

No. 14-15139

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CITY OF SAN JOSÉ; CITY OF SAN JOSÉ AS SUCCESSOR AGENCY TO
THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSÉ; and
THE SAN DIRIDON DEVELOPMENT AUTHORITY,**

Plaintiffs and Appellants,

v.

**OFFICE OF THE COMMISSIONER OF BASEBALL, an unincorporated
association dba Major League Baseball; and ALLAN HUBER “BUD” SELIG,**

Defendants and Appellees.

On Appeal from the United States District Court
Northern District of California

Case No. 13-CV-02787-RMW, Honorable Ronald M. Whyte, Judge

**REPLY IN SUPPORT OF MOTION TO TAKE JUDICIAL
NOTICE**

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I. REPLY IN SUPPORT OF MOTION TO TAKE JUDICIAL NOTICE

MLB seeks judicial notice of facts that can be accurately and readily determined from sources whose accuracy cannot be questioned. *See, generally*, Dkt. 23-1 (Motion to Take Judicial Notice or “MTJN”). San José **does not dispute** the facts that MLB seeks to judicially notice. Instead, San José opposes MLB’s motion with a grab-bag of misplaced objections. As explained below, MLB identifies with particularity the facts subject to judicial notice—the trial date and legal grounds for the petitioner’s claims in the *Stand for San José* litigation, and the district court’s decision in *Hale* (as documented in the transcript of the court’s oral opinion). These facts are directly relevant to two core issues on appeal—San José’s antitrust standing and the scope of MLB’s antitrust exemption. And contrary to San José’s assertions, MLB does not seek to use any of these facts for improper purposes. Judicial notice of the facts is therefore appropriate.¹

¹ San José’s Reply Brief also asks the Court to strike portions of MLB’s Answering Brief that reference certain other facts. Dkt. 27 n.1. Primarily, San José objects to MLB’s reference to (1) documents that were attached to San José’s initial complaint (*e.g.* I ER 253), or (2) documents that were judicially noticed by the District Court (*e.g.* I ER 173 n.21). Of course, documents that San José attached to its complaint are **not** outside the complaint for purposes of a Motion to Dismiss. *Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1555 n.19 (9th Cir. 1989). And documents noticed by the District Court below are properly part of the record. I ER (D. Ct. Opinion) at 13–14. San José has forfeited any objection to those documents by failing to appeal the District Court’s decision to take judicial notice. Additionally, San José objects to MLB’s reference to the fact that MLB has denied the Athletics’ relocation request. This fact was properly

II. DISCUSSION

A. MLB's motion for judicial notice states with particularity the facts at issue.

Contrary to San José's assertion, MLB states with particularity the facts for which it seeks judicial notice. MLB requests that the Court take judicial notice of the following specific facts:

- The August 8, 2014 trial date in the consolidated *Stand for San José* matters. Dkt 23-1 (MTJN), Ex. 1 at 1:9–10.
- The four grounds raised in the *Stand for San José* action for invalidating San José's Option Agreement with the Oakland Athletics. Dkt 23-1 (MTJN), Ex. 2 at ¶ 1.
- The *Hale* court's holding that "radio broadcasting and telecasting of baseball games" are within the scope of the "ordinary business of baseball" for purposes of MLB's exemption from antitrust laws. Dkt 23-1 (MTJN), Ex. 3 at 2–4.

Dkt 23-1 (MTJN) at 1–2. San José falsely asserts that MLB's motion violates Federal Rule of Appellate Procedure 27(a)(2)(A), but ignores the numerous places

put before the District Court in a Supplemental Joint Case Management Statement (II ER 6:12–14), and San José has included this fact in a recently filed state-court complaint. *See* Ex. A (Los Angeles Sup. Ct. Complaint) at ¶ 11.

in MLB’s motion where the facts at issue are specifically identified. *See* Dkt. 23-1 (MTJN) at 1–2, 3–4. San José’s procedural objections therefore lack merit.²

B. The facts at issue may be accurately and readily determined from sources whose accuracy cannot be questioned.

The parties agree that a fact is properly subject to judicial notice if it “can be accurately and readily determined from sources whose accuracy cannot be questioned.” Fed. R. Evid. 201(b)(2). Notably, San José **does not dispute** the facts at issue, or the accuracy of the sources from which they are drawn. San José tacitly acknowledges that the consolidated *Stand for San José* trial is scheduled to begin on August 8, that the petitioner in those actions is advancing the four listed grounds for invalidating the Option Agreement, and that the *Hale* transcript states that court’s ruling regarding the scope of the antitrust exemption. Dkt. 26 (Opp. to MTJN) at 4–9.

Because San José cannot dispute these facts or the accuracy of their sources, it claims that MLB is requesting that the Court use them in impermissible ways. Dkt. 26 (Opp. to MTJN) at 5, 8–9. Not so. With regard to the *Stand for San José* scheduling order and Amended Complaint, MLB’s motion asks only that the Court

² San José argues that the Court should not take judicial notice due to an Advisory Committee note suggesting that parties seek each other’s positions before filing a Motion to Take Judicial Notice. Dkt. 26 (Opp. to MTJN) at 3. But San José cannot claim any prejudice—its position has been fully presented to this Court. And San José provides no authority for relying on this Advisory Committee note to deny a meritorious motion.

take notice of their content, not any “interpretation” of their content. *Id.* at 5. For the *Hale* transcript, MLB seeks judicial notice of only what the court held—not any argumentative analysis of its reasoning or determination regarding underlying facts. Courts routinely take notice of such decisions, as recognized by Federal Rule of Appellate Procedure 32.1(b), which instructs parties to submit copies of opinions, orders, judgments or dispositions unavailable on electronic databases.³

C. Judicial notice of the facts at issue is otherwise proper.

1. The *Stand for San José* claims and trial date have a direct relation to this action.

San José argues that “resolution of the validity of the Option Agreement” is “clearly irrelevant” to this appeal (Dkt. 26 (Opp. to MTJN) at 5), but concedes in its Reply Brief that the Option Agreement is the basis for its purported standing to bring antitrust claims: “San José has standing because it has suffered (and continues to suffer) antitrust injury. As the Complaint specifically alleges: But for MLB’s antitrust violations, the A’s would have **exercised the option** and entered into a Purchase and Sale Agreement with the City of San José.” Dkt. 27 (SJ Reply Br.) at 3 (emphasis added). In fact, San José based its Motion to Expedite this appeal entirely on the fact that San José’s claims may be mooted when the Option

³ Under Federal Rule of Appellate Procedure 32.1(b), the Court may not need to take judicial notice of the *Hale* transcript to rely on it. MLB sought judicial notice of the transcript out of an abundance of caution because a “transcript” is not one of the specific categories of judicial documents discussed by the Rule.

Agreement expires in November 2014. Dkt. 2-1 (SJ Mot. to Expedite) at 8–9; Dkt. 15-1 (SJ Reply iso Mot. to Expedite) at 2 (“The expiration of the Option Agreement provides good cause to expedite this appeal”). Because San José’s antitrust standing is a dispositive issue in this case, related proceedings that could destroy San José’s purported standing are relevant. The *Stand for San José* trial date and grounds for invalidating the Option Agreement thus are facts with a “direct relation to matters at issue here.”⁴ *United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992).⁵

2. The *Hale* transcript is a relevant judicial decision, not “external evidence.”

San José’s arguments against judicial notice of the *Hale* transcript fundamentally misconstrue the nature of MLB’s request. The *Hale* transcript is not “external” or “substantive” evidence. *See* Dkt. 26 (Opp. to MTJN) at 7–8. Nor does MLB request that the Court admit factual findings in *Hale* for their truth in this action. *Id.* at 8. Rather, the transcript is a record of a district court decision

⁴ MLB could not have presented these facts to the District Court because the *Stand for San José* trial date was not set and the complaint not yet amended when MLB filed its motion to dismiss and related papers.

⁵ San José’s attempt to distinguish *Robinson Rancheria* fails. Dkt. 26 (Opp. to MTJN) at 6. The Ninth Circuit does not require complete identity of the parties or claims at issue before a court may take judicial notice of other proceedings. *Robinson Rancheria*, 971 F.2d at 248. The *Stand for San José* action, like the other action in *Robinson Rancheria*, is “directly related” to this case because it “may in fact be dispositive.” *Id.*

regarding a legal issue at the core of San José’s appeal—the scope of MLB’s antitrust exemption. *See, e.g.*, Dkt. 22 (MLB Answering Br.) at 39–57. MLB requests that the Court take judicial notice of the *Hale* court’s holding, in the same way the Court would recognize any other legal decision not available in electronic databases or other easily accessible sources. San José raises no objections to judicial notice of the transcript for this limited purpose.

III. CONCLUSION

For these reasons, the Court should grant this motion to take judicial notice.

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DATED: April 28, 2014

/s John W. Kecker

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CERTIFICATE OF SERVICE

I hereby certify that on April 28, 2014, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ John W. Kecker

John W. Kecker

Exhibit A

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**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES**

**CITY OF SAN JOSÉ; CITY OF SAN
JOSÉ AS SUCCESSOR AGENCY TO
THE REDEVELOPMENT AGENCY OF
THE CITY OF SAN JOSÉ; and THE SAN
JOSÉ DIRIDON DEVELOPMENT
AUTHORITY,**

Plaintiffs,

v.

**OFFICE OF THE COMMISSIONER OF
BASEBALL, an unincorporated association
doing business as Major League Baseball;
ALLAN HUBER "BUD" SELIG, and
DOES 1 through 50,**

Defendants.

Case No. BC588932

COMPLAINT:

1. **TORTIOUS INTERFERENCE
WITH PROSPECTIVE
ECONOMIC ADVANTAGE;**

AND

2. **TORTIOUS INTERFERENCE
WITH CONTRACTUAL
ADVANTAGE**

JURY TRIAL DEMAND

BY FAX

FILED
Superior Court of California
County of Los Angeles

MAR 10 2014

Sherri R. Carter, Executive Officer/Clerk
By Myrna Beltran Deputy
Myrna Beltran

D-73-RAFAEL ONGKEKO

CHECK: \$435.00
CASH: \$0.00
CHARGE: \$0.00
CASH: \$0.00

RECEIPT #: CR266197096
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COMPLAINT

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FIRST CAUSE OF ACTION

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1 Plaintiffs City of San José, City of San José as successor agency to the Redevelopment
 2 Agency of the City of San José, and the San José Diridon Development Authority (collectively
 3 “Plaintiffs”) allege as follows:

4 **I. INTRODUCTION**

5 1. This action arises from the concerted efforts by Major League Baseball to prevent
 6 the Athletics Baseball Club from moving from Oakland to San José. For over two years, Major
 7 League Baseball has interfered with the exercise of an Option Agreement between Plaintiffs
 8 and the Athletics Baseball Club by refusing to permit the Athletics to move to San José.

9 2. Baseball occupies a coveted place in American culture. It is a uniquely American
 10 sport, originating before the American Civil War as a humble game played on sandlots. In
 11 1871, the first professional baseball league was born. Eventually the teams were divided into
 12 two leagues, the National and American – these are the two leagues that persist today.

13 3. Today there are 30 separate Major League Baseball Clubs in the United States
 14 and Canada, all of which compete against each other on the baseball field in regularly
 15 scheduled games. Baseball is big business in the United States with combined 2013 annual
 16 revenues of over **\$8 billion**.

17 4. However there is a dark side to this storied institution – Major League Baseball
 18 prohibits franchise movements “except in the most dire circumstances where the local
 19 community has, over a sustained period, demonstrated that it cannot or will not support a
 20 franchise.” According to the Major League Baseball Constitution, three quarters of the teams
 21 in a league must vote in favor of proposed team relocation or the relocation will be prohibited,
 22 thus denying other cities or counties from competition for teams. The MLB Clubs, like other
 23 sports leagues, have structured their governance to permit major decisions regarding on-field
 24 sporting competition and off-field business competition to be made by the club owners
 25 themselves.

26 5. At issue in this case is MLB’s interference with the move by the Athletics
 27 Baseball Club from Oakland to San José, California. San José has entered into an option
 28 agreement with the Athletics Investment Group, LLC, the California limited partnership that

owns and operates the Oakland A's. By refusing to allow the Oakland A's to locate to the City of San José, Defendants are interfering with this contract.

6. Plaintiffs have suffered and continue to suffer damages in the millions of dollars due to Defendants' unreasonable interference with Plaintiffs' Option Agreement with the Athletics Baseball Club.¹

7. Major League Baseball is interfering with Plaintiffs' Option Agreement with the Athletics Baseball Club through preventing the Athletics Baseball Club from exercising the Option Agreement with the City of San José.

8. Major League Baseball is made up of competitive member teams who provide major league professional baseball games in North America. Article VIII of the MLB Constitution requires the vote of three-fourths of the Clubs to approve the relocation of a competitive team within that Club's "operating territory."

9. In 1990, when the San Francisco Giants were considering selling the team and moving to Florida, Bob Lurie, the then-owner of the Giants, expressed interest in moving to San José. To accommodate the Giants, Walter Haas, the Athletics then-owner, gave his consent for the Giants to relocate to San José for no consideration paid to the Athletics. As a result, the MLB Constitution was amended to provide that the Giants hold territorial rights to the County of Santa Clara, which includes the **City of San José**. The Giants twice were unsuccessful in their attempt to obtain a publicly-funded stadium in the South Bay Area and, although the Giants did not move, the Giants continued to claim the territorial rights to the County of Santa Clara.

10. The City of San José has one of the fastest growing populations in the Bay Area and is home to dozens of large technology companies. It is also easy to understand why the Athletics wish to move to the City of San José. Unlike San Francisco County, Santa Clara County is immediately contiguous to Alameda County. Moreover the Athletics are an

¹Plaintiffs are not seeking damages from the Athletics Baseball Club. It is the Defendants, including MLB, who have acted to prevent the Athletics Baseball Club from relocating to San José. Further, the Athletics Baseball Club cannot interfere with the Option Agreement to which it is a party.

1 economically disadvantaged team in an aging stadium in Alameda County which the Athletics
2 must share with the Oakland Raiders (the only such arrangement in baseball), and are heavily
3 dependent on revenue sharing from their more well-heeled colleagues.

4 11. Defendants assert that in a letter dated June 17, 2013 from Commission Selig to
5 Lewis Wolff (managing partner of the Athletics), Defendants denied the relocation request of
6 the Athletics. However, this purported denial was done secretly and Defendants refuse to
7 release the contents of the June 17, 2013 letter to Plaintiffs or the public.

8 12. This purported denial of the Athletics' relocation request did not inhibit the
9 Athletics from extending the Option Agreement. On September 26, 2013, the Athletics
10 Investment Group LLC elected to extend the Option Agreement's exercise period through
11 November 8, 2014 by paying the extension fee of \$25,000.

12 13. Through MLB's exercise of the exclusionary provisions in the MLB
13 Constitution, members of MLB interfered with Plaintiffs' Option Agreement with the Athletics
14 Baseball Club in violation of the laws of the State of California by refusing to allow the
15 Athletics Baseball Club to relocate to the City of San José.

16 **II. PARTIES**

17 **A. PLAINTIFFS**

18 14. Plaintiff **CITY OF SAN JOSÉ** is, and at all times mentioned herein was, a
19 California municipal corporation, organized as a Charter City under the California Constitution
20 and the laws of the State of California. Plaintiff City of San José is located in the County of
21 Santa Clara. Plaintiff City of San José has the capacity to sue pursuant to, *inter alia*, California
22 Government Code section 945 and brings this action individually and on behalf of the People
23 of the City of San José.

24 15. Although the Redevelopment Agency of the City of San José (the "Agency") has
25 been dissolved, Plaintiff City of San José is suing in its capacity as the **Successor Agency to**
26 **the Redevelopment Agency of the City of San José**. Plaintiff City of San José has the
27 capacity to sue pursuant to, *inter alia*, California Government Code section 945, and brings this
28 action individually and on behalf of the People of the City of San José.

16. Plaintiff **SAN JOSÉ DIRIDON DEVELOPMENT AUTHORITY** is a joint powers association comprised of the City of San José and the former Redevelopment Agency. The San José Diridon Development Authority was formed on March 8, 2011, when the City of San José and the then-Redevelopment Agency of the City of San José formed a joint powers authority under the Joint Exercise of Powers Act to facilitate the development and redevelopment of the Diridon Area, which is the area within the City of San José bounded on the North by the northerly line of the Julian Street right of way, bounded on the East by Los Gatos Creek, bounded on the South by the southerly line of the Park Avenue right of way, and bounded on the West by the westerly line of the railroad right of way adjacent to the Diridon Station.

B. DEFENDANTS

17. Defendant **THE OFFICE OF THE COMMISSIONER OF BASEBALL d/b/a MAJOR LEAGUE BASEBALL** ("MLB") is an unincorporated association whose members are the thirty Major League Baseball Clubs. MLB is the most significant provider of major league professional baseball games in the world. MLB, on behalf of its members, has responsibility for administrative and operational matters relating to Major League Baseball. MLB headquarters are located at 245 Park Avenue, New York, New York.

18. Defendant **ALLAN HUBER "BUD" SELIG** ("Selig") is the Commissioner of Major League Baseball, having served in that capacity since 1992, first as acting commissioner, and as the official commissioner since 1998. Upon information and belief, Commissioner Selig is a resident of Milwaukee, Wisconsin.

19. Defendant **THE OFFICE OF THE COMMISSIONER OF BASEBALL** ("OCB") is an office created pursuant to the Major League Agreement entered into by the National and American Leagues and the member Clubs of Major League Baseball then in existence. Upon information and belief, the OCB has the power to act for and bind MLB in business matters centralized in the League.

20. Through the MLB Constitution and the rules adopted and promulgated by MLB and its Commissioner, Defendant Bud Selig, MLB and the Clubs have adopted agreements

1 governing all aspects of major league professional baseball. The MLB Constitution was
2 adopted by votes of the Clubs and may be amended by votes of the Clubs in accordance with
3 its terms.

4 21. Each Club that is a member of MLB is a separate and independent business with
5 a separate and independent owner, exercising significant autonomy in its business operations.
6 While the Clubs cooperate to schedule and produce major league men's professional baseball
7 games and facilitate competition on the field, the Clubs compete off the field in the sale of
8 tickets, sponsorships, merchandise, and concessions. The Clubs also compete in the
9 developing, licensing, and marketing of their respective trademarks for various purposes. The
10 Clubs set their own prices for the sale of tickets for attending games at their stadiums.

11 22. Defendants Does 1-50 are fictitious names for individuals or entities that may be
12 responsible for the wrongful conduct and labor practices that caused harm to Plaintiffs and each
13 of them. The true names and capacities of Defendants Does 1-50 are unknown to Plaintiffs, but
14 Plaintiffs will amend this Complaint when and if the true names of said Defendants become
15 known to them.

16 23. At all times herein mentioned, each of the Defendants was the agent, servant,
17 employee, partner, aider and abettor, co-conspirator, and/or joint venturer of each of the
18 remaining Defendants named herein and were at all times operating and acting within the
19 purpose and scope of said agency, service, employment, partnership, conspiracy, alter ego,
20 and/or joint venture. Each Defendant has rendered substantial assistance and encouragement to
21 the other Defendants, knowing that their conduct was wrongful and/or unlawful, and each
22 Defendant has ratified and approved the acts of each of the remaining Defendants.

23 24. Each Defendant participated, as a member of the conspiracy, and acted with or in
24 furtherance of said conspiracy, or aided or assisted in carrying out the purposes of the
25 conspiracy, and have performed acts and made statements in furtherance of the conspiracy and
26 other violations of California law. Each Defendant acted both individually and in alignment
27 with other Defendants with full knowledge of their respective wrongful conduct. As such,
28 Defendants conspired together, and with other unnamed co-conspirators, building upon each

1 other's wrongdoing, in order to accomplish the acts outlined in this Complaint. Defendants are
2 individually sued as principals, participants, and aiders and abettors in the wrongful conduct
3 complained of, the liability of each arises from the fact that each has engaged in all or part of
4 the improper acts, plans, schemes, conspiracies, or transactions complained of herein.

5 **III. JURISDICTION AND VENUE**

6 **A. JURISDICTION**

7 25. This Court has jurisdiction over this action pursuant to California Code of Civil
8 Procedure Section 71 by virtue of the fact that the complained-of acts and practices giving rise
9 to this action took place, in whole or in part, in the State of California. Moreover, Defendants
10 have done and continues to do significant business in California so as to render the exercise of
11 jurisdiction over each of them by the California courts consistent with traditional notions of fair
12 play and substantial justice. The amount in controversy exceeds the minimum jurisdictional
13 amount of unlimited civil cases.

14 **B. VENUE**

15 26. Venue is proper in this County because MLB is an unincorporated association
16 and two of its members (the Los Angeles Dodgers and the Los Angeles Angels of Anaheim)
17 reside in Los Angeles County.

18 **IV. FACTUAL BACKGROUND**

19 **A. RELEVANT HISTORY OF THE ATHLETICS**

20 27. The Athletics are a Major League Baseball Club based in Oakland, CA. The
21 Athletics are popularly known as the "A's" and are a member of the Western Division of
22 MLB's American League.

23 28. One of the American League's eight charter franchises, the Athletics Club was
24 founded in Philadelphia, PA, in 1901 as the Philadelphia Athletics. The Athletics Club had
25 notable success in Philadelphia, winning three of four World Series from 1910 to 1913 and two
26 in a row in 1929 and 1930. However, after declining success, the team left Philadelphia for
27 Kansas City, MO in 1955 and became the Kansas City Athletics.
28

1 29. The Athletics moved to Oakland in 1968. In the early 1970's, the team enjoyed
2 tremendous success, winning three World Championships in a row from 1972 to 1974. In
3 1980, Walter Haas purchased the Athletics and spearheaded a decade of success, both in the
4 win column and in stadium attendance. The Athletics won the American League Pennant in
5 1988, 1989, and 1990 and won the World Series in 1989. More recently, the Athletics have
6 often been playoff contenders (most recently in 2013) but have not returned to the World Series
7 since 1990.

8 30. The Oakland Athletics are one of the most economically disadvantaged teams in
9 major league professional baseball. The Oakland Athletics are heavily dependent on revenue
10 sharing from more well-heeled colleagues. Because of the economic structure of baseball,
11 which does not split team revenues as evenly as other sports, there is wide disparity between
12 rich and poor teams and the Athletics are a poor team in terms of revenues.

13 31. The Oakland Athletics are housed in an old stadium, named O.co Coliseum, but
14 also known as Oakland-Alameda County Coliseum, and commonly known as Oakland
15 Coliseum or The Coliseum (the "Oakland Coliseum"). The Oakland Coliseum is the only
16 remaining multi-purpose stadium in the United States which serves as a full-time home to both
17 a Major League Baseball Club (the A's) and a National Football League team (the Raiders),
18 where the two teams play games on the same field.

19 32. Since the 1990's, attendance at A's games has plummeted. Average attendance at
20 A's home games is in the lower third of the MLB Clubs. Comparing attendance to the Giants,
21 the A's average about half the number of fans in attendance. The following chart shows the
22 numbers:
23
24
25
26
27
28

03/10/2014

2013 Attendance			
San Francisco	3,326,796	41,584 average	Ranks 3/30
80 Home Games			
Oakland	1,809,302	22,337 average	Ranks 23/30
81 Home Games			
2012 Attendance			
San Francisco	3,337,371	41,695 average	4/30
Oakland	1,679,013	20,728 average	27/30

33. The Oakland Coliseum is also the only major league park that hosts another team in another sport and is the fifth-oldest ballpark in the majors. According to the 2010 census, the Giants' territory includes 4.2 million people; the A's territory 2.6 million.

34. Spokespeople for the Athletics have repeatedly stated the Athletics have exhausted their options in Oakland after years of trying to increase attendance.

B. RELEVANT HISTORY OF THE CROSS BAY RIVAL – THE GIANTS

35. The San Francisco Giants are a Major League Baseball Club based in San Francisco, California, playing in the National League West Division. The Gothams, as the Giants were originally known, entered the National League in 1883. Later the Club was known as the New York Giants. The team was renamed the San Francisco Giants when the team moved to San Francisco in 1958.

36. Since arriving in San Francisco, the Giants have won five National League Pennants, the 2010 World Series, and the 2012 World Series.

37. The Giants have won the most games of any team in the history of American baseball. They have won twenty-two National League pennants and appeared in nineteen World Series competitions – both records in the National League. The Giants have won seven World Series Championships, ranking second in the National League (the St. Louis Cardinals have won eleven).

38. The current home of the Giants is AT&T Park, located at the edge of downtown San Francisco and the San Francisco Bay. AT&T Park is widely-acclaimed as one of the best ballparks in the league with its state-of-the-art design and breathtaking views.

39. However, before moving to AT&T Park in 2000, the Giants played their home games in Candlestick Park (from 1960 – 2000).

C. THE TERRITORIAL DISPUTE BETWEEN THE A's AND GIANTS

40. The instant territorial dispute between the A's and Giants traces its roots to the 1980s – and arises out of an effort by the A's to help its fellow Bay Area team in a time of need.

41. In the late 1980's, the Giants were hoping to build a stadium in the South Bay Area and requested that MLB approve expansion of their territory into Santa Clara and Monterey Counties. In 1981, Giants then-owner Bob Lurie declared Candlestick Park “unfit for baseball,” and began a failed campaign for a new ballpark in San Francisco.

42. In 1987 and 1989, respectively, the Giants sponsored ballot measures to build a new ballpark in San Francisco. The San Francisco voters rejected both measures. After considering new stadium sites on the Peninsula and in the South Bay, the Giants sponsored a ballot measure to build a new stadium in Santa Clara. The Santa Clara voters summarily rejected that measure.

43. In 1990, in what was viewed as a final effort to keep the Giants in the Bay Area, Giants owner Bob Lurie pursued a new stadium in San José. However, the Giants faced territorial restrictions under MLB's Constitution, which expressly limited the Giants to San Francisco and San Mateo Counties. Faced with this definitive hurdle, Mr. Lurie reached out to then-A's owner Walter Haas. Over a handshake and without consideration, Mr. Haas consented to the Giants' relocation to San José. Mr. Haas never granted the Giants an exclusive right to Santa Clara County, only his consent to pursue relocation of the Club to Santa Clara County in 1990. On June 14, 1990, MLB unanimously approved this expansion of the Giants' territory.

44. Commenting on this gentlemen's agreement, Commissioner Selig said, "Walter Haas, the wonderful owner of the Oakland club, who did things in the best interest of baseball, granted permission . . . What got lost there is they didn't feel it was permission in perpetuity." Indeed, the MLB recorded minutes reflect that the San Francisco Giants were granted the Santa Clara County operating territory subject to their relocating to Santa Clara. See March 7, 2012 Oakland Athletics media release. Ultimately, like the voters in San Francisco and Santa Clara before them, the San José voters summarily rejected the Giants' ballot measure to relocate the team to San José.

45. San José voters rejected the proposal of the Giants for a taxpayer-funded stadium both in 1990 and again in 1992. After rejection by the voters in San José, the Giants abandoned any interest in relocating to San José, and set their sights on selling the Club and moving to Tampa Bay, Florida. In 1992, after reaching a deal to relocate to Tampa Bay, by a 9 – 4 vote, Major League Baseball rejected the deal to move to Florida and the Giants remained in San Francisco.

46. The Giants were unable to successfully obtain a vote to move into the County of Santa Clara. However, the return of the County of Santa Clara to its original "operating territory" status was not formally accomplished. See March 7, 2012 Oakland Athletics media release.

47. Unable to acquire public financing in the South Bay, the Giants eventually obtained private financing for the 2000 construction of AT&T Park in San Francisco's China Basin. Notably, this new stadium was closer to the A's home stadium than Candlestick Park.

48. As early as 2004, Baseball San José, a community organization promoting relocation of the Athletics to San José, lobbied the City of San José to authorize a new stadium in San José to lure the Athletics. However, the Athletics chose to pursue a new stadium deal in Fremont.

49. In October 2004, San José and the San José Redevelopment Agency ("RDA") began studying the potential for developing a ballpark in the Diridon Station area. That process culminated in February 2007, with the certification of an Environmental Impact Report ("EIR")

1 for a ballpark project consisting of a 1.5 million square-foot MLB stadium and a parking
2 structure with ground floor commercial uses on approximately 23.1 acres in San José. The
3 ballpark proposed in 2007 had a maximum seating capacity of 45,000. In early 2009, San José
4 began exploring the development of a modified project and proposed an Athletics ballpark to
5 be built on 13.36 acres near the Diridon train station, bounded by Park Avenue and San
6 Fernando and Autumn streets. The current ballpark concept reduces the size of the stadium
7 from 45,000 to 32,000 seats. The following is an illustration of the proposed ballpark:



24 50. Sports venues have become a catalyst for urban transformation or revitalization.
25 New sports facilities attract businesses to the neighborhoods surrounding the sports facility,
26 which creates additional jobs, consumer spending, and tax revenue. New sports facilities also
27 create an incentive for new hotels, restaurants, and businesses to move to a city, which serves
28

1 to revitalize a city by creating more economic activity, even out of season. The downtown
 2 areas then generate higher hotel occupancy, restaurant patronage, retail jobs, and city revenues
 3 as the fans can walk from the stadium to restaurants and bars to celebrate. The districts
 4 themselves then become as much of an attraction as the events and facilities in the cities.

5 51. A 2009 Economic Impact Analysis prepared by Conventions Sports and Leisure
 6 International ("CSL") for the RDA **detailed the economic benefits of the proposed Athletics**
 7 **stadium in San José** ("CSL Study"). The CSL Study provided independent and conservative
 8 estimates of the quantifiable impacts that would be generated by an Athletics stadium in San
 9 José. A copy of the CSL Study is attached as Exhibit 1. Findings and estimates of the CSL
 10 Study include the following:
 11

- 12 ■ \$96.0 million in net new direct spending in San José during a three year construction
 13 period; \$558,000 in sales tax revenues to the City over the three year construction
 14 period;
- 15 ■ 980 jobs supported annually due to ballpark development;
- 16 ■ \$82.9 million in net new annual direct spending in San José following construction,
 17 with a 30-year present value of \$1.8 billion;
- 18 ■ \$130 million ballpark-produced annual net new output in the City;
- 19 ■ Over a 30-year period, the estimated net present value of the total new economic
 20 output generated by spending related to the ballpark is \$2.9 billion;
- 21 ■ \$1.5 million per year in net new tax revenues would be generated for San José's
General Fund, and more than \$3.5 million per year for other local agencies,
 22 including:
 - 23 ○ \$706,000 a year for Redevelopment Agency Housing;
 - 24 ○ \$912,000 for Redevelopment Agency Non-Housing;
 - 25 ○ \$109,000 for San José General Obligation bonds; and,
 - 26 ○ \$495,000 for the San José Unified School District;
- 27 ■ The net present value of the City tax revenues generated by the ballpark over a 30-
 28 year and 50-year period is estimated to be approximately \$31.2 million and \$42.0
 million, respectively;
- Local hotels, restaurants, stores, and night spots would benefit, with the average
 ballpark attendee anticipated to spend \$47 at businesses outside of the stadium; and,

- San José would benefit substantially more from development of the MLB baseball park than by using the same land for an alternative development.

52. On March 7, 2012, the **Oakland Athletics** issued a statement “regarding A’s and Giants sharing Bay Area territory.” The Oakland Athletics statement contained the following points:

- a. Of the four two-team markets in MLB, only the Giants and Athletics do not share the exact same geographic boundaries;
- b. MLB-recorded minutes clearly indicate that the Giants were granted Santa Clara County subject to relocating to the City of Santa Clara;
- c. The granting of Santa Clara County to the Giants was by agreement with the Athletics late owner Walter Haas, who approved the request without compensation to the Athletics;
- d. The Giants were unable to obtain a vote to move to Santa Clara County but the return of Santa Clara County to its original status in the MLB Constitution was not fully accomplished; and,
- e. The Athletics “are not seeking a move that seeks to alter or in any manner disturb MLB territorial rights.” Instead, the Athletics “seek an approval to create a new venue that our organization and MLB fully recognize is needed to eliminate [] dependence on revenue sharing.”

53. On May 12, 2009, the San José City Council and the Redevelopment Agency of the City of San José established negotiating principles for the development of a stadium in the downtown area of the City of San José for a Major League Baseball team, which were subsequently amended by the City Council on August 3, 2010.

54. In 2010, after the Athletics’ Fremont deal collapsed, the City of San José again explored a stadium deal with the Athletics. The San José City Council reviewed and unanimously approved an **environmental impact study** (“EIS”). Upon approval of the EIS, San José Mayor Chuck Reed called for a public vote on whether the Athletics could purchase

land and build a new stadium for the Athletics in San José. However, at Commissioner Selig's request, Mayor Reed delayed the vote pending the MLB Relocation Committee's determination of the A's-Giants territorial dispute.

55. On September 10, 2010, through the efforts of the Silicon Valley Leadership Group, a letter from seventy-five of Silicon Valley's leading CEOs was sent to MLB urging Commissioner Selig to approve the Athletics' move to San José. A copy of the September 10, 2010 Letter is attached at **Exhibit 2**.

56. In March 2011, the City of San José transferred assets in anticipation of the Athletics move to San José. The RDA transferred several properties in the Diridon Redevelopment Project Area ("Diridon Area") to the San José Diridon Joint Powers Authority, a joint powers authority made up of the City of San José and the RDA ("JPA"). The properties that were the subject of the transfer were originally purchased by the RDA with the intent that the properties, along with adjacent properties, be developed into a MLB park, or alternatively a mixed use development with housing.²

57. On November 8, 2011, the **San José City Council** executed an **option agreement** with the Athletics Investment Group (the "Option Agreement"). A copy of the Option Agreement is attached at **Exhibit 3**. The Option Agreement granted the Athletics a two year option (with an additional one year extension) to purchase six of the parcels of land that San José transferred to the JPA in March 2011. The Option Agreement permits the Athletics to purchase six parcels located in the Diridon Area of Downtown San José to build a new stadium for a purchase price of \$6,975,227 (the "San José Stadium Property"). In exchange for the option to purchase these six properties from the JPA, the Athletics agreed to pay \$50,000 for the two year option, with the authority to extend the option term by one year (to November 8, 2014) for an additional \$25,000.

² On June 28, 2011, three months after San José transferred the properties to the JPA, the Governor signed into law ABX1 26, which prohibited Redevelopment Agencies from engaging in new business, established mechanisms and timelines for the dissolution of Redevelopment Agencies and created Successor Agencies to oversee dissolution of the Redevelopment Agencies and redistribution of Redevelopment Agency assets.

58. The Option Agreement further obligated the JPA and the Athletics to negotiate, in good faith, a purchase and sale agreement for the San José Stadium Property (the "Purchase Agreement"), with a first draft to be exchanged within 90 days. The Option Agreement specified provisions that were required to be included in the Purchase Agreement.

59. A March 2010 poll conducted by the San José State University's Survey and Policy Research Institute on behalf of the Mercury News found that 62 percent of those surveyed favored giving the Athletics city owned land for a stadium, with only 23.5 percent opposed. The margin of error for the poll was 4.25 percentage points.

60. Various local organizations, including the San José Silicon Valley Chamber of Commerce, the San José Convention and Visitors Bureau, the San José Sports Authority, and Baseball San José, have all expressed their support for a relocation by the Athletics to San José.

61. On December 2, 2011, Stand For San José (a coalition group backed by the San Francisco Giants and the San José Giants to block the Athletics relocation to San José) filed a civil action against the City of San José, and the San José Redevelopment Agency, among others, in Santa Clara Superior Court, Case No. 1-11-CV-214196. Stand For San José named Athletics Investment Group LLC as the real party in interest in that action. Despite a thorough EIS, the lawsuit claims the studies on issues such as traffic and air quality are insufficient under the California Environmental Quality Act ("CEQA"), allegedly necessitating additional studies.

62. Despite the Giants' staunch opposition, the County of Santa Clara, the City of San José, and leading Silicon Valley businesses support the Athletics relocation. On July 31, 2012, through the efforts of the Silicon Valley Leadership Group, a letter from thirty-three of Silicon Valley's leading CEOs and Presidents was sent to Charlie Johnson, principal owner of the San Francisco Giants, urging Mr. Johnson to allow approval of the Athletics' move to San José. A copy of the July 31, 2012 Letter is attached at **Exhibit 4**.

63. In an April 2, 2013 letter to Commissioner Selig, San José Mayor Reed wrote: When will the A's be moving to San José? That's the question that is most often asked of me by CEOs of Silicon Valley companies competing to retain and attract global talent . . . The A's ownership continues to express its desire to locate the

1 team in San José and I strongly endorse that outcome . . . Direct communication
 2 between us will help resolve any lingering issues about our commitment to having
 3 the A's home plate be located in San José and could reduce the probability of
 4 additional litigation.

5 64. In an April 4, 2013 response, Commissioner Selig wrote Mayor Reed. Instead of
 6 meeting with Mayor Reed, the Commissioner referred the Mayor to MLB Relocation
 7 Committee Chairman Robert Starkey or other members of the Relocation Committee.

8 65. Commissioner Bud Selig has failed to act on this territorial dispute for several
 9 years. In March 2009, Commissioner Selig appointed a special Relocation Committee to
 10 evaluate the Bay Area territorial issues. The MLB Relocation Committee includes:

- 11 • Chairman Bob Starkey: a former Arthur Anderson accountant who had
 12 done extensive work for the Commissioner and the Minnesota Twins;
- 13 • Corey Busch: a former San Francisco Giants Executive Vice President
 14 under Bob Lurie;
- 15 • Irwin Raij: an attorney at Foley & Lardner, LLP, who worked on ballpark
 16 deals for the Washington Nationals and Florida Marlins; and
- 17 • Bob DuPuy: Major League Baseball's Chief Operating Officer.

18 66. At the January 2012 owners' meetings, Commissioner Selig said the situation
 19 was on the "front burner." On March 7, 2012, MLB spokesman Pat Courtney stated during a
 20 press conference, "No decisions have been made." As recently as May 16, 2013,
 21 Commissioner Selig participated in a press conference, announcing that MLB had no news on
 22 the quest of the Oakland Athletics to relocate to San José. Commissioner Selig also said the
 23 MLB Relocation Committee appointed in March 2009 "is still at work."

24 67. Defendants assert that, in a letter dated June 17, 2013 from Commission Selig to
 25 Lewis Wolff (managing partner of the Athletics), Defendants denied the relocation request of
 26 the Athletics. However, this purported denial was done secretly and Defendants refuse to
 27 release the contents of the June 17, 2013 letter to Plaintiffs or the public.
 28

68. This purported denial of the Athletics' relocation request did not cause the Athletics from extending the Option Agreement. On September 26, 2013, the Athletics Investment Group LLC elected to extend the Option Agreement's exercise period through November 8, 2014 by paying the extension fee of \$25,000. A copy of the September 23, 2013 letter extending the Option Agreement is attached at Exhibit 4.

69. The Oakland Athletics have expressed the desire to move the Club to the City of San José and to exercise the Option Agreement. However, MLB has made it clear that it plans to oppose and prevent the relocation of the Oakland Athletics to San José.

D. THE MLB CONSTITUTION

70. The Major League Constitution (the "MLB Constitution") governs the operation of Major League Baseball and is an agreement among the MLB Clubs. A copy of the MLB Constitution is attached at Exhibit 6.

71. Article VIII, Section 8 of the MLB Constitution provides in part: "The Major League Clubs shall have assigned operating territories within which they have the right and obligation to play baseball games as the home Club."

72. The relevant territories are as follows (Article VIII, Section 8):

San Francisco Giants: City of San Francisco; and San Francisco, San Mateo, Santa Cruz, Monterey and Marin Counties in California; provided, however, that with respect to all Major League Clubs, Santa Clara County in California shall also be included.

Oakland Athletics: Alameda and Contra Costa Counties in California.

73. However, there are a number of examples of Clubs that have overlapping territories. (*e.g.*, the Los Angeles Dodgers and the Los Angeles Angels; the New York Mets and the New York Yankees; the Chicago White Sox and the Chicago Cubs). Of the four two-team markets in MLB, only the San Francisco Giants and the Oakland Athletics do not share the exact same geographic boundaries.

74. The purpose and effect of Article VIII, Section 8 of the MLB Constitution is to grant exclusive territories to the MLB Clubs and allowing Clubs to interfere with contracts

whereby another Club wishes to relocate into an operating territory previously assigned to an MLB Club.

75. Because of the provisions of the MLB Constitution, the relocation of the Oakland Athletics to San José, California, would purportedly place them within the “operating territory” of the San Francisco Giants Club, and therefore subject to application of Article VIII, Section 8 of the MLB Constitution.

76. Upon information and belief, the San Francisco Giants Club has exercised and/or threatened to exercise its rights to an operating territory to interfere with the Option Agreement and the relocation of the Oakland Athletics Club to San José.

77. In addition, MLB has imposed a lengthy and, under the circumstances, unreasonable process for relocation of the Oakland Athletics Club. The process has been intended solely to interfere with the Option Agreement and to prevent the proposed relocation of the Oakland Athletics to San José. MLB Commissioner Bob Selig has publicly stated: “They need approval. We have to go through an approval process. It just depends on where they’re moving to.” Commissioner Selig also has stated that there is no timetable for resolving the territorial dispute between the Oakland A’s and the San Francisco Giants.

78. Under the MLB Constitution the **vote of three-fourths** of the Major League Clubs is required for the relocation of any of the Clubs. (Article V, Sec. 2(b)(3).) Similarly a **three-fourths vote** is required to amend the Constitution (which would be necessary to change the territorial rights specified in Article VIII, Section 8 of the MLB Constitution). A **three-fourths vote** is also required for there to be expansion by the addition of a new Club or Clubs. (Article V, Sec. 2(b)(1).)

79. Notably under Article VI, Sections 1-2 of the MLB Constitution, the Clubs agree that any disputes between the Clubs related in any way to professional baseball shall not be subject to litigation and shall be decided solely by the Commissioner as arbitrator.

E. THE GIANTS BLOCK THE A’S RELOCATION TO SAN JOSÉ

80. In 2005, investors led by John Fischer and Lew Wolff purchased the Athletics. Faced with abysmal attendance and an old stadium in Oakland, Wolff pursued a move to the

1 South Bay. From 2006 to 2009, with the support of Major League Baseball, the Athletics
 2 attempted to broker a deal to build CISCO Field in Fremont. As it became clear the Fremont
 3 City Council would not approve the stadium, Commissioner Selig wrote Mr. Wolff a letter
 4 indicating that the Athletics had the right to "discuss a ballpark with other communities," *e.g.*,
 5 San José.

6 81. In February 2009, the Athletics terminated plans for a new stadium in Fremont,
 7 and turned their focus to San José. The Giants immediately interceded to prevent the Athletics
 8 from moving to San José. The Giants disingenuously took the position that the 1990 consent
 9 by the Athletics to allow the Giants to relocate to San José barred the Athletics from moving to
 10 San José in perpetuity. Notably when the Giants moved to AT&T Park from Candlestick, they
 11 moved closer to the Athletics' ballpark. If the Athletics were to move to the proposed site next
 12 to the HP Pavilion in San José, they would be 48 miles from AT&T Park (instead of the current
 13 distance of 16.4 miles).

14 82. Commenting on the controversy, Bud Selig stated:

15 "Wolff and the Oakland ownership group and management have worked very
 16 hard to obtain a facility that will allow them to compete into the 21st century . . .
 17 The time has come for a thorough analysis of why a stadium deal has not been
 18 reached. The A's cannot and will not continue indefinitely in their current
 19 situation."

20 **F. DEFENDANTS' CONDUCT INTERFERES WITH THE OPTION**
 21 **AGREEMENT**

22 83. As the years have dragged on, the activities of the MLB Relocation Committee
 23 have remained shrouded in secrecy. Commissioner Selig issued a directive that the A's and the
 24 Giants were prohibited from discussing any aspect of the dispute in public. The silence from
 25 the Clubs was briefly broken when on March 7, 2012, three years after the MLB Relocation
 26 Committee was formed, the Athletics issued a short press release seeking to outline key facts of
 27 the dispute including the following:
 28

- 1 • Of the four two-team markets in Major League Baseball, only the Giants
2 and A's do not share the exact same geographic boundaries;
- 3 • Major League Baseball recorded minutes that clearly indicate the Giants
4 were granted territorial rights to Santa Clara County "subject to" the team's relocation to
5 Santa Clara;
- 6 • The granting of territorial rights to Santa Clara County to the Giants was
7 by agreement with the Athletics late owner, Walter Haas, who approved the request
8 without consideration;
- 9 • Despite the fact the Giants were unable to obtain a vote to move to Santa
10 Clara County, those territorial rights were never formally returned to their original status;
11 and,
- 12 • The Athletics "are not seeking a move that seeks to alter or in any manner
13 disturb MLB territorial rights." Instead, the Athletics "seek an approval to create a new
14 venue that our organization and MLB fully recognize is needed to eliminate []
15 dependence on revenue sharing."

16 84. The Giants issued a curt rebuttal claiming the City of San José is in the Giants'
17 defined territory and if the Athletics were allowed to move there, it would undermine the
18 Giants' investment in its stadium in San Francisco and marketing to fans.

19 85. As reflected in Exhibit 3, since November 8, 2011, Plaintiffs and the Athletics
20 Investment Group have been contractually obligated to one another under an Option
21 Agreement. The Option Agreement granted the Athletics a two year option (with a one year
22 extension) to purchase six of the parcels of land that San José transferred to the JPA in March
23 2011. The Option Agreement permits the Athletics to purchase the San José Stadium Property
24 for a purchase price of \$6,975,227. Defendants are interfering with and preventing the
25 operation of the contract between the Athletics and San José as Defendants are actively
26 preventing the Athletics from relocating to San José. In addition to interfering with the existing
27 Option Agreement, Defendants are interfering with negotiation of a Purchase Agreement (as
28

provided for in the Option Agreement), and are also interfering with the economic relationship between Plaintiffs and the Athletics.

86. Despite being aware of the Option Agreement, Defendants have prevented the Athletics from moving to San José, even though they knew that their actions would interfere with the performance of the contract. Defendants' actions, if not stopped, will serve to completely prevent performance of the contract as the Athletics cannot move to San José without the consent of MLB.

87. Defendants' acts have disrupted the economic relationship between San José and the Athletics, as well as performance under the Option Agreement and negotiation of a Purchase Agreement pursuant to the Option Agreement.

G. PLAINTIFFS HAVE BEEN DAMAGED

88. As reflected in Exhibit 3, since November 8, 2011, the San José City Council and the Athletics Investment Group have been contractually obligated to one another under an Option Agreement. The Option Agreement granted the Athletics a two year option to purchase six of the parcels of land that San José transferred to the JPA in March 2011. The Option Agreement permits the Athletics to purchase the San José Stadium Property for a purchase price of \$6,975,227. Defendants are interfering with and preventing the operation of the contract between the Athletics and San José as Defendants are actively preventing the Athletics from relocating to San José.

89. Plaintiffs are governmental entities which have suffered damages under California law. As reflected in the history of this dispute, Plaintiffs compete with other major cities in the United States for Major League Baseball Clubs. The City of San José is in competition with other major cities that have the interest and ability to invest in hosting a Major League Baseball Club. San José is the tenth largest city in the United States and is the urban center of the Silicon Valley. By population, San José is significantly larger than San Francisco.

90. Plaintiffs have suffered millions in harm and stand to suffer billions in harm due to Defendants' refusal to permit the Athletics to move to San José. Specifically, the City of

San José has lost hundreds of jobs, property tax revenue, and sales tax revenue. This harm is all directly attributable to Defendants' conduct.

91. MLB has interfered with the Option Agreement between Plaintiffs and the Athletics Investment Group by denying permission for the Athletics to relocate to San José.

92. Defendants' interference has resulted in the loss of Plaintiffs' contractual and property rights.

93. While the full amount of Plaintiffs' damages will be calculated after discovery and awarded based on proof at trial, Defendants' interference alleged herein has injured Plaintiffs and threatened Plaintiffs with loss or damage in at least the following ways:

1. **The tax revenue to be received by the City of San José has been greatly diminished**

94. San José reasonably expected an expansion of its tax base through the building of a MLB stadium in the Diridon Station area and the hosting of the Athletics as the home city of the team. The 2009 CSL Study which specifically analyzed the economic impact of the Athletics relocating to San José, concluded that hundreds of thousands in tax revenue would be generated in the construction period alone.

2. **The City of San José has lost millions in new direct spending that would have accrued during the construction period and the post-construction period**

95. Net new direct spending during the construction period for the Athletics stadium in San José has been conservatively estimated at \$96.0 million just during a three year construction period. Net new direct spending would then level off to \$82.9 million in net new annual direct spending following construction, with a 30-year present value of **\$1.8 billion**. This is direct spending that will not occur absent the relocation of the Athletics.

3. **The City of San José's General Fund has lost millions**

96. San José's General Fund has experienced shortfalls for a number of years as the City has sought to weather the economic crisis. The City's struggling General Fund had been damaged by Defendants' refusal to permit the Athletics to move to San José. The CSL Study

1 provides the conservative estimate that the Athletics stadium deal would have generated \$1.5
2 million, per year, in new tax revenue for the General Fund. These funds are greatly needed for
3 the City's basic services, such as police, fire and parks and recreation.

4 **4. The City of San José's local agencies, including its school district, have lost**
5 **hundreds of thousands of dollars on an annual basis**

6 97. The City of San José's local agencies have lost millions per year due to
7 Defendants' actions. It is conservatively estimated that in addition to the General Fund
8 revenue, more than \$3.5 million per year in net new property tax revenue would have been
9 generated for other local agencies, including, \$706,000 a year for Redevelopment Agency
10 Housing, \$912,000 for Redevelopment Agency Non-Housing, \$109,000 for San José General
11 Obligation bonds; and, \$495,000 for the San José Unified School District. Again, these are all
12 funds that are desperately needed by the City and its residents.

13 **5. The City of San José has lost millions in new sales tax revenue that**
14 **would have accrued during the construction period and the post-**
15 **construction period**

16 98. As demonstrated by other stadium deals throughout the United States, including
17 the development of AT&T Park in San Francisco, new MLB ballparks act as a catalyst for local
18 economies. Local hotels, restaurants, stores, and nightspots all stand to benefit, with the
19 average non-resident ballpark attendee anticipated to spend \$47 at businesses outside of the
20 stadium, according to the CSL Study. Stadiums bring with them new business opportunities,
21 both directly at the stadium and in the surrounding areas. San José has lost millions in new
22 sales tax revenue as the result of Defendants' refusal to permit the Athletics to move to San
23 José. During the construction period, San José conservatively would have realized \$558,000 in
24 new tax revenue. The net present value of the City tax revenues generated by the ballpark over
25 a 30-year and 50-year period has been estimated to be approximately **\$31.2 million** and **\$42.0**
26 **million**, respectively.

6. **The City of San José has lost hundreds of new jobs and the related revenues that would have been generated for the City**

99. Defendants' actions have resulted in the loss of hundreds of jobs in San José – including construction jobs, stadium jobs, service sector jobs and retail jobs. The CSL Study analyzed job growth that would be associated with the Athletics' move and found that **980 jobs** would be supported annually due to ballpark development. The net present value of the total personal earnings generated by the jobs created as a result of the ballpark over a 30-year and 50-year period is estimated to be approximately **\$1.4 billion** and **\$2.0 billion**, respectively, by the CSL Study.

7. **The City of San José has lost new economic output generated by spending related to the ballpark**

100. It is estimated that by 2018, the planned ballpark could conservatively generate approximately **\$86.5 million** in net new direct spending within the City of San José. Over a 30-year and 50-year term, it is estimated that the net present value of this net new direct spending could be approximately **\$1.9 billion** and **\$2.7 billion**, respectively. The net new direct spending in the local economy as a result of the annual operations of the proposed ballpark will, in turn, generate approximately **\$130.3 million** in total net new output in the City of San José. Overall, it is estimated that the net present value of the total net new **economic output** generated by the spending related to the operations of the ballpark would be approximately **\$2.9 billion** over a 30-year period and **\$4.1 billion** over a 50-year period.

8. **Plaintiffs failed to receive the benefits to which they were entitled under the Option Agreement, which benefits they would have received in an competitive marketplace absent Defendants' conspiracy**

101. As stated above, on November 8, 2011, the San José City Council executed an Option Agreement with the Athletics Investment Group which granted the Athletics a two year option to purchase six of the parcels of land that San José transferred to the JPA in March 2011. The Option Agreement permits the Athletics to purchase the San José Stadium Property

1 for a purchase price of \$6,975,227. In exchange for the option to purchase the San José
 2 Stadium Property the Athletics agreed to pay \$50,000 for the two year option, with the
 3 authority to extend the option term by one year for an additional \$25,000. As described in
 4 detail above, the Athletics desire to move forward with the relocation to San José and
 5 construction of the stadium. They are prevented from moving due to Defendants' interference.

6 **9. Plaintiffs have lost millions of dollars spent on planning for the**
 7 **franchise relocation**

8 102. San José and the San José Redevelopment Agency have been actively working on
 9 the development of the ballpark in the Diridon Station area since 2004. That process
 10 culminated in February 2007, with the certification of an Environmental Impact Report ("EIR")
 11 for the ballpark project. Since 2007 the EIR has been updated and amended. This has been an
 12 expensive and time consuming process. In addition, the City and the RDA have commissioned
 13 the preparation of economic impact analysis, including the CSL Study.

14 **V. CAUSES OF ACTION**

15 **FIRST CAUSE OF ACTION**

16 **TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**

17 103. Plaintiffs incorporate and reallege, as though fully set forth herein, each and
 18 every allegation set forth in the preceding paragraphs of this Complaint.

19 104. Under the Option Agreement, Plaintiffs enjoyed a successful economic
 20 relationship with the Oakland Athletics Club. Defendants knew Plaintiffs had an existing
 21 economic relationship with the Oakland Athletics Club and that relationship included future
 22 economic benefits for Plaintiffs. Were it not for Defendants' wrongful scheme to block
 23 relocation of the Oakland Athletics Club to San José, Plaintiffs' economic relationship with the
 24 Oakland Athletics Club would have continued forward for the duration of the Option
 25 Agreement and for the foreseeable future.

26 105. Defendants intentionally interfered with Plaintiffs' economic relationship with
 27 the Oakland Athletics Club by blocking relocation of the Oakland Athletics to San José.
 28

Defendants knew that such actions would interfere or was substantially certain to interfere with the economic relationship between the Oakland Athletics Club and the City of San José.

106. As a direct and proximate result of Defendants' actions, the economic relationship between the Oakland Athletics Club and Plaintiffs was in fact disrupted.

107. Defendants' actions in interfering with Plaintiffs' economic relationship with the Oakland Athletics Club were wrongful including insofar as Defendants' actions violated California's Unfair Competition law.

108. As a result of the wrongful actions of Defendants, and each of them, Plaintiffs have been damaged in an amount to be proven at trial, but which exceeds \$75,000 (exclusive of interest and costs), and which, at a minimum, includes millions of dollars of lost revenues to Plaintiffs resulting from Plaintiffs' loss of revenue it reasonably expected under the Option Agreement and the Purchase Agreement, respectively.

109. The aforementioned acts of Defendants were willful, oppressive, and/or malicious. Plaintiffs are therefore entitled to punitive damages in an amount to be proven at trial, in addition to all other damages and other relief.

SECOND CAUSE OF ACTION

TORTIOUS INTERFERENCE WITH CONTRACTUAL ADVANTAGE

110. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

111. Defendants have engaged in wrongful acts to intentionally interfere with the economic and contractual relationship between Plaintiffs and the Oakland Athletics Club.

112. On November 8, 2011, the City Council of the City of San José entered into a valid contract with the Oakland Athletics Club – specifically the Athletics Investment Group – in the form of the Option Agreement, benefits and rights under which specifically inured to Plaintiffs.

113. Defendants were aware of the existence of the Option Agreement and were also aware that, through the Option Agreement, Plaintiffs were the direct and principal beneficiaries of significant rights with respect to relocating the Oakland Athletics Club to San José.

114. Upon information and belief, when Defendants created the MLB Relocation Committee and intentionally engaged in tactics delaying any decision of the MLB Relocation Committee for over four years, Defendants knew such activity would interfere or was substantially certain to interfere with the Option Agreement.

115. As a direct and proximate result of Defendants' wrongful actions, performance under the Option Agreement and negotiation of a Purchase Agreement pursuant to the Option Agreement were in fact disrupted. Defendants disrupted the contractual relationship between the Oakland Athletics Club and Plaintiffs.

116. As a result of the wrongful actions of Defendants, and each of them, Plaintiffs have been damaged in an amount to be proven at trial, but which exceeds \$75,000 (exclusive of interest and costs), and which, at a minimum, includes millions of dollars of lost revenues to Plaintiffs resulting from Plaintiffs' loss of revenue it reasonably expected under the Option Agreement and the Purchase Agreement, respectively.

117. The aforementioned acts of Defendants were willful, oppressive, and/or malicious. Plaintiffs are therefore entitled to punitive damages in an amount to be proven at trial, in addition to all other damages and other relief.

WHEREFORE, Plaintiffs pray for relief as set forth below.

VI. PRAYER FOR RELIEF

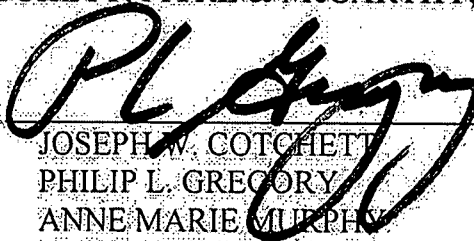
WHEREFORE, Plaintiffs, and each of them, pray as follows:

- A. Plaintiffs be awarded actual damages according to proof at trial;
 - B. Plaintiffs be awarded punitive damages according to proof at trial;
 - C. Plaintiffs be awarded pre-judgment and post-judgment interest at the highest legal rate from and after the date of service of this Complaint to the extent provided by law;
- and,
- C. Plaintiffs have such other, further, or different relief, as this Court may deem just and proper under the circumstances.

1 Dated: March 10, 2014


COTCHETT, PITRE & MCCARTHY, LLP

2
3 By:


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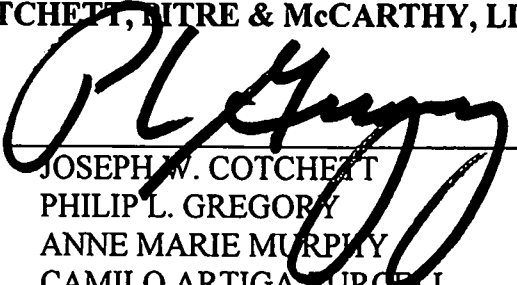
DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of all issues so triable.

Dated: March 10, 2014

COTCHETT, PITRE & McCARTHY, LLP

By:


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03/10/2014