

1 ANASTASIA BODEN (SBN: 281911)  
2 PACIFIC LEGAL FOUNDATION  
3 555 Capitol Mall, Suite 1290  
4 Sacramento, CA 95814  
5 Telephone: (916) 419-7111  
6 Email: aboden@pacificlegal.org

FILED  
3/18/2026 1:25 PM  
Clerk of the Napa Superior Court  
By: Isabel Rodriguez, Deputy

7 LINDSAY BLAIR HOOPES (SBN: 271060)  
8 P. O. Box 3600  
9 Yountville, CA 94599  
10 Telephone: (415) 249-2644  
11 Email: lindsay@hoopesvineyard.com

12 Attorneys for Defendants and Cross-Complainants,  
13 HOOPES FAMILY WINERY PARTNERS, LP  
14 HOOPES VINEYARD, LLC and LINDSAY BLAIR HOOPES

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **COUNTY OF NAPA**

17 NAPA COUNTY and THE PEOPLE OF THE  
18 STATE OF CALIFORNIA Ex. rel. THOMAS  
19 ZELENY, as Interim Napa County Counsel,

CASE NO. 22CV001262  
Assigned to Honorable Mark Boessenecker  
Department: 4

20 Plaintiffs,

**REPLY IN SUPPORT OF  
MOTION TO VACATE THE  
JUDGMENT**

21 v.

22 HOOPES FAMILY WINERY PARTNERS, LP,  
23 HOOPES VINEYARD, LLC, LINDSAY BLAIR  
24 HOOPES, and DOES 1 through 10 inclusive,

Date: March 25, 2026  
Time: 8:30 a.m.  
Dept: 4

25 Defendants.

26 HOOPES FAMILY WINERY PARTNERS, LP,  
27 a California limited partnership and HOOPES  
28 VINEYARD, LLC, a California limited liability  
company,

Cross-Complainants,

v.

NAPA COUNTY, DAVID MORRISON, in his  
official and individual capacities, AKENYA  
ROBINSON-WEBB, in her official and  
individual capacities, and ROES 1 through 10  
inclusive,

Defendants.

1 **I. INTRODUCTION**

2 This court is required to consider inability to pay with regard to the aggregate fines, fees,  
3 and costs imposed on Defendants. “The principle that a punitive award must be considered in light  
4 of the defendant’s financial condition is ancient.” *Adams v. Murakami*, 54 Cal.3d 105, 113 (1991).  
5 And a damages award “can be so disproportionate to the defendant’s ability to pay that the award  
6 is excessive for that reason alone.” *Id.* at 110–11.

7 Defendants have submitted signed declarations attesting that the penalty amount will  
8 bankrupt them and force the sale of the property. Without the property, the business cannot operate.  
9 And yet, legal authorities going back as far as Blackstone have reiterated that “it is never usual to  
10 assess a larger fine than a man is able to pay, without touching the implements of his livelyhood;  
11 but to inflict corporal punishment, or a stated imprisonment, which is better than an excessive fine,  
12 for that amounts to imprisonment for life.” 4 William Blackstone, *Commentaries on the Laws of*  
13 *England* (1769) at \*373.

14 Napa County itself has admitted that there are limits on the available penalties. For instance,  
15 it admits that the maximum penalty of \$60 million would be “an unreasonable total that exceeds  
16 the purpose of a civil penalty.” *See* Napa Submission of Requested Equitable Relief, Penalties,  
17 Att’ys Fees and Costs, Dec. 12, 2024 at p. 15. But the lesser amount that has been imposed does  
18 Defendants no good. It will bankrupt them, and thus its punitive effect is the same as \$60 million.  
19 Both are unconstitutional.

20 This Court must carry the state and federal constitutions into effect, including the guarantees  
21 against excessive fines. Defendants ask the Court to vacate the judgment accordingly.

22 **II. ARGUMENT**

23 **A. This Court Can Vacate the Judgment**

24 Under CCP § 663 this court may vacate its judgment and enter a different one. Napa County,  
25 however, argues that the excessive fines argument is not justiciable under CCP § 663 because it  
26 does not pertain to legal error. Not so: the legal error here was the failure to hold an ability to pay  
27 hearing and failure to comply with the guarantees of the Eighth Amendment and California  
28 Constitution’s limitations on excessive fines. Contrary to Napa County’s arguments, Defendants

1 do not seek to relitigate any facts. They seek to rely on the record to demonstrate that the fines are  
2 unconstitutionally excessive and to secure a hearing on Defendants’ ability to pay.

3 Further, CCP § 187 grants this court broad discretion, including “all the means necessary to  
4 carry [the Constitution] into effect[.]” This Court could use its broad discretion to choose to treat  
5 this as a renewed Motion for New Trial on the basis of excessive damages. Either way, this Court  
6 has authority to protect Defendants’ right against excessive fines, which “traces its lineage back in  
7 English law nearly a millennium, and from the founding of our country, . . . has been consistently  
8 recognized as a core right worthy of constitutional protection.” *Timbs v. Indiana*, 586 U.S. 146, 169  
9 (2019) (Thomas, J., concurring).

10 **B. Defendants Must Be Given the Opportunity to Present Evidence on Their Inability**  
11 **to Pay the Penalty**

12 On December 29, 2025, the California Supreme Court issued a ruling to “clarify that the  
13 excessive fines analysis, which considers ability to pay, is the proper vehicle to challenge punitive  
14 fines.” *People v. Kopp*, 19 Cal. 5th 1, 23 (2025). “Because ability to pay is an element of the  
15 excessive fines calculus under both the federal and state Constitutions,” courts cannot impose  
16 punitive fines “without giving the defendant, on request, an opportunity to present evidence and  
17 argument why such monetary exactions exceed his ability to pay.” *People v. Cowan*, 47 Cal. App.  
18 5th 32, 48 (2020). “The appropriate inquiry. . . must take into account the totality of [Defendants’]  
19 financial obligations in court-imposed debt.” *Id.* at 49. Thus, “court[s] must hold a hearing at which  
20 defendant will have an opportunity to bear his burden of proof on the issue of ability to pay.” *Id.* at  
21 50.

22 Napa County argues that Hoopes has not met its burden to show inability to pay, but Hoopes  
23 has not been given sufficient opportunity to do so because there has not been an ability to pay  
24 hearing, as required by the state and federal constitutions. Rather than agreeing to a hearing, Napa  
25 relies on a he-said she-said approach to determining Defendants’ finances. Napa, for example, has  
26 accused Defendants of owning properties that Defendants have never owned and has called  
27 Defendants’ claims of “indigen[cy]” “insulting.” (Opp’n to Mot. for Order Staying Enforcement at  
28 p. 8). Defendants, however, have stated in their filings that these penalties will bankrupt them.

1 Defendants have a right to cross-examine the accusations made by Napa in its briefing and to  
2 provide evidence showing that they are not, in fact, able to pay the fines and fees. An ability to pay  
3 hearing is appropriate and necessary to determine the accuracy of each party’s claims.

4 In response, Napa argues that this is a mere rehashing of excessive fines arguments that  
5 occurred earlier in the case. To some extent, that’s always true of a motion to vacate. But here, the  
6 amount of the fine was not finalized until February 2, 2026. Defendants made excessive fines  
7 arguments in earlier briefing for the purpose of preserving the argument. But until the amount of  
8 the fine was actually determined and imposed through final judgment, the issue was not fully ripe.  
9 Put differently, the Court cannot evaluate the constitutionality of a fine until the fine is set. Final  
10 judgment as to the amount of the penalties was served on February 2, 2026. It was only then that  
11 Defendants could fully argue that the fines were excessive and they are unable to pay pursuant to a  
12 motion to vacate.

### 13 **C. The Fines are Grossly Disproportionate Under the Circumstances**

#### 14 **i. Defendants’ culpability is low**

15 Napa County’s interpretation of what SWEs may do under their designation has  
16 continuously changed. It also conflicts with state-level permits. For example, Napa approved  
17 Hoopes’ Type 02 application, which allows tastings and on-premises consumption, when contacted  
18 by the State ABC during the Type 02 application process in 2019 and 2021, saying “the intended  
19 use is allowed and approved” and any required permit had been approved on July 20, 1987. (Mot.  
20 to Vacate at Ex. D). Defendants were trying to operate under a confusing and constantly shifting  
21 scheme and never harmed a member of the public in the process. Given these facts, nearly  
22 \$4 million in fines and fees far outweighs their culpability.

23 Napa County contends that Defendants are culpable because they “allowed penalties to  
24 compound over time.” (Resp. Opp’n Br. at p. 13). That amounts to arguing that Defendants are  
25 culpable for continuing their means of earning a living while exercising their right to contest Napa’s  
26 interpretation in court—all while relying on Judge Smith’s interpretation when she denied Napa’s  
27 request for TRO. Defendants were further relying on Napa’s historical interpretations of the SWE  
28 ordinance, which many SWEs understood to allow *some* form of tastings. This is not comparable

1 to *Braum*, where the Defendant “t[ook] no action in response to the notice and instead continu[ed]  
2 to lease two properties to dispensary tenants,” as Napa contends, *see* Opp’n Br. at p. 11; instead,  
3 the record shows that Hoopes was in constant contact with Napa officials attempting to gain clarity  
4 and to comply.

5 Indeed, Napa’s regulatory scheme is so haphazard that it has confused both Napa and its  
6 courts, as evidenced by the existence of multiple conflicting interpretations. In Napa’s 2012 and  
7 2015 Winery Database, *see* Mot. to Vacate at Exs. A & B, Dalla Valle is listed as “NO” tastings or  
8 tours allowed while the Hoopes Property is listed as allowed to host tastings by appointment. Yet  
9 the Dalle Valle decision stated that Dalla Valle had not violated the code by hosting tastings, while  
10 this court held that Hoopes did violate the code by hosting tastings. The decisions in these two cases  
11 are the opposite of what is indicated by Napa’s own Winery Database records.

12 In sum, the fact that Defendants defended themselves in court while trying to gain clarity  
13 over the scope of the SWE does not support a finding that they are culpable. To the contrary, it  
14 shows they believed that they were supported by law.

15 **ii. There was no public harm**

16 The notices of apparent violation, cease and desist letter, and pre-trial communications do  
17 not mention public safety or immediate danger. Instead, they mention allegedly unpermitted  
18 tastings. In fact, Napa was denied a TRO in November 2022 because it did not face immediate  
19 irreparable harm, and Napa never renewed its request for preliminary injunction between  
20 November 2022 and December 2024—precisely because there was no harm.

21 Napa County claims that the penalty is proportional to the harm, but then fails to point to  
22 any actual harm, instead relying on statements referencing “potential leakage” with the septic  
23 system that “could be impacting” the area. *See* Opp’n Br. at p. 12. Does Napa plan to use the penalty  
24 collected here to fund repairs or remediation? Has Napa sought estimates for remediation of the  
25 “potential leakage” on which they rely as the basis for the calculated harm? Surely not, because  
26 Napa’s focus has been allegedly unpermitted tastings and tours, not the septic system. The septic  
27 system was not mentioned until the Second Amended Complaint. The trial court found no septic  
28 violations and in any event Napa has confirmed that Defendants could host unlimited foot traffic

1 for retail sales and water consumption—activities which would equally burden the existing septic  
2 system. Thus, the enormous penalty “bears no articulable correlation to any injury suffered by the  
3 Government.” *United States v. Bajakajian*, 524 U.S. 321, 340 (1998); *see also United States v.*  
4 *Lessner*, 498 F.3d 185, 206 (3d Cir. 2007) (restitution untethered to loss becomes punitive); *People*  
5 *v. Hanson*, 23 Cal. 4th 355, 361 (2000) (restitution must be rationally related to victim’s loss,  
6 otherwise it is punitive).

7 Napa County officials testified that the suspected violations on the Hoopes property were  
8 not a priority for enforcement; they were not categorized as “life safety issues or environmental  
9 hazards” because Napa “didn’t find that there were any life safety issues.” TT 751:24–752:2. The  
10 First Notice of Violation, issued February, 14, 2020, lists concerns about “tours, tasting and  
11 marketing events” “chicken shed and storage container exceeding 120 square feet” and “outdoor  
12 lighting (ie. String lights) associated with the winery are required to be shielded.” *See Decl. Of*  
13 *Kelli Cahill ISO Plaintiffs’ Ex Parte Appl. for TRO*, Nov. 1, 2022 at Ex. C. Napa’s Second Notice  
14 of Violation, issued May 12, 2021, focused on concerns about ongoing tours and tastings, the  
15 chicken shed, outdoor lighting, retail sales, and the animal sanctuary. *Id.* at Ex. E. These were the  
16 only items that Napa demanded Hoopes immediately cease in their January 27, 2022 “Demand to  
17 Cease and Desist Public Nuisances.” *Id.* at Ex. F.

18 Napa now argues that securing obedience to statutes justifies the enormous penalties here  
19 absent any evidence of actual harm caused. But deterrence and encouraging obedience is always a  
20 motivation for punitive fines, and the excessive fines analysis still applies.

### 21 **iii. Penalties in similar statutes are more equitable**

22 Napa County seemingly has no answer to the fact that the California Penal Code has a  
23 maximum total fine of \$1,000 for a general public nuisance, or that administrative fines for general  
24 code violations are \$100 for the first offense, \$200 for the second offense, and \$500 for the third  
25 and all subsequent offenses. If the issues here had been addressed through these other available  
26 means Defendants would not be facing bankruptcy and would not be responsible for Napa’s  
27  
28

1 attorney fees. And while Napa points to Sonoma County’s \$50,000 maximum fine,<sup>1</sup> that is a flat  
2 penalty, not accruing daily, that is dwarfed by the fine in this case.

3 The neighboring statutes that Napa County points to require notice and administrative  
4 procedures that were not followed here. Marin County, for example, requires notice before penalties  
5 can accrue, requires a reasonable period of time to correct or remedy the violation, and provides  
6 for administrative hearings with extensive considerations not dissimilar to the Excessive Fines  
7 analysis. *See* Opp’n Br. at Ex. A. Marin County’s administrative procedures are to be followed  
8 *before* commencing a judicial action to enjoin a violation, except in limited circumstances. *See id.*  
9 at 1.05.100. Sonoma County also requires a correction period following notice of the identified  
10 violation and “the determination of civil penalties must take into account the facts and  
11 circumstances of the violation which may include: whether the violation poses a threat to human  
12 health, safety, or the environment”, “culpability,” “attempts to comply,” “gravity of the violation,”  
13 and other relevant information. *See* Opp’n Br. at Ex. B. Thus, those statutes provide additional  
14 protections to prevent unfair or unduly oppressive fines.

15 In sum, Napa’s fines are far higher than anything comparable. The California Supreme  
16 Court looks “with disfavor on ever-mounting penalties” and has “narrowly construed the statutes  
17 which either require or permit them.” *Hale v. Morgan* 22 Cal.3d 388, 401 (1978). So, too, should  
18 this court.

19 **E. Attorney Fees Are Subject to Excessive Fines Analysis**

20 The Excessive Fines Clause applies to the attorney fees in this case because they are at least  
21 partially punitive and imposed by the government. *See Austin v. United States*, 509 U.S. 602, 609–  
22 10 (1993) (the Excessive Fines clause “limits the government’s power to extract payments, whether  
23 in cash or in kind, ‘as punishment for some offense.’”); *see also People v. Aviles*, 39 Cal. App. 5th  
24 1055, 1071 (2019) (“We find an Eighth Amendment analysis is appropriate to address a defendant’s  
25

---

26 <sup>1</sup> The Class B Violation ranges from \$500–50,000 for a violation of a provision, term, or condition  
27 designed to mitigate the risk of adverse effects on property, the public or the environment. Class A  
28 would not apply because those are violations that actually “caused adverse effects on property, the  
public, or the environment” or repeated Class B violations that showed failure to cooperate with  
investigations.

1 constitutional challenge to both restitution fines as well as other fees and assessments imposed  
2 after conviction.”). If a scheme serves, at least in part, to punish then it constitutes a fine and  
3 excessive fines analysis applies. *See, e.g., United States v. \$100,348.00 U.S. Currency*, 157 F.  
4 Supp. 2d 1110, 1118 (C.D. Cal. 2001); *Austin*, 509 U.S. at 602 (“Because sanctions frequently  
5 serve more than one purpose, the fact that a forfeiture serves remedial goals will not exclude it  
6 from the Clause's purview, so long as it can only be explained as serving in part to punish.”);  
7 *United States v. Halper*, 490 U.S. 435, 448 (1989) (“[A] civil sanction that cannot fairly be said  
8 solely to serve a remedial purpose, but rather can only be explained as also serving either  
9 retributive or deterrent purposes, is punishment, as we have come to understand the term.”).

10 Napa argues that the attorney fees here are merely remedial because they were imposed  
11 pursuant to Government Code section 25845(c) and Napa County Code section 1.20.025, which  
12 provide for “reasonable attorneys’ fees[.]” But all costs that are imposed with *any* punitive intent,  
13 including attorney fees, are subject to the state and federal constitution's limitation on excessive  
14 fines. The statutory requirement that attorneys’ fees must be “reasonable” says nothing about their  
15 punitive effect or their constitutionality. Even “reasonable attorneys’ fees” within the meaning of  
16 the statute can be punitive. And courts routinely review “the aggregate amounts of fines, fees, and  
17 assessments imposed” on defendants when undertaking an excessive fines analysis. *Aviles*, 39 Cal.  
18 App. 5th at 1072; *see also Cowan*, 47 Cal. App. 5th at 49 (The court “must take into account the  
19 totality of [Defendants’] financial obligations in court-imposed debt.”). Even administrative costs  
20 imposed on defendants are part of the total punishment analysis. Courts shift attorney fees at least  
21 in part to punish, and therefore “a sentencing court may not impose” them “without giving the  
22 defendant, on request, an opportunity to present evidence and argument why such monetary  
23 exactions exceed his ability to pay.” *Id.* at 48.

24 It is particularly obvious that shifting the attorney fees to the losing party is intended in part  
25 to punish because it requires deviation from the default American Rule that parties pay their own  
26 attorney fees. Imposing attorney fees on a losing party is intended to “deter” unwanted litigation  
27 and “punish” the loser. *White v. Gen. Motors Corp.*, 908 F.2d 675, 684 (10th Cir. 1990); *see e.g.*  
28 *State v. Cannady*, 78 N.C. 539, 542 (1878) (“where the judgment is that [the defendant] pay a fine

1 of so much and the costs, one is as much a punishment as the other.”); *Charles v. Daley*, 846 F.2d  
2 1057, 1063 (7th Cir. 1988) (“[P]unishment and deterrence are undeniably important purposes of  
3 section 1988,” which authorizes attorney fee for prevailing party in civil claim enforcing  
4 constitutional rights). Moreover, Defendants requested an administrative hearing, as is common, in  
5 2020 but were denied, meaning Napa County chose the most expensive method of enforcement and  
6 now seeks to have Defendants unilaterally foot the bill. Requiring Defendants to fund their own  
7 prosecution is plainly punitive.

8 **III. CONCLUSION**

9 Regardless of the underlying merits of Napa County’s claims against Hoopes—this  
10 punishment, bankrupting them, does not fit the crime. The fines and fees are unconstitutionally  
11 excessive and should be vacated.

12 DATED: March 18, 2026.

PACIFIC LEGAL FOUNDATION

14 By: /s/Anastasia Boden

ANASTASIA BODEN

Attorney for

15 Defendants and Cross-Complainants  
16 HOOPES FAMILY WINERY PARTNERS, LP,  
17 HOOPES VINEYARD, LLC, and  
18 LINDSAY BLAIR HOOPES

19 DATED: March 18, 2026.

21 By: /s/ Lindsay Blair Hoopes

LINDSAY HOOPES

Attorney for

22 Defendants and Cross-Complainants  
23 HOOPES FAMILY WINERY PARTNERS, LP,  
24 HOOPES VINEYARD, LLC, and  
25 LINDSAY BLAIR HOOPES  
26  
27  
28

1 **PROOF OF SERVICE**

2 I, Karmen Bushman, declare as follows:

3 I am a resident of the State of Wisconsin, residing or employed in De Pere, Wisconsin.

4 I am over the age of 18 years and am not a party to the above-entitled action.

5 My business address is 555 Capitol Mall, Suite 1290, Sacramento, California 95814.

6 On March 18, 2026, a true copy of REPLY IN SUPPORT OF MOTION TO VACATE  
7 THE JUDGMENT was served on the following by email via One Legal:

8 Arthur Anthony Hartinger ahartinger@publiclawgroup.com  
9 Geoffrey Spellberg gspellberg@publiclawgroup.com  
10 Renne Public Law Group, LLP  
11 350 Sansome St., Fl 3  
San Francisco, CA 94104-1307  
*Counsel for Plaintiffs and Respondent*

12 Sheryl L. Bratton Sheryl.bratton@countyofnapa.org  
13 Jason M. Dooley Jason.Dooley@countyofnapa.org  
14 County of Napa, County Counsel Office  
1195 Third Street, Suite 301  
15 Napa, CA 94559-3035  
*Counsel for Plaintiffs and Respondent*

16 Aryeh L. Kaufman aryeh@akaufmanlegal.com  
17 Law Office of Aryeh Kaufman  
18 5482 Wilshire Blvd., PMB 1907  
Los Angeles, CA 90036  
*Counsel for Defendant and Appellant*

19 Lindsay Blair Hoopes lindsay@hoopesvineyard.com  
20 P.O. Box 3600  
21 Yountville, CA 94599  
*Counsel for Defendant and Appellant*

22 I declare under penalty of perjury that the foregoing is true and correct and that this  
23 declaration was executed this 18<sup>th</sup> day of March, 2026, at De Pere, Wisconsin.

24   
25 \_\_\_\_\_  
26 KARMEN BUSHMAN