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10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF MARIN

13 ARRON BENEDETTI, ARTHUR
14 BENEDETTI, and the ESTATE OF WILLIE
BENEDETTI,

15 Plaintiffs and Petitioners,

16 v.

17 COUNTY OF MARIN, and BOARD OF
18 SUPERVISORS OF THE COUNTY OF
MARIN,

19 Defendants and Respondents,

20 and

21 CALIFORNIA COASTAL COMMISSION,

22 Real Party in Interest.

Case No. _____

**VERIFIED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF
(42 U.S.C. § 1983; CCP § 1060)
AND VERIFIED PETITION
FOR WRIT OF MANDATE
(CCP §§ 1085, 1094.5; Pub. Res. Code
§ 30802; Gov't Code § 65009)**

23
24 **INTRODUCTION**

25 1. Plaintiffs and Petitioners Arron Benedetti, Arthur Benedetti, and the Estate of Willie
26 Benedetti (collectively, the Benedettis) seek declaratory and injunctive relief, as well as a writ of
27 mandate, invalidating the unconstitutional imposition of an affirmative easement through the
28 requirement, adopted by Defendants and Respondents County of Marin, *et al.*, and certified by Real

1 Party in Interest California Coastal Commission, that landowners in Marin County be “actively and
2 directly engaged” in agricultural use of their property, in perpetuity, as a condition on permitting
3 for any dwelling units in the County’s agricultural zone. This action is brought pursuant to 42
4 U.S.C. § 1983, Code of Civil Procedure (CCP) §§ 1060, 1085, and 1094.5, Public Resources Code
5 § 30802, and Government Code § 65009. By this verified complaint and petition, Plaintiffs and
6 Petitioners allege:

7 **THE PARTIES**

8 2. Plaintiff and Petitioner the Estate of Willie Benedetti owns a property interest in two
9 parcels of land located in Valley Ford, California, in Marin County. The property is located within
10 the California Coastal Act’s Coastal Zone. Specifically, it is located in an area classified as the
11 Coastal Agricultural Production Zone (C-APZ), and is therefore subject to the provisions of the
12 Marin County Local Coastal Program (LCP) that regulate that zone.

13 3. Plaintiffs and Petitioners Arron and Arthur Benedetti are citizens of the United
14 States and children of the late Willie Benedetti. Arron and Arthur both work full-time as plumbers.
15 Arron and Arthur will each inherit a part of Willie’s interest in the pertinent property by devise, as
16 well as Willie’s interest in the ongoing litigation connected to that property.

17 4. Additionally, Arron and Arthur Benedetti are the executors and personal
18 representatives of the Estate of Willie Benedetti.

19 5. As set forth herein, the County has violated its important public duty not to adopt
20 and approve LCP amendments that violate the United States or California Constitutions. Without
21 this action by the Benedettis, other persons beneficially interested in the legality of the County’s
22 LCP amendments would be unable to vindicate that interest, because of their inability to comment
23 adequately on the amendments, as well as the burden of litigation’s time and cost. The Benedettis
24 are ably positioned to represent the public interest in this action, given Willie Benedetti’s long-
25 standing objections to the challenged LCP provisions. Finally, this lawsuit will confer a broad and
26 important benefit on the public and will inure to the public interest by establishing important
27 constitutional limitations on the scope of LCPs that in turn safeguard the public from regulatory

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1 overreach. For the same reasons, the Benedettis are ably positioned to represent the public interest
2 in ensuring that the County discharges its responsibilities in a constitutional manner.

3 6. Defendant and Respondent County of Marin is a political subdivision of the State
4 of California, created on February 18, 1850, and organized and existing under the laws and
5 Constitution of the State of California. The County is responsible for enforcing and defending its
6 resolutions, ordinances, and other laws, including the portions of the amended LCP challenged
7 herein.

8 7. Defendant and Respondent Board of Supervisors of the County of Marin is the
9 County's executive and legislative body and is responsible for adopting resolutions, ordinances,
10 and other laws, including the portions of the amended LCP challenged herein.

11 8. Defendants and Respondents (collectively, County) have the duty to adopt and
12 enforce laws, including the County's LCP and the policies and provisions contained therein,
13 consistent with federal and state statutory and constitutional requirements.

14 9. Real Party in Interest California Coastal Commission (Commission) is a state
15 administrative body operating under the California Coastal Act, Pub. Res. Code § 30000, *et seq.*
16 The Commission is tasked with certifying proposed LCP amendments as consistent with the
17 Coastal Act. Once certified, the Commission is responsible for enforcing and defending the
18 County's LCP, including those portions challenged herein, whenever it asserts original or appellate
19 jurisdiction over a Coastal Development Permit application for development in the County.

20 JURISDICTION AND VENUE

21 10. The Court has jurisdiction over this verified complaint and petition for writ of
22 mandate under sections 1060, 1085, and 1094.5 of the Code of Civil Procedure, section 30802 of
23 the Public Resources Code, section 65009 of the Government Code, and 42 U.S.C. § 1983.

24 11. Venue lies in the Superior Court for the County of Marin under Code of Civil
25 Procedure sections 393 through 395, in that the County is located here, and enforcement of the
26 challenged provisions of the LCP will occur in the County as well.

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APPLICABLE LAW

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2 12. The Coastal Act requires local governments with jurisdiction over Coastal Zone
3 lands to adopt an LCP, which in turn must be certified by the Commission. Pub. Res. Code § 30500.
4 An LCP has two parts: a Land Use Plan (LUP) and a Local Implementation Plan (LIP). The LUP
5 is a general policy document that sets forth policies for coastal development and has the force of
6 law. The LIP is a collection of implementing ordinances that carry out LUP policies. Both the LUP
7 and LIP—together, the LCP—must be consistent with the Coastal Act, as well as with the
8 California and United States Constitutions.

9 13. The Coastal Act provides that each local government shall prepare and determine
10 the precise content of its own LUP. Pub. Res. Code § 30500(a), (c). The Commission must then
11 review the proposed LUP to determine whether the plan conforms to the requirements of chapter 3
12 of the Coastal Act. *Id.* § 30512.

13 14. The Coastal Act also provides that each local government shall submit to the
14 Commission an LIP consisting of zoning ordinances, zoning district maps, and other implementing
15 actions. Pub. Res. Code § 30513(a). The Commission may only reject the LIP on the ground that it
16 is inconsistent with or inadequate to effectuate the local government’s certified LUP. *Id.*
17 § 30513(b).

18 15. Because they have the force of law, LCP provisions must satisfy the constitutional
19 requirement that a permitting entity must make an individualized determination that permit
20 conditions bear an “essential nexus” and “rough proportionality” to the alleged impacts of a
21 proposed project. *Nollan v. Cal. Coastal Comm’n*, 483 U.S. 825, 837 (1987) (applying the
22 unconstitutional conditions doctrine in the context of the Takings Clause of the Fifth Amendment
23 to the U.S. Constitution to require an “essential nexus”); *Dolan v. City of Tigard*, 512 U.S. 374,
24 391 (1994) (applying the unconstitutional conditions doctrine in the context of the Takings Clause
25 to require “rough proportionality” between permit conditions and a project’s alleged impacts, and
26 establishing the procedural rule that the burden is on the permitting authority to make the
27 individualized determination that a nexus and rough proportionality exist).

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1 16. Section 65009 of the Government Code allows a person to bring an action to set
2 aside planning or land use actions taken by a public agency at a public hearing.

3 17. The Coastal Act provides that a person may file a petition for writ of mandate under
4 Code of Civil Procedure section 1094.5 to challenge a decision or action by a local government
5 implementing an LCP. Pub. Res. Code § 30802. This avenue for challenge is in addition to any
6 other remedies available at law. *Id.* § 30800.

7 18. 42 U.S.C. § 1983 provides that every person who, under color of law, subjects any
8 citizen of the United States or person under the jurisdiction thereof to the deprivation of any federal
9 rights shall be liable to the party injured in an action at law or a suit in equity. The County, being a
10 local government, constitutes a “person” for purposes of Section 1983. *See Monell v. Dep’t of Soc.*
11 *Services*, 436 U.S. 658, 690 (1978).

12 **FACTUAL ALLEGATIONS**

13 *The County of Marin Adopts Amendments to Its Local Coastal Program*

14 19. In 2008, Marin County began the process of comprehensively updating its certified
15 LCP.

16 20. After several years of negotiation with Commission staff, the County adopted a
17 package of LCP amendments to be submitted to the Commission for certification.

18 21. The package comprises seven proposed Amendments, numbered Amendments 1
19 through 7. Amendment 1 contains the general LUP, while Amendment 2 contains the Agriculture
20 chapter of the LUP. Amendment 3 contains the Agriculture chapter of the LIP.

21 22. Amendments 2 and 3 contain the agricultural policies and implementing ordinances
22 at issue in this action.

23 23. At its hearing on November 2, 2016, the Commission certified (except for
24 Amendments 4 and 5, concerning environmental hazards) the Amendments with modifications
25 proposed by Commission staff. The deadline for the County to accept the certified amendments as
26 modified was originally May 2, 2017. The Commission extended this deadline to May 2, 2018.

27 24. The Board of Supervisors of the County of Marin held a public hearing on May 16,
28 2017, during which it considered adoption of seven separate amendments as modified by the

1 Commission. At the conclusion of that hearing, the Board adopted Amendments 1 and 2. That
2 acceptance contained limiting language, stating that the acceptance was “based on the[]
3 interpretations” of those Amendments contained within “the May 16, 2017 Board Letter and
4 attachments.”

5 25. On July 14, 2017, Willie Benedetti, then living, filed a petition for writ of mandate
6 and a complaint for declaratory relief against the County, to challenge the County’s May 16, 2017,
7 adoption of the LUP amendments (Marin County Sup. Ct. No. CIV1702572). The Commission was
8 named as a Real Party in Interest. On August 23, 2017, the parties stipulated to a stay of that lawsuit
9 pending the Commission’s determination of whether the County’s adoption of Amendments 1 and
10 2 was adequate under California Code of Regulations, title 14, section 13537(d).

11 26. In a letter to the Marin County Community Development Agency dated
12 December 15, 2017, Coastal Commission District Manager for the North Central Coast District,
13 Nancy Cave, stated that the Marin County action taken on May 16, 2017, was “not legally adequate
14 because it was itself based on a series of interpretive findings that were not consistent with the
15 Commission’s action.”

16 27. On April 24, 2018, the Board of Supervisors held another public hearing, at which
17 the Board again adopted Amendments 1 and 2, as well as Amendment 6, without the same limiting
18 language regarding interpretations of the Amendments.

19 28. Willie Benedetti, then living, participated in the April 24, 2018, hearing both by
20 submitting written comments and by speaking during the public comment period. *See* Comment
21 Letter of Willie Benedetti, Pacific Legal Foundation, and the Marin County Farm Bureau (April 13,
22 2018), a true and correct copy of which is attached as Exhibit A and incorporated herein by
23 reference.

24 29. Plaintiffs are informed and believe, and on that basis allege, that the County’s April
25 2018 re-adoption of Amendments 1 and 2 was intended to fully supplant and supersede the
26 County’s May 2017 adoption of the same, and thus newly constituted the County’s acceptance of
27 the Commission-certified Amendments.

28 30. None of the remaining Amendments was adopted before the May 2, 2018, deadline.

1 31. On June 6, 2018, during the Commission’s monthly sitting, the Executive Director
2 of the Commission reported that the County’s April 2018 adoption of Amendments 1 and 2, as
3 modified by the Commission, satisfied Section 13544.5 of Title 14 of the California Code of
4 Regulations. Amendments 1 and 2 thus constituted finalized provisions of the LCP. However, the
5 accompanying staff report stated that, “[u]ntil [the remaining amendments are certified], the
6 existing Marin County LCP will continue to serve as the standard of review for development in the
7 Marin County coastal zone.”

8 32. At the same June 6 hearing, the Commission voted to formally concur with the
9 Executive Director’s determination.

10 33. On June 13, 2018, Willie Benedetti, then living, filed a second petition for writ of
11 mandate and a complaint for declaratory relief against the County (Marin County Sup. Ct. No.
12 CIV1802053). Shortly after Mr. Benedetti’s death in September 2018, the parties stipulated to a
13 stay of the second lawsuit.

14 34. On October 11, 2018, the Marin County Planning Commission held a public hearing
15 to advise the County Board of Supervisors regarding whether to submit LCP Amendments 3 and 7
16 to the Commission for certification.

17 35. Pacific Legal Foundation, as counsel for the Estate of Willie Benedetti, participated
18 in the October 11, 2018, hearing both by submitting written comments and by speaking during the
19 public comment period. *See* Comment Letter of Pacific Legal Foundation (October 1, 2018), a true
20 and correct copy of which is attached as Exhibit B and incorporated herein by reference.

21 36. On December 11, 2018, the County Board of Supervisors voted to adopt
22 Amendments 3 and 7 and to submit the same to the Commission for certification.

23 37. Pacific Legal Foundation, as counsel for the Estate of Willie Benedetti, participated
24 in the December 11, 2018, hearing by submitting written comments. *See* Comment Letter of Pacific
25 Legal Foundation (December 7, 2018), a true and correct copy of which is attached as Exhibit C
26 and incorporated herein by reference.

27 38. On February 6, 2019, the Commission certified Amendments 3 and 7 as submitted
28 by the County. The Benedettis participated in this meeting, through counsel, by submitting written

1 and spoken comments. *See* Comment Letter of the Estate of Willie Benedetti, Arron and Arthur
2 Benedetti, and Pacific Legal Foundation (February 1, 2019), a true and correct copy of which is
3 attached as Exhibit D and incorporated herein by reference.

4 39. Amendments 2 and 3 have now been fully adopted by the County and certified by
5 the Commission, and therefore constitute final provisions of Marin County’s LCP.

6 *The Amended LCP Provisions Challenged by Plaintiffs & Petitioners the Benedettis*

7 40. The fully adopted and certified LUP Amendment 2 contains Policy C-AG-2, which
8 establishes permitted uses within the County’s Agricultural Production Zone (C-APZ). These uses
9 include the permitting of Agricultural Dwelling Units, which consist of Farmhouses,
10 Intergenerational Housing, and Agricultural Worker Housing.

11 41. Under Policy C-AG-2(B), the County (and the Commission on appeal) “shall
12 include all contiguous properties under the same ownership when reviewing a Coastal Permit
13 application that includes agricultural dwelling units.” Accordingly, all commonly owned and
14 contiguous properties in the C-APZ zone are treated as one parcel for processing development
15 applications under the LUP.

16 42. The LUP also contains Policy C-AG-5(A), which requires that, once permitted, any
17 Agricultural Dwelling Unit “must be owned by a farmer or operator actively and directly engaged
18 in agricultural use of the property” in perpetuity.

19 43. The fully adopted and certified LIP Amendment 3 contains provisions designed to
20 implement C-AG-2 and C-AG-5.

21 44. Section 22.32.024(A) of the LIP reiterates Policy C-AG-5(A)’s requirement that any
22 Agricultural Dwelling Unit “must be owned by a farmer or operator actively and directly engaged
23 in agricultural use on the property.”

24 45. Section 22.32.02x(D) of the LIP provides that “[i]ntergenerational housing requires
25 the preparation and recordation of a restrictive covenant running with the land” that must include,
26 among other things, an “[a]ssurance that the owner of the intergenerational home shall be actively
27 and directly engaged in agricultural use” of the property and that use of the property “shall remain
28 confined to agriculture.”

1 46. Section 22.32.025(B)(5) of the LIP provides that development of a “farmhouse”
2 requires the recordation of a “restrictive covenant running with the land” that must include, among
3 other things, an “[a]ssurance that the owner of the farmhouse shall be actively and directly engaged
4 in agricultural use” of the property and that the use of the property remains “confined to
5 agriculture.”

6 47. Section 22.130.030 of the LIP defines “[f]arm tract” as “[a]ll contiguous legal lots
7 under a common ownership within a C-APZ zoning district.”

8 48. Section 22.130.030 of the LIP defines “[a]ctively and directly engaged” as “making
9 day-to-day management decisions for the agricultural operation and being directly engaged in
10 production of agricultural commodities for commercial purposes on the property or maintaining a
11 lease to a bona fide commercial agricultural producer.”

12 *The Benedettis’ Plans for Development of a Dwelling*

13 49. The Benedettis own a property interest in two parcels of land within Marin County
14 totaling 267 acres. One of the two parcels currently has a residential structure in which
15 Willie Benedetti resided along with Arron before his death in September, 2018. His will evidences
16 a clear intent to devise the parcels separately to his two sons, one to Arron and one to Arthur.

17 50. Until his death, Willie Benedetti oversaw the day-to-day operations of his
18 companies as owner and president of Benedetti Farms and Willie Bird Turkeys. His will evidences
19 a clear intent to devise his ownership shares of the companies to Arron and Arthur.

20 51. Arthur serves as Vice President of Willie Bird Turkeys and maintains some
21 involvement in Benedetti Farms. Arron is not, nor does he desire to be, actively involved in the
22 day-to-day operations of either.

23 52. Willie Benedetti wanted to build a dwelling unit on his property as a home for his
24 son Arthur and Arthur’s wife, without giving up the management of his companies to Arthur. Arron
25 and Arthur now both intend to build dwelling units that would qualify as “farmhouses” under the
26 challenged LCP amendments.

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1 **INJUNCTIVE AND WRIT RELIEF ALLEGATIONS**

2 59. The Benedettis have no plain, speedy, or adequate remedy at law. Pecuniary
3 compensation to the Benedettis would not afford adequate relief, or would otherwise be unavailable
4 if the County’s action were not first tested by writ or other equitable relief, or would be extremely
5 difficult to ascertain.

6 60. Absent a writ of mandate, or preliminary and permanent injunction, abjuring the
7 County from enforcing the challenged portions of the LCP, the Benedettis will suffer irreparable
8 harm in the form of an ongoing violation of their constitutional rights and an inability to develop
9 homes on their property as they desire.

10 61. Thus, writ or injunctive relief is appropriate and proper.

11 **FIRST CAUSE OF ACTION FOR DEPRIVATION**
12 **OF FEDERAL CONSTITUTIONAL RIGHTS**
 (42 U.S.C. § 1983)

13 62. All of the preceding paragraphs are reincorporated as if set forth fully herein.

14 63. Plaintiffs and Petitioners are citizens of the United States and/or persons within the
15 jurisdiction thereof under 42 U.S.C. § 1983.

16 64. Defendants and Respondents are persons under 42 U.S.C. § 1983.

17 65. Defendants acted under color of state law in developing and adopting the challenged
18 portions of the LCP.

19 66. Under the Fourteenth Amendment to the United States Constitution, the Benedettis
20 have a federal right to be free from an irrational and illegitimate deprivation of their liberty or
21 property. U.S. Const. amend. XIV. Under the Fifth and Fourteenth Amendments to the United
22 States Constitution, the Benedettis have a federal right to be free from an uncompensated taking
23 for public use of their property. *Id.* amends. V, XIV.

24 67. Under the newly enacted LCP amendments, the construction of Agricultural
25 Dwelling Units are either principally permitted uses (as to the first Farmhouse and Intergenerational
26 Housing Unit or Agricultural Worker Housing up to 36 beds or 12 units) or a conditional use (as to
27 a second Intergenerational Housing Unit or Agricultural Worker Housing above 36 beds or 12
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1 units). In other words, even under the LCP, landowners like the Benedettis still retain the right to
2 apply for and obtain a permit to build a new family home on their property.

3 68. The County has enacted, and is charged with enforcing, the LCP, which immediately
4 and on its face places unconstitutional burdens on any attempt to exercise this otherwise lawful use
5 of property, by requiring the landowner to agree to remain “actively and directly engaged in
6 agricultural use of the property” in perpetuity.

7 **A. Violation of the Unconstitutional Conditions Doctrine as Applied**
8 **to the Due Process Clause of the Fourteenth Amendment to the**
9 **U.S. Constitution**

10 69. Policy C-AG-5 of the LUP conditions the exercise of a state law and common law
11 property right—a property owner’s right to develop land through the lawful construction of a family
12 home—on the requirement that the property owner remain “actively and directly engaged in
13 agriculture” in perpetuity.

14 70. Sections 22.32.024(A), .02x(D), and .025(B)(5) of the LIP implement Policy C-AG-
15 5.

16 71. All persons have a constitutionally protected interest in their own liberty.

17 72. No state or local government may “deprive any person of . . . liberty . . . without due
18 process of law.” U.S. Const. amend. XIV, § 1.

19 73. “All people are by nature free and independent and have inalienable rights,”
20 including “enjoying and defending life and liberty.” Cal. Const. art. I, § 1. “A person may not be
21 deprived of life, liberty, or property without due process of law . . .” *Id.* § 7(a).

22 74. The liberty protected by the United States and California Constitutions includes the
23 freedom to pursue and obtain happiness by engaging in the common occupations of the community.

24 75. Using state power to force an individual into a career chosen by the state infringes
25 on this basic liberty, preventing an individual from changing or choosing to refrain from engaging
26 in the state-chosen occupation. *See Nash v. City of Santa Monica*, 37 Cal. 3d 97, 103 (1984) (“The
27 exercise of state power to force upon an individual a career chosen by the state would surely raise
28 substantial questions of constitutional dimension.”).

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1 76. The unconstitutional conditions doctrine prevents the government from coercing
2 people into giving up constitutionally protected rights. *Koontz v. St. Johns River Water Mgmt. Dist.*,
3 570 U.S. 595, 603-05 (2013).

4 77. If the County had simply demanded that the Benedettis engage in agriculture, it
5 would have been liable for a deprivation of their liberty without due process of law. The
6 unconstitutional conditions doctrine forbids the County from achieving indirectly that same
7 impermissible end through the permitting process. Policy C-AG-5 and its implementing provisions
8 within the amended IP therefore deprive the Benedettis of their constitutional right to due process
9 of law.

10 **B. Violation of the Unconstitutional Conditions Doctrine as Applied to the**
11 **Takings Clause of the Fifth and Fourteenth Amendments to the U.S. Constitution**

12 78. Under *Nollan*, 483 U.S. 825, *Dolan*, 512 U.S. 374, and *Koontz*, 570 U.S. 595,
13 government may not exact any property interest from property owners as a condition on the exercise
14 of a property right unless:

- 15 a. The exaction directly mitigates a public impact directly arising from the
16 property owners’ exercise of their property right; and
17 b. The exaction is roughly proportional in both nature and degree to the public
18 impact arising from the property owners’ exercise of the property right.

19 79. The requirement that property owners remain “actively and directly engaged in
20 agriculture” on their property in perpetuity is not related to, and does not address, any impact arising
21 from the property owners’ exercise of their right to use some portion of their property for the
22 construction of a dwelling unit such as a family home.

23 80. The requirement that the current landowner—as well as all subsequent
24 landowners—remain “actively and directly engaged in agriculture” in perpetuity is not, and can
25 never be, proportional in either nature or degree to any impact arising from property owners’
26 exercise of their right to use some portion of their property for the construction of a dwelling unit
27 such as a family home.

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1 81. The foregoing requirement will be satisfied only through the granting and recording
2 of an affirmative easement that the current landowner—and all subsequent landowners—will be
3 actively and directly engaged in commercial agricultural use of the property in perpetuity.

4 82. Requiring the recording of a covenant or affirmative easement containing such
5 language as a condition of permitting Agricultural Dwelling Units—as contemplated by the LCP—
6 constitutes an exaction of a recognized common law property interest.

7 83. If the County had simply demanded that the Benedettis record a covenant or convey
8 an affirmative easement containing such language, it would have been liable for a taking of private
9 property for public use without payment of just compensation.

10 84. The County may not exact such a recognized property interest as a condition on the
11 otherwise lawful and principally permitted use of constructing a dwelling unless that requirement
12 satisfies the nexus and proportionality requirements of *Nollan* and *Dolan*.

13 85. In adopting Policy C-AG-5 and sections 22.32.024(A), .02x(d), and .025(B)(5), the
14 County took legislative action in violation of the law and/or in excess of its authority.

15 **SECOND CAUSE OF ACTION FOR WRIT OF MANDATE**
16 **(CCP § 1085)**

17 86. All of the preceding paragraphs are reincorporated as if set forth fully herein.

18 87. The County’s adoption of an LCP is a quasi-legislative action.

19 88. Section 65009 of the Government Code allows a person to bring a lawsuit to set
20 aside various land-use planning ordinances and decisions taken by a public agency at a public
21 hearing.

22 89. All issues raised in this action were raised at public hearings, or were raised in
23 written correspondence delivered to public hearings, of the County on April 24, 2018, and
24 December 11, 2018, as well as in written correspondence and testimony delivered to the
25 Commission at or prior to its public hearing of February 6, 2019.

26 90. For the reasons set forth in the First Cause of Action, the County’s adoption of the
27 LCP violates the United States and California Constitutions, and is therefore arbitrary and
28 capricious.

1 **THIRD CAUSE OF ACTION FOR WRIT OF MANDATE**
2 **(CCP § 1094.5)**

3 91. All of the preceding paragraphs are reincorporated as if set forth fully herein.

4 92. The Coastal Act provides that any person aggrieved by the decision or action of a
5 local government not appealable to the Commission may file a petition for writ of mandate under
6 section 1094.5 of the Code of Civil Procedure. Pub. Res. Code § 30802.

7 93. The County's approval of the Commission-certified LCP Amendment 2 is not
8 appealable to the Commission, but rather is reviewed only by the Commission and its Executive
9 Director for conformity with the Commission's conditional certification. *See* Cal. Code Regs.
10 tit. 14, §§ 13537, 13544.5.

11 94. The County's approval of LCP Amendment 3 is not appealable to the Commission,
12 but rather is reviewed only by the Commission and its Executive Director for conformity with the
13 certified LUP. *See* Pub. Res. Code § 30513(b).

14 95. For the reasons set forth in the First Cause of Action, the County failed to proceed
15 in the manner required by law by adopting LCP amendments that violate the United States and
16 California Constitutions, and therefore acted in excess of its jurisdiction and authority.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs and Petitioners request relief as follows:

19 1. A peremptory writ of mandate commanding Defendants and Respondents to
20 invalidate, set aside, and not enforce Policy C-AG-5 or sections 22.32.024(A), .02x(D), and
21 .025(B)(5) in whole or in part, as described above;

22 2. A declaration pursuant to Code of Civil Procedure section 1060 that Policy C-AG-
23 5 and sections 22.32.024(A), .02x(D), and .025(B)(5) violate the unconstitutional conditions
24 doctrine as applied to the Fourteenth Amendment of the U.S. Constitution and Section 7 of Article
25 I of the California Constitution, because on their face they require coastal agricultural landowners
26 to waive their constitutional right not to be deprived of liberty without due process of law, as well
27 as their right not to have their property taken for public use without just compensation;

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- 3. A preliminary and permanent injunction abjuring the County from enforcing Policy C-AG-5 and sections 22.32.024(A), .02x(D), and .025(B)(5); and
- 4. For costs of suit, including reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988, Code of Civil Procedure section 1021.5, or any other applicable authority; and
- 5. For such other and further relief as the Court may deem proper.

DATED: April ____, 2019.

Respectfully submitted,

DAMIEN M. SCHIFF
JOSHUA THOMPSON
JEREMY TALCOTT
DAVID J. DEERSON
Pacific Legal Foundation

By 

DAVID J. DEERSON

Attorneys for Plaintiffs and Petitioners
Arron Benedetti, Arthur Benedetti, and the Estate
of Willie Benedetti

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VERIFICATION

I, Arron Benedetti, Co-Executor and Personal Representative of the Estate of Willie Benedetti, declare:

I represent Plaintiff and Petitioner Estate of Willie Benedetti in the above-entitled matter.

I have read the foregoing VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF (42 U.S.C. § 1983; CCP § 1060) AND VERIFIED PETITION FOR WRIT OF MANDATE (CCP §§ 1085, 1094.5; Pub. Res. Code § 30802; Gov't Code § 65009) and, except for matters stated on information and belief, the facts stated therein are true on my own knowledge, and as to those matters stated on information and belief, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed this 3 day of April, 2019, at Sanoma County, California.



ARRON BENEDETTI

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VERIFICATION

I, Arthur Benedetti, Co-Executor and Personal Representative of the Estate of Willie Benedetti, declare:

I represent Plaintiff and Petitioner Estate of Willie Benedetti in the above-entitled matter.

I have read the foregoing VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF (42 U.S.C. § 1983; CCP § 1060) AND VERIFIED PETITION FOR WRIT OF MANDATE (CCP §§ 1085, 1094.5; Pub. Res. Code § 30802; Gov't Code § 65009) and, except for matters stated on information and belief, the facts stated therein are true on my own knowledge, and as to those matters stated on information and belief, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed this 3 day of April, 2019, at Sonoma County, California.



ARTHUR BENEDETTI

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VERIFICATION

I, Arron Benedetti, declare:

I am Plaintiff and Petitioner in the above-entitled matter.

I have read the foregoing VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF (42 U.S.C. § 1983; CCP § 1060) AND VERIFIED PETITION FOR WRIT OF MANDATE (CCP §§ 1085, 1094.5; Pub. Res. Code § 30802; Gov't Code § 65009) and, except for matters stated on information and belief, the facts stated therein are true on my own knowledge, and as to those matters stated on information and belief, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed this 3 day of April, 2019, at Sonoma County California.


ARRON BENEDETTI

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VERIFICATION

I, Arthur Benedetti, declare:

I am Plaintiff and Petitioner in the above-entitled matter.

I have read the foregoing VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF (42 U.S.C. § 1983; CCP § 1060) AND VERIFIED PETITION FOR WRIT OF MANDATE (CCP §§ 1085, 1094.5; Pub. Res. Code § 30802; Gov't Code § 65009) and, except for matters stated on information and belief, the facts stated therein are true on my own knowledge, and as to those matters stated on information and belief, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed this 3 day of April, 2019, at Sonoma County, California.



ARTHUR BENEDETTI