that it could obtain a rent increase of unprecedented magnitude does not support the finding of a taking.

Plaintiff's failure to put on evidence of any measure of the value of its full property interest is fatal as a matter of law. No matter how reasonable Plaintiff's prediction about the Board's future action on its rent increase applications, that expectation cannot save Plaintiff's defective claim. Plaintiff points to no precedent, and the City is aware of none, suggesting that reasonable expectations can substitute for the requisite showing of severe economic impact.

However, even if Plaintiff had made that showing, given the Board's broad discretion to balance a variety of factors in its rent decisions, it was not reasonable to expect that the Board would exercise that discretion to allow an unprecedented rent increase.[2] Plaintiff's expectation that it would do so was nothing more than a bet that did not immediately pay off.

Plaintiff does not respond to the City's cases holding that a property owner cannot reasonably purchase property with knowledge of a regulatory regime that entrusts an agency with broad discretion

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[2] That discretion is hardly peculiar to the City's rent control program. Courts have long recognized that rent boards, like other price regulators, are empowered to set rents within a "broad zone of reasonableness" and have therefore deferred to those boards' decisions in determining whether regulated rents provide a fair return. *See, e.g., Kavanau v. Santa Monica Rent Control Bd.*, 16 Cal. 4th 761, 779, 784 (1997) (quoting *Permian Basin Area Rate Cases*, 390 U.S. 747, 770 (1968)).

and expect that the agency will apply that discretion in the owner's preferred manner. AOB 41-42. And Plaintiff fails to cite even one decision holding that a prediction about the agency's exercise of such discretion can give rise to a taking.

Plaintiff points to this Court's holding that reasonable expectation means a "reasonable probability." AB 39-40 (quoting *Guggenheim v. City of Goleta,* 638 F.3d 1111, 1120-21 (9th Cir. 2010) (en banc)). But it ignores the next part of the phrase: "like expecting rent to be paid." *Id.* at 1120. Even disregarding all contrary evidence, and ignoring the gaps in Plaintiff's due diligence (AOB 42-45), Plaintiff's evidence does not show that its expectation of the Board's action was anything like "expecting rent to be paid," that is, expecting a counterparty's compliance with a contractual obligation. Neither the Ordinance nor the City's Guidelines for Implementation of the Ordinance (the "Guidelines") required the requested increase (AOB 39-40), the Board had never approved an increase to pass through debt service of any remotely comparable magnitude (AOB 43-44), and Plaintiff's requested rent increase was *twice as large* as the largest rent increase ever approved (AOB 43).[3]

Plaintiff argues that its requested increase "would have left [park] rents well below market levels" (AB 41), but that is irrelevant. The point of rent control is to prevent rents from rising to market levels, *Carson Harbor Vill., Ltd. v. City of Carson*, 37 F.3d 468, 472 (9th Cir. 1994), *overruled on other grounds by WMX Techs. Inc. v.*

[3] This was unrebutted evidence. ER 5:754:7-18.

Miller, 104 F.3d 1133, 1136 (9th Cir. 1997), and in particular, to prevent excessive rent *increases* that could disrupt park residents' settled expectations (ER 4:597-98 (§ 4704(g))); *Guggenheim,* 638 F.3d at 1122. Moreover, the average rent in the park was already the second highest of the 26 parks in the City. ER 6:788. Plaintiff also argues that Goldstein relied on the Ordinance's purpose of ensuring park owners a reasonable percentage of profit. AB 41. But a park owner can hardly be guaranteed a profit if it chooses to take on debt to purchase the park. If Plaintiff had elected to purchase the park with cash (or simply less debt), it could have received the profit it sought. But it was manifestly unreasonable to assume that the City would force park residents to cover the cost of Plaintiff's leverage, no matter how substantial. The Ordinance obligated the Board to consider both Plaintiff's interest in a fair return (which the state courts later confirmed Plaintiff received) and the park residents' interest in avoiding excessive rent increases. The Takings Clause does not make the City an insurer for the investment expense that Plaintiff voluntarily assumed.

Plaintiff repeatedly insists that its ratio of debt to equity was "commercially reasonable" and therefore it was entitled to pass it through to park residents. AB 1, 9, 40-41. This is perfectly circular. Whether an investment in income-producing property is "reasonable" depends on the income produced by the property. *See Guggenheim*, 638 F.3d at 1120. With a rent-regulated property, whether an investment is reasonable thus depends on the rent that the investor

will be allowed to charge. *See* AOB 13-14 (discussing Plaintiff's appraisal of the park). Accordingly, Plaintiff's contention that its investment was reasonable simply assumes its prediction of the Board's rent increase decisions was reasonable.

Plaintiff wrongly paints the City as contending that the mere fact of the regulation of mobilehome park rents makes any expectation of a rent increase unreasonable. AB 40. Rather, it is the nature of that regulation that is crucial. The Ordinance (and case law) contemplates that the Board will decide rent-increase applications by balancing a host of competing considerations on a case-by-case basis. AOB 10-11, 39-40. As this Court held in *Colony Cove I*, nothing prevented the Board from applying the MNOI methodology when Plaintiff purchased the park. AOB 60; *Colony Cove I,* 640 F.3d at 961. Plaintiff voluntarily committed to a highly leveraged investment that made financial sense only if the Board exercised its discretion in a particular—and unprecedented—way. Predicting that the Board will balance the wide array of competing considerations in that way is hardly like "expecting rent to be paid."

D. The character of the governmental action does not support liability, as this Court has repeatedly held under similar circumstances.

Plaintiff cannot cite a single decision of this Court to support its interpretation of the "character of the governmental action" factor. AB 45-47. By contrast, in two mobilehome rent control takings cases, this Court held that the character factor militated against finding a taking because the regulation of rents is classic example of

adjusting "the benefits and burdens of economic life." *See* AOB 46 (citing *Rancho De Calistoga* and *MHC Financing*). That this case involves an as-applied challenge to such rent regulation does not change the "character" of the action: the Board was, quite literally, adjusting the benefits and burdens of the park owner/resident relationship. Indeed, the district court also twice held that the character factor supported the City in reliance on this Court's holdings. AOB 46-47.

Plaintiff suggests the jury could have found the City's rent control decisions are akin to physical occupation. AB 45-46. But the Supreme Court has rejected that theory, *see Yee v. City of Escondido,* 503 U.S. 519, 527-28, 532 (1992), and Plaintiff does not explain how two years of negative cash flows attributable to Plaintiff's financing are anything like the physical occupation of real property.

Plaintiff's other counterarguments are unmoored from the cases. It argues that the *risk* of foreclosure is relevant to the character of the action and supports taking, but provides no citation or explanation. AB 46. It also argues that the regulator's "motivations" are relevant to the character factor, citing only two trial court decisions. AB 46-47. *Norman v. United States,* 56 Fed. Cl. 255 (2003), was decided before *Lingle* clarified that the sole focus of takings analysis is the severity of the burden imposed on property rights (AOB 68-69), but in any event, it did *not* decide that evidence of motivation is relevant as Plaintiff suggests. *See* AB 72. Rather, the court declined a motion in limine seeking to exclude that evidence and instead opted

to decide at trial whether the plaintiff's evidence could be considered under *Penn Central*. 56 Fed. Cl. at 268-70. The second case, *David Hill Dev., LLC v. City of Forest Grove,* No. 3:08-cv-266-AC, 2012 U.S. Dist. LEXIS 156028 (D. Or. Oct. 30, 2012), relied solely on pre-*Lingle* authority for the notion that alleged bad faith could be relevant to a takings claim based on "extraordinary delay." *Id.* at *60.

Regardless, any evidence of City officials' alleged motivations here is irrelevant because it sheds no light on the severity of the effect of the Board's decisions on Plaintiff's property—the touchstone of a takings claim. AOB 68-69.

II. The district court should not have asked the jury to apply the *Penn Central* test.

A. Neither *Del Monte Dunes* nor any other case holds that a jury can apply *Penn Central*.

City of Monterey v. Del Monte Dunes at Monterey, Ltd., 526 U.S. 687 (1999), "does not establish a right to a jury on every takings claim." *Buckles v. King Cnty.,* 191 F.3d 1127, 1140 (9th Cir. 1999). Plaintiff cites no appellate decision even suggesting that *Del Monte Dunes* requires that a jury apply the *Penn Central* test.

Plaintiff disregards the language in both the majority opinion and Justice Scalia's concurrence emphasizing that the Seventh Amendment does not require all issues to go to a jury. *See* AOB 48. Rather, the case law "recognizes the historical preference for the juries to make primarily factual determinations and for judges to resolve legal questions." 526 U.S. at 731 (Scalia, J., concurring). More specifically, in constitutional challenges to municipal policies, "judg-

es determine whether the alleged policies were unconstitutional, while juries find whether the policies in fact existed and whether they harmed the plaintiff." *Id.* The district court here abdicated the former task to the jury.

Plaintiff argues that the jury must perform the *Penn Central* analysis because that is the "ultimate dispute" in this case. AB 51, 54-57. Plaintiff misreads *Del Monte Dunes*. The Court held, "*issues that are proper for the jury* must be submitted to it 'to preserve the right to a jury's resolution of the ultimate dispute'." 526 U.S. at 718 (emphasis added). Claiming that application of *Penn Central* is the "ultimate dispute" begs the question whether it is "proper for the jury." As the City has shown, it is not.

Plaintiff's analogy of the "deprivation of all economically viable use" test at issue in *Del Monte Dunes* to the *Penn Central* test is also inapt. AB 52-53. Whether a regulation has eliminated all use of property is a purely factual question. By contrast, *Penn Central* asks whether an economic impact short of total elimination of value is "too" severe. This is not a factual question; it involves "a classic exercise of *judicial* balancing of competing values" to determine whether the regulation is constructively an exercise of the power of eminent domain. *Fla. Rock Indus. v. United States,* 18 F.3d 1560, 1570 (Fed. Cir. 1994) (emphasis added); AOB 49-51. As a result, it is an essentially legal question that must be resolved by the court. *See McConney*, 728 F.2d at 1202; AOB 28-29, 50. Remarkably, Plaintiff ignores *McConney* despite the fact that this Court applied the case to

identify the proper trier of fact in *Del Monte Dunes* itself. *Del Monte Dunes v. City of Monterey*, 95 F.3d 1422, 1428, 1430 (9th Cir. 1996), *aff'd,* 526 U.S. 687 (1999).

Plaintiff also dismisses this Court's numerous cases applying the *Penn Central* test without remand (*see* AOB 29-30) by asserting that an appellate court can apply the *Penn Central* test if there are no disputed questions of fact. AB 56-57. However, the decision to give that test to the jury assumes that application of the test *is itself a question of fact*. If so, this Court could not apply the test on appeal. Yet in *MHC Financing*, this Court reversed, without remand, the district court's application of *Penn Central* after a bench trial. 714 F.3d at 1124, 1127-28, 1133. In *Guggenheim,* the three-judge panel reversed summary judgment for the defendant and held, without remand, that the city had effected a taking under *Penn Central*. 638 F.3d at 1116. The en banc panel then reached the opposite conclusion without remand. *Id*. at 1120-22. Moreover, summary judgment on any *Penn Central* claim would be impossible, a result this Court anticipated in rejecting the claim that *Del Monte Dunes* requires all takings claims to go to a jury. *See Buckles,* 191 F.3d at 1139-41; *Hotel & Motel Ass'n of Oakland v. City of Oakland*, 344 F.3d 959, 966-67 (9th Cir. 2003).

Finally, Plaintiff's emphasis that *Penn Central* involves "essentially ad hoc, factual inquiries" is misplaced. AB 52, 56 (quoting *Penn Central*, 438 U.S. at 124). That "phraseology … does not stand for the proposition that every [takings] inquiry … requires … resolution by

a jury." *Hotel & Motel Ass'n*, 344 F.3d at 966. Rather, it means only that "regulatory takings cases … do not easily lend themselves to broad categorical rules" but rather require case-by-case evaluation. *Id.*

B. There were few, if any, disputed factual questions to be resolved by a jury.

The City acknowledged that *Del Monte Dunes* requires a jury to resolve disputes about component facts in the *Penn Central* analysis. AOB 51-52. A jury can determine what impact the City's decisions had on Plaintiff's property. AOB 51. Similarly, the nature of Plaintiff's subjective expectations is a question of fact. AOB 51-52. But that does not mean all of the issues presented by the *Penn Central* factors can be decided by a jury, or more importantly, that the factors can be weighed by the jury to answer the ultimate question whether the facts show a regulatory taking.

Plaintiff insists the jury must determine whether Plaintiff's expectations were reasonable, relying on a case holding that a jury can determine whether police use of force was reasonable. AB 53 (citing *Wilkins v. City of Oakland*, 350 F.3d 949 (9th Cir. 2003)). In *Wilkins*, however, the Court noted the only question was whether "it [was] reasonable for [the officers] not to understand that the person they were shooting was another police officer." *Id.* at 956. Plainly, that "is not a legal inquiry, but rather a question of fact best resolved by a jury." *Id.*

But "reasonableness" is not always a question of fact. For example, in evaluating qualified immunity in use-of-force cases, courts, not juries, determine whether an officer should have reasonably understood that the use of force was unlawful. *See Torres v. City of L.A.*, 548 F.3d 1197, 1210 (9th Cir. 2008) ("[Q]ualified immunity is a question of law, not a question of fact."); *Glenn v. Wash. Cnty.*, 673 F.3d 864, 870 (9th Cir. 2011) (remanding that issue "to the district court for resolution after the material factual disputes have been determined by the jury").

Here, the jury was asked to decide a legal question: whether Plaintiff's assumption that it could pass through its debt service to park residents was reasonable in light of the law applicable to a rent increase application—the Ordinance, the Guidelines, and judicial opinions. Plaintiff cites no case in which a court held that a jury could appropriately evaluate the meaning of statutes and judicial opinions to determine whether a decision was reasonable. This case presents the question of the reasonableness of a person's understanding of the law, rather than whether a person's conduct was reasonable in light of the facts, as in *Wilkins*.

Finally, on the "character" factor, Plaintiff's sole case does not hold that the character factor presents a factual question. AB 54 (citing *Yee*, 503 U.S. at 523). The case does not even discuss that factor.

C. The court's error in giving the case to the jury was prejudicial.

Plaintiff claims that any error in giving *Penn Central* to the jury was harmless. AB 57-58. An erroneous decision to send a predominantly legal issue to the jury requires the verdict to be vacated if it affects a party's substantial rights. 28 U.S.C. § 2111; *see O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co.*, 521 F.3d 1351, 1361-63 & n.4 (Fed. Cir. 2008); *Morse/Diesel, Inc. v. Trinity Indus.*, 67 F.3d 435, 439-40 (2d Cir. 1995). Here, the City was seriously prejudiced in being forced to put on its defense to a jury.

A party is prejudiced if it must adapt its litigation strategy to the wrong decision-maker. *See Pradier v. Elespuru*, 641 F.2d 808, 811 (9th Cir. 1981) ("There are frequently significant tactical differences in presenting a case to a court, as opposed to a jury."). Thus "[t]he parties are entitled to know [the decision maker] at the outset of the trial." *Id.*; *see also Bereda v. Pickering Creek Indus. Park*, 865 F.2d 49, 53 (3d Cir. 1988).

In a bench trial, the City would have relied on the extensive body of takings cases in opening and closing arguments and in support of proposed findings and conclusions under Federal Rule of Civil Procedure Rule 52(a). The City was unable to contextualize Plaintiff's takings claim in arguments before the jury (*see* ER 5:657-68; ER 6:875-98), because the jury lacked the legal background to understand that only the most grievous interference with property rights can constitute a taking. AOB 36. And Plaintiff would have objected

that the City was instructing the jury on the law. *See Morris v. United States*, 156 F.2d 525, 529 (9th Cir. 1946). Had the City presented its defense to a court fully informed about the relevant precedent, the outcome of the case may well have differed. Moreover, the City would have approached its evidentiary objections differently, focusing on contemporaneous trial objections instead of motions in limine. Contemporaneous objections could have given the court a better idea of the prejudice of the evidence that Plaintiff sought to admit, but extensive objections "risk[] alienating the jury."[4] *See Bocher v. Glass*, 874 So. 2d 701, 704 (Fla. Dist. Ct. App. 2004).

Plaintiff contends that the district court's concurrence in the jury verdict immunized it from any error in ordering a jury trial. AB 58. Not so. It does not eliminate the prejudice recognized in *Pradier*, which only retrial can cure. Even if the existing trial record could suffice, the district court must enter sufficiently detailed findings of fact and conclusions of law under Rule 52(a) to "enable [the reviewing court] to determine the ground on which the trial court reached its decision." *FTC v. Enforma Natural Prods.*, 362 F.3d 1204, 1216 (9th Cir. 2004). The district court's conclusory statement that it "agrees with the jury's finding that a taking occurred, as well as the amount damages that the jury awarded" (ER 1:3) falls well short of Rule 52(a)'s standards. Because this Court cannot effectively review

[4] Relying on contemporaneous objections instead of motions in limine also would have prevented the district court's prejudicial admonishment of the City's counsel. AOB 69-71.

the district court's judgment, it should remand for more detailed findings and conclusions if it declines to reverse as a matter of law or remand for a new trial. *See Lumbermen's Underwriting Alliance v. Can-Car, Inc.*, 645 F.2d 17, 18 (9th Cir. 1980).

III. Even if it was proper to give *Penn Central* to the jury, the district court's instructions were inadequate.

A. The City preserved its claims of error.

The district court's jury instructions were elliptical in the extreme. AOB 53-58. Plaintiff is wrong in arguing that the City failed to properly object to the instructions. AB 59-60.

The City asserted its objections below each time the parties were required to file their disputed jury instructions. AOB 55. In each filing, the City objected to Instruction No. 23 on many grounds, including the three specific grounds that Plaintiff lists in its brief. *See* ER 2:163-66, 185-89, 214-18, 246-50. The City also proposed an alternate Instruction No. 23. ER 2:131. These objections and proposed instructions were adequate to preserve the City's claim of error. *See* Fed. R. Civ. P. 51; *Merrick v. Paul Revere Life Ins. Co.*, 500 F.3d 1007, 1015 (9th Cir. 2007); *Hunter v. Cnty. of Sacramento,* 652 F.3d 1225, 1231-32 (9th Cir. 2011). The City was not obligated to reiterate its prior objections to the proposed instructions. *Chess v. Dovey*, 790 F.3d 961, 971 (9th Cir. 2015).

B. The jury could not hope to apply *Penn Central* based on the perfunctory instructions.

The jury instructions failed to give the jury any understanding of the job it faced. These errors require reversal and a new trial.

Plaintiff overlooks the City's contention that the jury should have been instructed on the polestar for the regulatory takings inquiry, *viz.*, whether the challenged action was the functional equivalent of the exercise of eminent domain. AOB 55. Without that instruction, the jury had no idea how severe a regulation's interference with property rights must be to qualify as a taking.

The instruction on the character factor also lacked any substance. AOB 56. Simply referring to the "character of the governmental action" allowed the jury to inject any opinion or prejudice it might have about the City or rent control regulation. Indeed, Plaintiff acknowledges that it allowed the jury to consider the possibility of "political motivation" (AB 72), a position that the district court expressly adopted (ER 1:22:5-23:5). This instruction cannot be squared with *Lingle,* in which the Court clarified the narrow confines of the takings inquiry and its singular focus on the severity of the burden imposed on property rights. AOB 68-69; *see supra* Section I.D. Like the insufficient instruction in *Norwood v. Vance*, 591 F.3d 1062, 1066-67 (9th Cir. 2010), the character instruction lacked crucial content. AOB 56-57.

Of course a court need not use the "exact words proposed by a party." AB 61 (quoting *Roberts v. Spalding,* 783 F.2d 867, 873 (9th

Cir. 1986)). But the instructions nonetheless must "allow[] the jury to determine intelligently the issues presented." *Id.* The instructions here failed in that task. The jury was given no understanding about how to apply the *Penn Central* factors it was handed, which, "[s]tanding alone, … provide little guidance."[5] *Branch ex. rel. Me. Nat'l. Bank v. United States*, 69 F.3d 1571, 1578-79 (Fed. Cir. 1995); AOB 54-55.

Plaintiff says that *Norwood* involves "case-specific facts" (AB 62-63), but fails to explain why the holding should be limited to its facts. The district court's failure to provide any instruction on the great severity of regulatory burden unanimously required by courts is directly comparable to the requirement of deference missing from the instructions in *Norwood*. *See* AOB 56-57. The City's objection is not, of course, that *Penn Central*'s language copied in the jury instructions is "wrong" (AB 62), but rather that the statement of the law was *incomplete* and thus erroneous (AOB 53-58).

Plaintiff suggests that the City could have supplied in its closing argument what the district court omitted from the instructions. AB 63. But it would have been plainly improper for the City to "argue the legal meaning of an instruction" because a "lay jury is ill-equipped to determine which view of the law is correct." *Payton v.*

[5] Ironically, Plaintiff asserts that quotations from opinions are "generally not helpful" in jury instructions (AB 61), but the instructions given in this case were exactly that.

Woodford, 346 F.3d 1204, 1214-15 (9th Cir. 2003) (en banc), *reversed on other grounds sub nom Brown v. Payton,* 544 U.S. 133 (2005).

IV. The district court made numerous prejudicial evidentiary errors, exacerbating the errors of giving *Penn Central* to a jury and failing to prepare it for the task.

A. Plaintiff's contention that the City "changed the rules" was precluded.

Plaintiff claims the City's issue preclusion argument fails because *Colony Cove I* "has nothing to do with the question litigated below and decided by the jury." AB 64. Plaintiff construes the relevant "issue" here far too broadly. It is also an audacious argument because the issue decided in *Colony Cove I*—whether the City "changed the rules" applicable to rent increase proceedings when it amended the Guidelines in October 2006—is an issue that Plaintiff put front and center before the jury. AOB 58-59. And on appeal it continues to complain that the City "*changed* its established rent-control rules." AB 33; *see also* AB 34.

Plaintiff nevertheless insists the only relevant "issue" here is whether Plaintiff had reasonable investment-backed expectations of a massive rent increase and argues that question was not decided in *Colony Cove I*. AB 64. This is a straw man. The City never sought to preclude Plaintiff from arguing the reasonableness of its expectations. Rather, the City moved in limine to preclude Plaintiff from arguing the City "changed the rules" when it amended the Guidelines after Plaintiff purchased the park—an issue squarely decided

in *Colony Cove I*. AOB 60-61. Plaintiff cannot escape the preclusive—and precedential (AOB 62)—effect of this Court's holding by strategically recharacterizing the relevant issue.

Plaintiff contends the City should have repeated its motion in limine as a trial objection. AB 66-67. But the court's written in-limine order unequivocally denied the City's motion, and this Court has expressly refused to require "that an objection that is the subject of an unsuccessful motion in limine be renewed at trial." *Palmerin v. Riverside*, 794 F.2d 1409, 1413 (9th Cir. 1986); *see also Dream Games of Ariz., Inc. v. PC Onsite,* 561 F.3d 983, 988 n.3 (9th Cir. 2009) (objection preserved for appellate review where district court was sufficiently informed of grounds for objection and denied motion in limine in a definitive ruling). Plaintiff also contends the district court was within its discretion in "managing trial." AB 66. But allowing a party to argue and admit evidence on an issue conclusively resolved to the contrary by the Court of Appeals is not a matter of "trial court management" like limiting the amount of time parties have to present their cases at trial, *Navellier v. Sletten,* 262 F.3d 923, 942 (9th Cir. 2001), or permitting the playback of taped conversations that had been admitted into evidence during closing argument, *United States v. Guess,* 745 F.2d 1286, 1288 (9th Cir. 1984). *See* AB 66 (citing those cases). Courts cannot choose to disregard issue preclusion or precedent in the name of managing trial procedure.

Plaintiff similarly suggests it could argue that the City "changed the rules" because the court has "broad discretion" to per-

mit a party to argue its "theor[y] of the case." AB 67. But a party cannot argue "theories that are not supported by the evidence," let alone arguments *precluded* by prior, binding judgments. *United States v. Miguel*, 338 F.3d 995, 1001 (9th Cir. 2003).

B. *Carson Gardens* was highly prejudicial and should have been excluded.

Plaintiff argues that the City's objections to Plaintiff's use of the decision in *Carson Gardens, LLC v. City of Carson Mobilehome Park Rental Review Board*, 135 Cal. App. 4th 856 (2006) are forfeited and incorrect. AB 68. Neither is so. First, the City did not need to renew its objection at trial to preserve its claim of error for appeal after the district court's definitive in limine ruling. *See supra* Section IV.A. Plaintiff claims that the district court "suggest[ed] that its in limine rulings were not necessarily final," but it misleadingly cites a different order that was expressly denied without prejudice. AB 68 (citing SER 4-7). The fact that only two of the court's 12 in limine rulings were denied without prejudice implies the court was unwilling to reconsider the others that were simply denied (or granted)—including its ruling on the City's motion to exclude *Carson Gardens*. *See* ER 1:32-37; 6:927-30.

Given the clarity of the court's in limine ruling and the City's specific objections, Plaintiff's cases are not on point. *See Scott v. Ross,* 140 F.3d 1275, 1285 (9th Cir. 1998) (defendant failed to object after the court expressly told counsel it would consider later objec-

tions); *United States v. Gomez-Norena,* 908 F.2d 497, 500 (9th Cir. 1990) (defendant failed to make the correct specific objection below).

Second, Plaintiff's argument that *Carson Gardens* was properly admitted as relevant to Plaintiff's investment-backed expectations misses the mark. AB 68-69. The district court should have excluded *Carson Gardens* as unfairly prejudicial, because the January 2003 trial court order had been repudiated by the time of trial in this case (AOB 65) and its use could only mislead the jury into believing it provided the applicable law (AOB 67). Indeed, Plaintiff repeatedly cited *Carson Gardens* to persuade the jury that the Board had violated the law when it applied MNOI to Plaintiff's rent increase applications. AOB 66. This was clearly prejudicial. *Dream Games of Ariz., Inc.*, 561 F.3d at 993 (upholding district court's decision to exclude evidence of illegal operations because evidence might improperly influence jury). Moreover, the January 2006 *Carson Gardens* court of appeal opinion merely evaluated the City's compliance with the prior, unappealed judgment and in fact stated that it might have decided the case differently.[6] AOB 65.

Even if *Carson Gardens* were relevant to investment-backed expectations and not unfairly prejudicial, Plaintiff could not use it for other purposes at trial. Plaintiff contests that it unfairly used *Carson Gardens* to impugn the City's good faith (AB 70), but the rec-

[6] Although the City's witness cited judicial opinions (AB 69), that testimony occurred only *after* Plaintiff had introduced *Carson Gardens*.

ord is replete with evidence to the contrary (*see* AOB 67-68). And Plaintiff is wrong to suggest that *Carson Gardens*' prejudice did not substantially outweigh its probative value. AB 70. As discussed above, there was significant prejudice because Plaintiff used the decision to convince the jury (wrongly) that the City had not complied with applicable law, and the jury was incapable of evaluating the contending arguments about the case's meaning. AOB 65-66. Plaintiff fails to address *Cooley v. United States,* 501 F.2d 1249, 1253-54 (9th Cir. 1974), in which this Court recognized the danger of introducing the law as evidence—a danger fully realized here.[7] AOB 67. Furthermore, the decision's probative value was meager because it was based on an unappealed trial court judgment and consequently failed to provide a reasonable basis for reliance, especially in light of what the court of appeal had to say about that judgment. AOB 65-66.

C. Evidence of political motivation was irrelevant and highly prejudicial.

Plaintiff incorrectly asserts the City forfeited its objection to evidence about supposed political interference in the Board's process. AB 71. Plaintiff claims the City "opened the door" to such evidence when it asked Freschauf about the former mayor's interactions with the Board. AB 71. But *Plaintiff* first raised the topic of political pressure, eliciting testimony from its first witness, Goldstein, about polit-

[7] Plaintiff's insistence on the importance of *Carson Gardens* also underscores why this case was unfit for resolution by a jury. An issue that requires interpretation of judicial opinions is not "predominately factual." *See supra* Section II.B.

ical influence. ER 5:693:14-695-7. This signaled that political motivation would be a significant part of Plaintiff's case, and the City understood Plaintiff would ask Freschauf questions on the topic during cross-examination. The City thus had no choice but to ask Freschauf about the issue on direct, and any questions the City asked served only to rebut the issues Plaintiff had already raised. *See United States v. Reyes-Alvarado,* 963 F.2d 1184, 1187 (9th Cir. 1992) (party only "invites" error when the error "was his own fault").

Still, Plaintiff has not explained how the alleged political interference with the Board's decisions is relevant to a takings analysis, and indeed it is not. *See supra* Section I.D. Remarkably, Plaintiff implies that the vagueness of the jury instruction on the character of the governmental action allowed it to offer *anything* that might be considered "among the totality of the circumstances." AB 72. This proves far too much. And it ignores the critical distinction that *Lingle* drew between a takings analysis and an inquiry into the merits of a government action. 544 U.S. at 543; AOB 68-69. Moreover, where a property owner has been treated unfairly due to improper animus, any remedy must come from equal protection or substantive due process. *See Squaw Valley Dev. Co. v. Goldberg,* 375 F.3d 936, 938 (9th Cir. 2004). Plaintiff tried no such claim.

D. The court's errors were individually and cumulatively harmful.

Each of the district court's serious evidentiary errors prejudiced the City. When reviewing the effect of erroneous evidentiary rulings,

this Court begins with a presumption of prejudice, which the opposing party can only overcome by showing it is more probable than not that the jury would have reached the same verdict. *Obrey v. Johnson*, 400 F.3d 691, 701 (9th Cir. 2005). Plaintiff fails to rebut the presumption of prejudice. The trial was pervasively infected by Plaintiff's refrain that the City had "changed its rules," leaving the jury with the mistaken impression that the City had unfairly upset Plaintiff's investment-backed expectations by changing its rent control regulation after Plaintiff's purchase. AOB 58-59. Plaintiff's use of *Carson Gardens* similarly misled the jury into believing the decision provided the applicable law and that the City had violated it. Both *Carson Gardens* and Plaintiff's elicited testimony about supposed political interference in the Board's process depicted the City's decisions were not designed to serve the public interest. AOB 66-69. And the court's erroneous censure of the City's counsel tainted the jury's perception of the City's defense and effectively prevented the City from introducing relevant evidence. AOB 69-71.

Even if the district court's errors could be individually harmless, their combined effect was prejudicial. *See Jerden v. Amstutz*, 430 F.3d 1231, 1240-41 (9th Cir. 2005). The court's admission of *Carson Gardens* magnified its error in refusing to give binding effect to this Court's holding in *Colony Cove I*. Conversely, if the court had ruled that Plaintiff could not relitigate the Court's prior holding that the 2006 Guidelines amendment had not "changed the rules," it would have also been forced to preclude Plaintiff from using *Carson*

Gardens to that end. The court's decision to allow irrelevant evidence of a former mayor's alleged political motivation similarly amplified Plaintiff's argument that the City had not complied with the law. This cascade of errors undoubtedly prejudiced the City by making the jury believe it had repeatedly and flagrantly violated the law, when it had done no such thing. And this prejudice was compounded by the court's error in failing to adequately instruct the jury on the meaning of the *Penn Central* factors, which made its ultimate decision arbitrary.

V. Plaintiff's claim is unripe because it failed to diligently seek compensation in state court.

Plaintiff contends that the City waived its ripeness argument and that Plaintiff ripened its claim by seeking compensation, on a different legal basis, in state court. AB 76-78; *see* AOB 71-74. Neither argument works.

First, although the City admittedly neglected to raise this argument below, Plaintiff ignores the cases holding that such a purely legal argument may be raised for the first time on appeal. *See* AOB 73. And Plaintiff identifies no factual dispute relevant to ripeness.

Second, Plaintiff is wrong to suggest that it needed to seek compensation merely on *some* basis in state court before returning to federal court. AB 76-77. It contends it followed this Court's direction in *Colony Cove I* by seeking a "*Kavanau* adjustment" in state court. AB 77 (citing *Kavanau,* 16 Cal. 4th 761). But it did not do even that: *Kavanau* applied the *Penn Central* test under the California Consti-

tution, yet Plaintiff never sought compensation on that basis.[8] AOB 73. To exhaust a state's procedure for providing compensation as required by *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City,* 473 U.S. 172 (1985), a plaintiff must pursue its claim under the available legal theories. *Id.* at 194-95. Filing a state claim without asserting all of the potential bases for compensation is no better than, for example, filing an untimely state claim. *See Daniel v. Cnty. of Santa Barbara*, 288 F.3d 375, 380-81 (9th Cir. 2002) (federal takings claim forever barred where plaintiff has not brought a timely compensation claim in state court).

Plaintiff also calls the City's argument "absurd" because it could prevent federal takings claims from being filed in federal court. AB 77-78. But the Supreme Court rejected precisely that objection in *San Remo Hotel L.P. v. City & County of San Francisco*, 545 U.S. 323 (2005). The Court there upheld this Court's decision that a federal takings claim was barred by issue preclusion because the California courts apply federal takings cases under the state constitution.[9] *Id.* at 335. The City's position is not absurd; it is the law.

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[8] And given that Plaintiff's state court action was already *on appeal* when this Court decided *Colony Cove I,* Plaintiff could not have been following this Court's direction when it chose the claims to assert in state court. *See Colony Cove Props.*, 220 Cal. App. 4th at 862.

[9] Plaintiff's reliance on its reservation in state court under *England v. Medical Examiners*, 375 U.S. 411 (1964), is another red herring. AB 20, 79. A federal claim would not be barred by *claim* preclusion after an *England* reservation, but, as *San Remo* held, it may often be barred by *issue* preclusion. 545 U.S. at 338-41.

CONCLUSION

For the reasons explained above and in the Opening Brief, this Court should reverse the judgment, remand for a new trial, or vacate the judgment and remand for dismissal, depending on the basis of the Court's decision.

DATED: July 31, 2017

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By: s/ Sunny K. Soltani
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Attorneys for Defendants and Appellants
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CERTIFICATE OF COMPLIANCE

This brief contains 7,916 words, excluding the parts of the brief exempted by Ninth Circuit Rule 32-1(c). Although the brief exceeds the word limit in Ninth Circuit Rule 32-1(b), an unopposed motion for leave to file an oversize brief is being filed with this brief. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced roman typeface, 14-point New Century Schoolbook, using Microsoft Word 2010.

DATED: July 31, 2017

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9th Circuit Case Number(s) 16-56255

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Docket No. 16-56255

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Docket No. 16-56255

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

COLONY COVE PROPERTIES, LLC
Plaintiff and Appellee,

vs.

CITY OF CARSON and CITY OF CARSON MOBILEHOME PARK RENTAL REVIEW BOARD,
Defendants and Appellants.

Appeal from the United States District Court
for the Central District of California
Case No. CV14-03242 PSG (PJWx)

APPELLANTS' UNOPPOSED MOTION FOR LEAVE TO FILE OVERSIZE REPLY BRIEF

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Pursuant to Ninth Circuit Rule 32-2, Defendants and Appellants City of Carson and City of Carson Mobilehome Park Rental Review Board respectfully move for leave to file their proposed oversize reply brief, submitted herewith, comprising 7,916 words. As demonstrated in the attached Declaration of Sunny K. Soltani, a showing of diligence and substantial need supports Appellants' unopposed motion.

DATED: July 31, 2017

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By: s/ Sunny K. Soltani
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Attorneys for Defendants and Appellants
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CIRCUIT RULE 32-2(A) DECLARATION OF SUNNY K. SOLTANI

I, Sunny K. Soltani, declare as follows:

1. I am an attorney licensed to practice in the State of California and a partner at Aleshire & Wynder, LLP, attorneys for Defendants and Appellants City of Carson and City of Carson Mobilehome Park Rental Review Board (collectively "City"), and was responsible for preparing the City's reply brief in this case.

2. I make this declaration in support of the foregoing unopposed motion for leave to file an oversize reply brief.

3. I have personal knowledge of the information set forth in this declaration and if called as a witness, I could and would competently testify thereto.

4. On March 8, 2017, the City moved for leave to file an oversized opening brief of 19,012 words, pursuant to Ninth Circuit Rule 32-2. Dkt. No. 22 at 1. The City's motion was accompanied by a declaration showing substantial need and diligence. *Id.* at 2-6.

5. Specifically, the City cited the unusually complicated nature of this case and the City's arguments on appeal, the length and complexity of the proceedings in both federal and state courts, and the volume of evidence relevant to the City's arguments on appeal as demonstrating a substantial need for its opening brief to exceed the applicable type-volume limitation of 14,000 words. *Id.* at 2. The City also demonstrated that its counsel had worked diligently to reduce the size of the opening brief to the greatest extent possible, but the unusually complicated nature of the case required the City to seek leave to file an oversize opening brief. *Id*. at 5-6.

6. On April 5, 2017, this Court granted the City's motion for leave to file an oversized opening brief of 19,012 words. Dkt. No. 37 at 1. The Court's order correspondingly enlarged the word limit for Plaintiff Colony Cove Properties, LLC's answering brief to 19,012 words, but did not enlarge the word limit for the City's reply brief. *Id.*

7. On June 2, 2017, Plaintiff filed an oversize answering brief, containing 18,963 words, pursuant to the Court's April 5 order. Dkt. No. 47.

8. As with the opening brief, counsel for the City has worked diligently to reduce the size of the reply brief to the greatest extent possible, cutting numerous arguments and making the presentation as concise as possible. The City has trimmed the reply brief to 7,916 words.

9. On July 26, 2017, my colleague sent an email to counsel for Plaintiff requesting Plaintiff's consent to the City's motion to file an oversized reply brief of up to 8,000 words. Plaintiff's counsel replied by email on July 26 granting that consent.

10. Despite counsel's diligence and best efforts, the City's brief exceeds the Court's type-volume limit for reply briefs, which is set at half the length of opening and answering briefs, or 7,000 words. Ninth Circuit Rule 32-1(b). However, the brief is far less than half of the length of the 19,012-word and 18,963-word opening and answering briefs, respectively, that the Court authorized in its April 5 order. Dkt. No. 37.

11. As discussed in the City's motion for leave to file an oversize opening brief, Dkt. No. 22, the City has found that the numerous procedural and substantive issues that must be addressed in this appeal

cannot be addressed within the length prescribed by the rules. Similarly, the numerous arguments that Plaintiff raises in its oversize answering brief of 18,963 words demonstrate a substantial need for the City's reply brief to exceed the limit of 7,000 words.

12. The City will be prejudiced if it is restricted to the 7,000-word limit for the reply brief because it will be unable to adequately respond to all of the arguments that Plaintiff raises in its oversize answering brief. Therefore, the City respectfully requests permission to file a brief of 7,916 words, which exceeds the 7,000 word limit by 916 words.

13. If the Court denies the City's request, the City respectfully requests that the Court nevertheless allow a smaller, yet still oversize, brief. The City also requests that the Court allow the City one week or more in which to file that revised brief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed July 31, 2017, at Irvine, California.

s/ Sunny K. Soltani
Sunny K. Soltani

9th Circuit Case Number(s) 16-56255

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