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18 Retirement Association, an independent agency

19 *Exempt from filing fee under Gov't Code § 6103*

20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
21 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

22 LOS ANGELES COUNTY EMPLOYEES
23 RETIREMENT ASSOCIATION, an
24 independent agency,
25
26 **Petitioner & Plaintiff,**
27
28 v.
29 COUNTY OF LOS ANGELES and BOARD
30 OF SUPERVISORS OF THE COUNTY OF
31 LOS ANGELES,
32
33 **Respondents &**
34 **Defendants.**

35 CASE NO. 21STCP03475
36
37 **DECLARATION OF DAVID MUIR**
38 **IN SUPPORT OF PETITIONER &**
39 **PLAINTIFF LOS ANGELES COUNTY**
40 **EMPLOYEES RETIREMENT**
41 **ASSOCIATION'S OPENING BRIEF ON**
42 **THE MERITS**

43 Petition Filed: October 18, 2021
44 Hearing Date: November 22, 2022
45 Time: 1:30 P.M.
46 Location: Department 85

1 **DECLARATION OF DAVID MUIR**

2 I, David Muir, declare as follows:

3 1. I served as LACERA's first Chief Counsel during the period from May 1994 to
4 July 2009. Before serving as LACERA's Chief Counsel, I served as Principal Deputy County
5 Counsel in the Office of the Los Angeles County Counsel. As Principal Deputy County
6 Counsel, I represented both LACERA and the County of Los Angeles. After the Legislature
7 enacted CAL. GOV'T CODE § 31529.1 to authorize LACERA to retain in-house counsel, I
8 resigned from my position in the County Counsel's Office and became LACERA's Chief
9 Counsel. In my role as LACERA's Chief Counsel, I was familiar with the laws governing
10 LACERA, its authority, and the role of the County.

11 2. LACERA's Board of Retirement and Board of Investments are composed of
12 trustees, each of whom owes a paramount independent fiduciary duty under Article XVI, Section
13 17 of the California Constitution to LACERA's members and their beneficiaries. Trustees also
14 have a duty to defray the reasonable cost of administering the system and minimize employer
15 contributions, subject to the paramount duty to members and beneficiaries. I served as a trustee
16 on the Board of Retirement from January 2014 to December 2017 and on the Board of
17 Investments from January 2018 to December 2020. While on the Boards, I was a member of
18 many Board committees, including, for example, the Board of Retirement's Operations
19 Oversight Committee and the Joint Organizational Governance Committee formed by both
20 Boards. In 2018, I represented the Board of Investments on the Governance Review Committee
21 formed by both Boards. As a result of my employment as Chief Counsel and my subsequent
22 service on the Boards of Retirement and Investments, I am knowledgeable about LACERA's
23 operations and the Boards' role in the governance of LACERA. For example, under GOV'T §
24 31580.2, the LACERA Boards alone, without any County review, have the right to approve
25 LACERA's annual budget, of which generally over 70% of administrative expenses are for costs
26 of salaries and employee benefits.

27 3. While serving as LACERA's Chief Counsel in 1996, I arranged for LACERA to
28 retain Joseph Wyatt and Michael Toumanoff of Morrison & Foerster to provide a formal opinion

1 as to whether the Board of Supervisors has a ministerial duty to incorporate the personnel
2 classifications and compensation approved by LACERA's Boards of Retirement and Investments
3 into the County's salary ordinance under GOV'T §§ 31522.2 and .4. A true and correct copy of
4 the opinion that they issued, dated February 28, 1996, is attached as Exhibit 8 (herein referred to
5 as the "Morrison & Foerster Opinion").

6 4. I provided the Morrison & Foerster Opinion to the Office of County Counsel of
7 Los Angeles County. The Office of County Counsel subsequently published its own opinion,
8 dated May 16, 1996, concurring with the Morrison & Foerster Opinion. A true and correct copy
9 of the County Counsel's opinion, which was provided by the County to me and other LACERA
10 staff, is attached as Exhibit 9.

11 5. Around this same time, the County decided that LACERA should negotiate its
12 own memoranda of understanding with employee unions. Thereafter, at the request of the
13 County, separate bargaining units were created for represented LACERA employees, and
14 LACERA conducted its own negotiations with those represented staff. At this same time, my
15 staff and I were involved, with the encouragement and approval of the County and its Board of
16 Supervisors, in separating the classifications for all LACERA staff, represented and non-
17 represented, into LACERA-specific classes comprised only of LACERA personnel.

18 I declare under penalty of perjury under the laws of the state of California that the
19 foregoing is true and correct.

20 Executed this 7th day of September 2022.



David Muir