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11 *Attorneys for Plaintiff/Petitioners*  
12 CALIFORNIA APARTMENT ASSOCIATION

13 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
14 COUNTY OF LOS ANGELES  
15 CENTRAL DISTRICT

16 CALIFORNIA APARTMENT ASSOCIATION,  
17 *Petitioner and Plaintiff,*

18 vs.

19 COUNTY OF LOS ANGELES and DOES 1-  
20 100,  
21 *Respondents and Defendants.*

Case No. 23STCP01114

**PLAINTIFFS' NOTICE OF  
MOTION AND MOTION FOR  
JUDGMENT ON THE WRIT;  
MEMORANDUM OF POINTS &  
AUTHORITIES IN SUPPORT  
THEREOF**

Assigned for all purposes to Hon.  
Mitchell L. Beckloff, Dept. 86

Petition filed April 11, 2023

DATE: Dec. 6, 2023  
TIME: 9:30 AM  
DEPT: 86

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 NOTICE IS HEREBY GIVEN that on December 6, 2023 at 9:30 AM in  
3 Department 86 of this Court located at 111 North Hill Street, Los Angeles, California,  
4 90012, Petitioner and Plaintiff will move for the issuance of a peremptory writ of  
5 mandate declaring Section VI(A)(1)(c) of the County’s “Resolution of the Board of  
6 Supervisors of the County of Los Angeles Further Amending and Restating the County  
7 of Los Angeles COVID-19 Tenant Protections Resolution,” adopted by the County Board  
8 of Supervisors on January 24, 2023, to be invalid. The motion is made on the grounds  
9 that Section VI(A)(1)(c) of the Resolution is preempted by California Code of Civil  
10 Procedure § 1161(2).

11 This motion is based on this notice and motion, the accompanying memorandum  
12 of points and authorities, Petitioner and Plaintiffs’ Record, filed herewith, and such  
13 further evidence and briefing as may be filed in connection with this motion.

14 Dated: October 6, 2023

NIELSEN MERKSAMER  
PARRINELLO GROSS & LEONI LLP

16 By: 

Christopher E. Skinnell

*Attorneys for Petitioner and Plaintiff*  
CALIFORNIA APARTMENT  
ASSOCIATION

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Resolution of the Board of Supervisors of the County of Los Angeles  
Further Amending and Restating the County of Los Angeles  
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1 **I. INTRODUCTION.**

2 Over 150 years ago, the California Legislature enacted a comprehensive  
3 statutory scheme governing unlawful detainer actions, with the intent of ensuring  
4 landlords a speedy and simple remedy for the orderly eviction of tenants for the  
5 nonpayment of rent, to supplant the use of self-help remedies. To that end, the  
6 California Code of Civil Procedure currently provides thorough and clearly defined  
7 procedures prescribing the means by which an owner is to file an unlawful detainer  
8 action. Specifically, California Code of Civil Procedure § 1161(2) (hereafter “Section  
9 1161(2)”), provides that before an owner can file an unlawful detainer action for  
10 nonpayment of rent, the owner must provide a tenant three days’ notice to cure the  
11 nonpayment. If the tenant does not pay within this three-day period and continues in  
12 possession of the property, the tenant becomes guilty of “unlawful detainer” and may  
13 be evicted in a summary judicial proceeding. California’s Supreme Court and Courts of  
14 Appeal have held that in enacting these provisions the Legislature has “occupied the  
15 field” with respect to summary state law process for an unlawful detainer action and  
16 that local governments accordingly may not interfere with these procedures. Any  
17 attempt to do so—including efforts to interfere with the timing and notice  
18 requirements—is preempted by state law.

19 Despite this long-established rule, on January 24, 2023, the Los Angeles County  
20 Board of Supervisors enacted a “Resolution of the Board of Supervisors of the County  
21 of Los Angeles Further Amending and Restating the County of Los Angeles COVID-19  
22 Tenant Protections Resolution” (hereafter the “Resolution”) that seeks to do exactly  
23 what is forbidden: interfere with the summary processes set forth in Section 1161(2).  
24 Specifically, Section VI(A)(1)(c) of the Resolution attempts to significantly extend the  
25 statutory three-day notice period provided by Section 1161(2), purporting to instead  
26 require an owner to provide 30 days’ notice before commencing an unlawful detainer  
27 action. This is in direct conflict with controlling state law. Section VI(A)(1)(c) of the  
28

1 Resolution is therefore preempted and must be declared illegal, invalid, and  
2 unenforceable.

3 **II. FACTUAL BACKGROUND.**

4 On January 24, 2023, the Los Angeles County Board of Supervisors approved the  
5 Resolution. *See* Plaintiffs’ Record (hereafter “Rec.”) at 12-33 (Resolution) & 35 at ¶ 1  
6 (County of Los Angeles’ Answer to Petition for Writ of Mandate and Complaint). Among  
7 other things, the Resolution contains the following provision:

8 30-Day Notice to Cure or Quit. Following expiration of the Resolution, if a  
9 Landlord seeks to evict a Residential Tenant described in subsection  
10 VI.A.1.b.,<sup>[1]</sup> above, for rent incurred must first serve on the Residential  
11 Tenant a 30-day notice to cure or quit prior to initiating the unlawful  
12 detainer action. This protection shall not be construed as superseding or  
13 nullifying, in whole or in part, the Residential Tenant’s twelve (12) month  
14 repayment period, described in section VI.C.1., below, nor the Residential  
15 Tenant’s affirmative defense to an unlawful detainer action for such  
16 nonpayment of rent, described in section VI.C.4, below. This protection  
17 shall survive the expiration of the Resolution.

18 (Rec. at 21 [Resolution § VI(A)(1)(c)].)

19 Section VI(A)(1)(c)’s requirement to provide a 30-day notice prior to initiating an  
20 unlawful detainer action is in direct conflict with California Code of Civil Procedure §  
21 1161, which generally provides that a tenant is “guilty of unlawful detainer” when the  
22 tenant continues in possession without the permission of the landlord after default in  
23 the payment of rent and after expiration of a three-day notice demanding payment or  
24 forfeiture of the tenancy served on the tenant.

25 Section 1161(2) has governed unlawful detainer actions since 1872; although  
26 amended on several occasions in the interim, section 1161 has established the same  
27 general procedural requirements for unlawful detainer actions since 1905. *See* Cal.

28 <sup>1</sup> Section VI (A)(1)(b) of the Resolution describes a “Residential Tenant whose household  
income is at 80 percent Area Median Income or below and who is unable to pay rent incurred  
from July 1, 2022, through March 31, 2023 . . . so long as the reason for nonpayment was  
Financial Impacts Related to COVID-19, and the Residential Tenant has provided notice to the  
Landlord to this effect and self-certified their income level and financial hardship within the  
timeframe specified in” the Resolution. (Rec. at 21 [Resolution § VI(A)(1)(b)].)



1 Stats. 1905, ch. 35, § 1. The unlawful detainer statute applies throughout California,  
2 including Los Angeles County. It does not contain any exceptions for municipal control  
3 over its provisions and preempts local controls that mandate that landlords provide  
4 more than three days' notice to pay or quit the premises before filing an unlawful  
5 detainer action to recover possession.

6 **III. PETITIONER HAS ASSOCIATIONAL STANDING TO BRING THIS**  
7 **CLAIM ON BEHALF OF ITS MEMBERS IN LOS ANGELES COUNTY.**

8 Petitioner California Apartment Association is the largest statewide rental  
9 housing trade association in the country, representing more than 50,000 rental  
10 property owners and operators who are responsible for nearly two million rental  
11 housing units throughout California. It has many members in Los Angeles County who  
12 are subject to the Resolution. Rec. at 46 (Declaration of Tom Bannon).

13 “[A]n association has standing to bring suit on behalf of its members when: (a)  
14 its members would otherwise have standing to sue in their own right; (b) the interests  
15 it seeks to protect are germane to the organization’s purpose; and (c) neither the claim  
16 asserted nor the relief requested requires the participation of individual members in  
17 the lawsuit.” *San Francisco Apartment Assn. v. City and County of San Francisco*, 3  
18 Cal. App. 5th 463, 472 (2016) (quoting *Apartment Assn. of Los Angeles County, Inc. v.*  
19 *City of Los Angeles*, 136 Cal. App. 4th 119, 129 (2006) (internal quotation marks  
20 omitted)). Plaintiff herein meets this standard.

21 **IV. STANDARD OF REVIEW.**

22 When a writ of mandate presents only questions of law, the Court may determine  
23 the matter upon a noticed motion. Code. Civ. Proc. § 1094. That is the case here. “The  
24 issue of preemption of a [local] ordinance by state law presents a question of law, subject  
25 to de novo review.” *Apartment Association of Los Angeles County*, 136 Cal. App. 4th at  
26 129-30; *see also Johnson v. City and County of San Francisco*, 137 Cal. App. 4th 7, 12  
27 (2006); *Bullard v. San Francisco Residential Rent Stabilization Bd.*, 106 Cal. App. 4th  
28 488, 489-90 (2003). “Relief by writ of mandate is appropriate to prevent a [local

1 jurisdiction] from enforcing an ordinance that is preempted by” state law. *Johnson*, 137  
2 Cal. App. 4th at 19 (concluding writ relief proper as to ordinance preempted by Ellis  
3 Act); *see also San Francisco Apartment Assn.*, 3 Cal. App. 5th at 463 & 471 (affirming  
4 grant of writ of mandate on grounds that city ordinance was preempted by state law);  
5 *Coyne v. City and County of San Francisco*, 9 Cal. App. 5th 1215 (2017) (same).

6 **V. STATE LAW PREEMPTS SECTION VI(A)(1)(c).**

7 California Constitution article XI, § 7, provides that “[a] county or city may make  
8 and enforce within its limits all local, police, sanitary, and other ordinances and  
9 regulations *not in conflict with general laws.*” (Emphasis added.) If an otherwise valid  
10 local law conflicts with general law, it is preempted and void. *Sherwin-Williams Co. v.*  
11 *City of Los Angeles*, 4 Cal. 4th 893, 897 (1993).

12 A conflict exists if the local legislation duplicates, contradicts, or enters  
13 into an area fully occupied by the general law, either expressly or by  
14 implication. Local legislation is “duplicative” of general law when it is  
15 coextensive therewith. Similarly, local legislation is “contradictory” to  
16 general law when it is inimical thereto. Finally, local legislation enters an  
17 area that is “fully occupied” by general law when the Legislature has  
18 expressly manifested its intent to “fully occupy” the area, or when it has  
19 impliedly done so ...

20 *Id.* at pp. 897-898 (internal citations and quotations omitted).

21 The latter two types of preemption—contradiction and field preemption—are  
22 both implicated here.

23 “A local ordinance *contradicts* state law when it is inimical to or cannot be  
24 reconciled with state law,” whereas “[a] local ordinance *enters a field fully occupied by*  
25 *state law in either of two situations—when the Legislature ‘expressly manifest[s]’ its*  
26 *intent to occupy the legal area or when the Legislature ‘impliedly’ occupies the field.”*  
27 *O’Connell v. City of Stockton*, 41 Cal. 4th 1061, 1068 (2007) (italics in original). With  
28 respect to “field” preemption, “[a]lthough the adoption of local rules supplementary to  
state law is proper under some circumstances, it is well settled that local regulation is  
invalid if it attempts to *impose additional requirements* in a field which is fully occupied

1 by statute.” *Tolman v. Underhill*, 39 Cal. 2d 708, 712 (1952) (emphasis added) (citing  
2 *Eastlick v. City of Los Angeles*, 29 Cal. 2d 661, 666 (1947)); *see also O’Connell*, 41 Cal.  
3 4th at 1068 (“[W]here the Legislature has manifested an intention, expressly or by  
4 implication, wholly to occupy the field ... municipal power [to regulate in that area] is  
5 lost.” (quoting 8 Witkin, Summary of Cal. Law (10th ed. 2005) Constitutional Law, §  
6 986, p. 551)).

7 **A. Section VI(A)(1)(c) Is Contradictory to Section 1161(2).**

8 Section 1161(2) requires only three days’ notice to pay delinquent rent before a  
9 landlord may initiate unlawful detainer proceedings. The short time frame is  
10 intentional, and necessary to effectuate the purpose of the statutory scheme for  
11 unlawful detainer actions:

12 Section 1161 of the Code of Civil Procedure was enacted to obviate the  
13 need for self-help by landlords and thereby to avoid breaches of the peace.  
14 Thus, . . . “Under section 1161 of the Code of Civil Procedure a lessor may  
15 summarily obtain possession of his real property within three days. This  
remedy is a complete answer to any claim that self-help is necessary.”

16 *Kassan v. Stout*, 9 Cal. 3d 39, 44 (1973) (emphasis added, internal citations omitted).

17 Section VI(A)(1)(c) of the Resolution, on the other hand, requires a landlord to  
18 provide a thirty (30) day notice to pay rent or quit prior to commencing an unlawful  
19 detainer action. This is a direct, facial conflict with Section 1161(2).

20 Beyond that, extending the time a landlord must wait to bring an unlawful  
21 detainer action obstructs the very purpose of the remedy, which is to provide “a  
22 summary proceeding designed to provide a *speedy remedy* to determine the right to the  
23 possession of real property.” *Staudigl v. Harper*, 76 Cal. App. 2d 439, 446 (1946)  
24 (emphasis added). As the courts have recognized,

25 “There are unique factual and legal characteristics of the landlord-tenant  
26 relationship that justify special statutory treatment inapplicable to other  
27 litigants. ... [U]nless a judicially supervised mechanism is provided for  
28 what would otherwise be swift repossession by the landlord himself, the  
tenant would be able to deny the landlord the rights of income incident to  
ownership by refusing to pay rent and by preventing sale or rental to

1 someone else. ... Speedy adjudication is desirable to prevent subjecting the  
2 landlord to undeserved economic loss and the tenant to unmerited  
3 harassment and dispossession when his lease or rental agreement gives  
4 him the right to peaceful and undisturbed possession of the property.  
5 Holding over by the tenant beyond the term of his agreement or holding  
6 without payment of rent has proved a virulent source of friction and  
7 dispute,” and a state is “well within its constitutional powers in providing  
8 for rapid and peaceful settlement of these disputes.”

9 *Martin-Bragg v. Moore*, 219 Cal. App. 4th 367, 387-88 (2013) (quoting *Lindsey v.*  
10 *Normet*, 405 U.S. 56, 72-73 (1972)).

11 Section VI(A)(1)(c) *contradicts* state law and is preempted on these grounds.

12 **B. Section VI(A)(1)(c) Enters a Field Fully Occupied by State Law.**

13 Section VI(A)(1)(c) of the Resolution also improperly seeks to regulate in an area  
14 in which the Legislature has entirely occupied the field, and “where the state has fully  
15 occupied the field, there is no room for additional requirements by local legislation.”  
16 *Am. Fin. Servs. Ass’n v. City of Oakland*, 34 Cal. 4th 1239, 1253 (2005) (citations  
17 omitted).

18 The Legislature may occupy the field of a particular area of law either expressly  
19 or by implication. Implied “field” preemption “occurs in three situations: when “(1) the  
20 subject matter has been so fully and completely covered by general law as to clearly  
21 indicate that it has become exclusively a matter of state concern; (2) the subject matter  
22 has been partially covered by general law couched in such terms as to indicate clearly  
23 that a paramount state concern will not tolerate further or additional local action; or  
24 (3) the subject matter has been partially covered by general law, and the subject is of  
25 such a nature that the adverse effect of a local ordinance on the transient citizens of  
26 the state outweighs the possible benefit to the’ locality.” *O’Connell*, 41 Cal. 4th at 1068  
27 (quoting *Sherwin-Williams*, 4 Cal. 4th at 898).

28 Here, the Legislature has provided a comprehensive set of procedures governing  
“Summary Proceedings for Obtaining Possession of Real Property in Certain Cases” in  
Code of Civil Procedure §§ 1159-1179a, which regulate all aspects of the unlawful

1 detainer process. As such, California courts have *already held* that §§ 1159-1179  
2 (including Section 1161(2)) fully occupy the field with respect to unlawful detainer  
3 proceedings:

4       The summary repossession procedure (Code Civ. Proc., §§ 1159- 1179a) is  
5 intended to be a relatively simple and speedy remedy that obviates any  
6 need for self-help by landlords. To require landlords to fulfill the elaborate  
7 prerequisites for the issuance of a certificate of eviction by the rent control  
8 board before they commence the statutory proceeding would nullify the  
9 intended summary nature of the remedy. . . . Thus we conclude that the  
10 present charter amendment’s requirement that landlords obtain  
certificates of eviction before seeking repossession of rent-controlled units  
*cannot stand in the face of state statutes that fully occupy the field of  
landlord’s possessory remedies.*

11 *Birkenfeld v. Berkeley*, 17 Cal. 3d 129, 151-52 (1976) (emphasis added, internal citations  
12 omitted).

13       *Birkenfeld* concerned a City of Berkeley Charter amendment that “prescribe[d]  
14 procedures that a landlord must undergo as a prerequisite to seeking repossession of a  
15 rent-controlled unit,” including obtaining a certificate of eviction from the City’s rent  
16 control board. *Id.* at 150. In reaching the conclusion that these procedural prerequisites  
17 were preempted by state law, the Court noted that “charter provisions purporting to  
18 impose far less burdensome prerequisites upon the exercise of statutory remedies have  
19 been held to be invalid invasions of the field fully occupied by the statute.” *Id.* at 152  
20 (citing *Eastlick*, 29 Cal. 2d at 661 & *Wilson v. Beville*, 47 Cal. 2d 852 (1957)). Therefore,  
21 it is at this point a well-established rule that under existing law, local jurisdictions  
22 “*may not procedurally impair the summary eviction scheme set forth in the unlawful*  
23 *detainer statutes.*” *San Francisco Apartment Assn. v. City and County of San Francisco*,  
24 20 Cal. App. 5th 510, 518 (2018) (emphasis added).<sup>2</sup>

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25  
26       <sup>2</sup> In *Birkenfeld*, the Court distinguished between “*procedures* that a landlord must undergo  
27 as a prerequisite to seeking repossession of a” rental unit on the one hand, and a “*substantive*  
28 ground of defense in unlawful detainer proceedings” on the other, holding that while local  
governments could regulate with respect to the latter, they could not do so with respect to the  
former. 17 Cal. 3d at 149-50 (emphasis added). The amount of notice required to evict for

1 Applying this principle, the Courts have squarely held, in language that is  
2 applicable here, that “where a statute has set the amount of notice required, the  
3 municipality may not impose further requirements of additional notice.” *Mobilepark W.*  
4 *Homeowners Ass’n v. Escondido Mobilepark W.*, 35 Cal. App. 4th 32, 47 (1995) (striking  
5 down notice requirement contrary to state laws governing mobilehome rent control).

6 For example, in *Tri County Apartment Assn. v. City of Mountain View*, 196 Cal.  
7 App. 3d 1283 (1987), the City of Mountain View enacted an ordinance requiring  
8 landlords to provide 60 days’ notice “before increasing a monthly tenant’s rent.” *Id.* at  
9 1289. The ordinance conflicted with Civil Code § 827, which provided for 30 days’ notice  
10 in the same situation. *Id.* at 1297. Section 827 was part of a “statutory scheme which  
11 occupies the field of notice between landlords and tenants.” *Id.* at 1286–1287, 1297–  
12 1298 (listing more than a dozen statutory timelines pertaining to the landlord–tenant  
13 relationship). The *Tri County* court therefore held that the “extensive scheduling  
14 provided by the Legislature reveals that the timing of landlord–tenant transactions is  
15 a matter of statewide concern not amenable to local variations.” *Id.* at 1298. As *Tri*  
16 *County* noted, “[l]andlord-tenant relationships are so much affected by statutory  
17 timetables governing the parties’ respective rights and obligations that a “patterned  
18 approach” by the Legislature appears clear.” *Tri County*, 196 Cal. App. 3d at 1296.  
19 Because the ordinance invaded this fully occupied field, it was preempted, *id.* at 1298,  
20 just as Section VI(A)(1)(c) of the Resolution is preempted.

21 Several years later, in *Channing Properties v. City of Berkeley*, 11 Cal. App. 4th  
22 88 (1992), the Court of Appeal similarly struck down an ordinance requiring six months’  
23 notice before an Ellis Act eviction as preempted. The Ellis Act is a statute that protects  
24 a landlord’s right to exit the rental business, and it had a provision (Govt. Code §  
25 7060.4(a) ¶3) specifying that the landlord “must give notice to the city 60 days prior to

26  
27  
28 nonpayment of rent falls squarely within the realm of a procedural requirement rather than a  
substantive one. Section VI(A)(1)(c) has no substantive function; its sole effect is simply to  
extend the notice to cure period for nonpayment of rent as specifically prescribed by state law.

1 withdrawal of the accommodations.” *Channing Properties*, 11 Cal. App. 4th at 96. The  
2 Court of Appeal concluded that the 60-day notice requirement was part of the  
3 “patterned approach” discussed in *Tri County* and further demonstrated the  
4 Legislature’s intention to fully occupy the field with respect to the timelines governing  
5 the termination of tenancies:

6 [I]t has been determined that “[l]andlord-tenant relationships are so much  
7 affected by statutory timetables governing the parties’ respective rights  
8 and obligations that a ‘patterned approach’ by the Legislature appears  
9 clear” [citation to *Tri County*] and “the extensive scheduling provided by  
10 the Legislature reveals that the timing of landlord-tenant transactions is  
11 a matter of statewide concern not amenable to local variations.” [same]  
12 Without reference to the Act, the notice due a tenant from a landlord  
13 wishing to terminate the tenancy is specified in Civil Code section 1946 as  
14 at least as long as the term of the tenancy, not exceeding 30 days, or at  
15 least 30 days for a month to month tenancy; notice requirements in the  
16 case of an unlawful detainer are prescribed by Code of Civil Procedure  
section 1161. The Act establishes a special circumstance in which local  
governments may impose a longer notice requirement than would  
otherwise be permissible—the 60 days specified in section 7060.4—but  
does not authorize further extended notice requirements. The City’s six-  
month notice requirement is preempted by the Act.

17 *Channing Props.*, 11 Cal. App. 4th at 96-97. *See also Birkenfeld*, 17 Cal. 3d at 150-53  
18 (city could not delay unlawful detainer proceedings by requiring landlords to obtain  
19 certificate from the city first).

20 In the same vein here, Section VI(A)(1)(c) of the Resolution interferes with the  
21 patterned approach adopted by the Legislature. In short, the Resolution improperly  
22 seeks to regulate in an area of law in which the Legislature has properly claimed  
23 exclusive authority for itself.

24 **C. That the Resolution Purports to Tie Its Rule to the COVID-19**  
25 **Pandemic Does Not Change the Result in This Case; to the**  
26 **Contrary, the Legislature Has Further Demonstrated Its Intent to**  
**Occupy the Field Even in That Specific Context.**

27 The fact that the Resolution purports to relate its extended notice period to the  
28 COVID-19 emergency does not change the fact that Section VI(A)(1)(c) of the Resolution

1 is preempted by state law. To the contrary, the Legislature has, in fact, reaffirmed its  
2 intention to fully occupy the field of regulation when it comes to the summary unlawful  
3 detainer process, even during the COVID-19 period.

4 Section 1161 was amended by the Legislature in 2020 as part of a comprehensive  
5 regulatory effort related to the impact of COVID-19 on the landlord tenant relationship.  
6 Specifically, Section 1161(2) was amended to provide that “[a]n unlawful detainer  
7 action under this paragraph shall be subject to the COVID-19 Tenant Relief Act of 2020  
8 (Chapter 5 (commencing with Section 1179.01)) if the default in the payment of rent is  
9 based upon the COVID-19 rental debt.” In turn, the Tenant Relief Act, Code Civ. Proc.  
10 §§ 1179.01-1179.07, provides, in relevant part, for specific extensions of time and other  
11 procedural modifications to the Unlawful Detainer Act that are linked to the impacts  
12 of COVID-19. *Id.* Among those is providing a minimum of 15 days for a tenant to pay a  
13 “COVID- 19 rental debt.” Code Civ. Proc. § 1179.03. Although the COVID-19 Tenant  
14 Relief Act will not sunset until 2025, the procedures allowing for a 15-day notice for the  
15 payment of COVID-19 rental debt were specifically time limited, and they extended  
16 only through 2022. *Id.* At that time, the three-day notice rule once again took effect.

17 It is noteworthy that in the context of this 2020 legislative enactment, the  
18 Legislature explicitly considered the generally applicable statutory scheme for  
19 unlawful detainer actions and specifically declined to abrogate or otherwise alter the  
20 long-standing three-day notice period generally. Rather, it provided a targeted and  
21 temporarily applicable change to the unlawful detainer procedures, which has since  
22 expired. It created no room for local governments to impose different or additional  
23 requirements<sup>3</sup>—in that respect, it was even more restrictive than the provision at issue  
24

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25 <sup>3</sup> At the beginning of the COVID-19 pandemic, Governor Newsom briefly exercised his  
26 emergency powers to waive the preemptive force of the unlawful detainer statutes in some  
27 respects, see [Executive Order N-28-20 ¶ 2 \(Mar. 16, 2020\)](#), but that waiver expired with respect  
28 to residential tenancies on September 30, 2020, see [Executive Orders N-71-20 ¶ 3 \(June 30, 2020\)](#) (extending the waiver to September 30) & [N-80-20 ¶ 2 \(Sept. 23, 2020\)](#) (further extending the waiver, but only as to commercial evictions), and with respect to commercial tenancies on



1 in *Channing*, which at least authorized *some* local action. Section VI(A)(1)(c) is  
2 therefore in direct conflict not only with the plain language of Section 1161(2), but also  
3 with the Legislature’s recent determination that the established requirement to  
4 provide three days’ notice prior to filing an unlawful detainer action should be  
5 suspended only briefly, under specific and narrow circumstances, which have now  
6 ended. Section VI(A)(1)(c)’s extension of the statutory notice period is preempted and  
7 therefore illegal and invalid.

8 **VI. CONCLUSION.**

9 The California Legislature has determined that residential tenants are only  
10 entitled to be given three days’ notice to pay rent in default or quit before their landlords  
11 may invoke unlawful detainer proceedings. The Resolution impermissibly purports to  
12 extend that notice period to 30 days. Los Angeles County has no authority to lengthen  
13 this notice period or to require that any other notices be served prior to invoking Section  
14 1161(2) and otherwise initiating the unlawful detainer process. Its effort to do so is  
15 squarely preempted by state law.

16 For that reason, Petitioner is entitled to a writ of mandate declaring Section  
17 VI(A)(1)(c) void and unenforceable.

18 Respectfully submitted,

19 Dated: October 6, 2023

20 NIELSEN MERKSAMER  
21 PARRINELLO GROSS & LEONI LLP

22 By: 

23 Christopher E. Skinnell

24 *Attorneys for Plaintiffs and Petitioners*

25  
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27  
28 \_\_\_\_\_  
September 30, 2021, *see* [Executive Order N-08-21 ¶ 61 \(June 11, 2021\)](#). The full preemptive  
force of state law was thereby restored.

1 **PROOF OF SERVICE**

2 I am employed in the County of Marin, State of California. I am over the age of  
3 18 and not a party to the within cause of action. My business address is, 2350 Kerner  
4 Boulevard, Suite 250, San Rafael, California 94901.

5 On October 6, 2023, I caused the document entitled “**PLAINTIFFS’ NOTICE**  
6 **OF MOTION AND MOTION FOR JUDGMENT ON THE WRIT;**  
7 **MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT THEREOF,**” filed  
8 herewith, to be served on the following individuals:

<p>9 Andrew Baum (S.B. No. 190397) 10 Jesse B. Levin (S.B. No. 268047) 11 Alexander J. Suarez (S.B. No. 289044) 12 GLASER WEIL FINK HOWARD 13 JORDAN &amp; SHAPIRO LLP 14 10250 Constellation Boulevard, 19th Fl. 15 Los Angeles, California 90067 16 Telephone: (310) 553-3000 17 Facsimile: (310) 556-2920 18 Email: <a href="mailto:abaum@glaserweil.com">abaum@glaserweil.com</a> 19 Email: <a href="mailto:jlevin@glaserweil.com">jlevin@glaserweil.com</a> 20 Email: <a href="mailto:asuarez@glaserweil.com">asuarez@glaserweil.com</a> 21 <i>Attorneys for Respondent</i></p>	
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22 by submitting an electronic version of the document(s) to One Legal, LLC, through the  
23 user interface at [www.onelegal.com](http://www.onelegal.com).

24 I declare under penalty of perjury, under the laws of the State of California, that  
25 the foregoing is true and correct.

26 Executed in San Rafael, California, on October 6, 2023.

27 

28 Christopher E. Skinnell