

S259850

**IN THE
SUPREME COURT OF CALIFORNIA**

PRESBYTERIAN CAMP AND CONFERENCE CENTERS, INC.,
Petitioner,

v.

THE SUPERIOR COURT OF SANTA BARBARA COUNTY,
Respondent.

**CALIFORNIA DEPARTMENT OF FORESTRY
AND FIRE PROTECTION,**
Real Party in Interest.

AFTER A DECISION BY THE COURT OF APPEAL,
SECOND APPELLATE DISTRICT, DIVISION SIX, CASE NO. B297195
SANTA BARBARA SUPERIOR COURT—MAIN, CASE NO. 18CV02968
THOMAS P. ANDERLE, JUDGE • PHONE: (805) 882-4570

**OPPOSITION TO REQUEST FOR JUDICIAL
NOTICE; DECLARATION OF DANIEL J. GONZALEZ;
ATTACHMENT**

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ATTORNEYS FOR PETITIONER
PRESBYTERIAN CAMP AND CONFERENCE CENTERS, INC.

OPPOSITION TO REQUEST FOR JUDICIAL NOTICE

Petitioner Presbyterian Camp and Conference Centers (PCCC) hereby opposes, in part, the Request for Judicial Notice (RJN) filed by Real Party in Interest California Department of Forestry and Fire Protection (CalFire). Contrary to what CalFire's counsel represented in his declaration accompanying the RJN, Exhibit "E," which is captioned "Supplemental Response of [PCCC] to Form Interrogatories," was not "filed in the superior court in this case on January 18, 2019," or at any other time. Absent from the trial court record, the document does not otherwise qualify for judicial notice under Evidence Code sections 451, 452, and 459.

The accompanying declaration of Daniel J. Gonzalez and its attachment support this opposition.

August 6, 2020

HORVITZ & LEVY LLP

BETH J. JAY

H. THOMAS WATSON

DANIEL J. GONZALEZ

DALEY & HEFT LLP

ROBERT W. BROCKMAN, JR.

LEE H. ROISTACHER

GARRETT A. MARSHALL

By: _____


Daniel J. Gonzalez

Attorneys for Petitioner

**PRESBYTERIAN CAMP AND
CONFERENCE CENTERS, INC.**

MEMORANDUM OF POINTS AND AUTHORITIES

Evidence Code sections 451, 452, and 459 govern an appellate court’s judicial notice of the matters there described. Among the matters a court may judicially notice are “Records of (1) any court of this state” (Evid. Code, § 452, subd. (e).)

CalFire represented in its RJN that Exhibit E, captioned “Supplemental Response of [PCCC] to Form Interrogatories,” was “filed in the superior court in this case on January 18, 2019.” (RJN 9.) However, PCCC has confirmed through its review of the Santa Barbara County Superior Court’s register of action, and direct communication with CalFire’s attorney, that PCCC’s interrogatory response was not filed in the superior court. (See accompanying declaration of Daniel J. Gonzalez and its attachment.)

Exhibit E does not qualify for judicial notice under any other provision of the Evidence Code.

PCCC opposes CalFire’s RJN to the extent it asks this Court to take judicial notice of Exhibit E.

August 6, 2020

HORVITZ & LEVY LLP
BETH J. JAY
H. THOMAS WATSON
DANIEL J. GONZALEZ
DALEY & HEFT LLP
ROBERT W. BROCKMAN, JR.
LEE H. ROISTACHER
GARRETT A. MARSHALL

By: 
Attorneys for Petitioner
**PRESBYTERIAN CAMP AND
CONFERENCE CENTERS, INC.**

DECLARATION OF DANIEL J. GONZALEZ

I, Daniel J. Gonzalez, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am a partner with Horvitz & Levy LLP, attorneys of record for petitioner Presbyterian Camp and Conference Centers, Inc. (PCCC) in the matter *Presbyterian Camp and Conference Centers v. S.C. (California Department of Forestry and Fire Protection)*, California Supreme Court case number S259850. I have personal knowledge of the facts set forth herein. If called as a witness, I could and would competently testify to the matters stated.

2. On July 23, 2020, I received service of the Answer Brief on the Merits filed by Real-Party-in-Interest California Department of Forestry and Fire Protection (CalFire). Accompanying the brief was a Request for Judicial Notice (RJN).

3. Included within the RJN as Exhibit E is a document captioned “Supplemental Response of [PCCC] to Form Interrogatories.” In his supporting declaration, CalFire’s counsel represented that Exhibit E was “filed in the superior court in this case on January 18, 2019.”

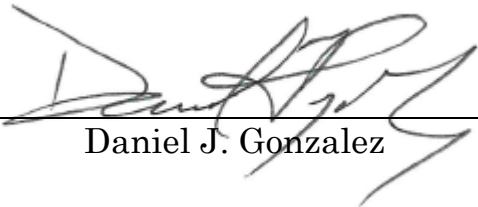
4. I am attaching to this declaration a true and correct copy of the Santa Barbara County Superior Court’s register of action for this case, which we secured from the court’s web site. The register of action does not record the filing of Exhibit E on or about January 18, 2019.

5. On July 30, 2020, I sent an email message to CalFire's attorney and asked him to clarify whether Exhibit E was in fact filed.

6. That same day, CalFire's counsel replied by email that "we mistakenly stated that the document was 'filed.'"

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

Executed August 6, 2020, at Burbank, California.


Daniel J. Gonzalez

ATTACHMENT

Case Information (Docket)
Santa Barbara County Superior Court
Case No. 18CV02968

*California Department of Forestry & Fire Protection v.
Presbyterian Camp and Conference Centers, Inc. et al.*

Case Information

18CV02968 | California Department of Forestry and Fire Protection vs
Presbyterian Camp and Conference Centers, Inc. et al

Case Number
18CV02968

Court
Santa Barbara -
Anacapa

Judicial Officer
Anderle, Thomas P

File Date
06/13/2018

Case Type
Unlimited Other
Complaint (Not Spec)
(42)

Case Status
Consolidated

Party

Plaintiff
California Department of Forestry and Fire
Protection

Active Attorneys ▼
Lead Attorney
Hirsch, Ross
Retained

Defendant
Presbyterian Camp and Conference Centers,
Inc.

Active Attorneys ▼
Lead Attorney
Brockman, Robert
W, Jr
Retained

Defendant
Cook, Charles Eugene, III

Active Attorneys ▼
Lead Attorney
Slaughter, William
M
Retained

Events and Hearings

06/13/2018 New Filed Case
06/13/2018 Civil Case Cover Sheet, Filed
06/13/2018 Summons Issued, Filed
06/13/2018 Complaint, Filed
06/14/2018 Notice of Case Assignment/Case Management Conf, Filed
08/01/2018 Document, Filed
08/02/2018 Notice of Case Assignment/Case Management Conf, Filed
08/02/2018 Notice of Related Case, Filed
08/13/2018 Notice, Filed
08/28/2018 Disqualification/Challenge, Filed
08/28/2018 Proof of Service, Filed
08/29/2018 Proof of Service - Summons & Complaint, Filed

08/29/2018 Proof of Service 30 Day Summons and Complaint ▼
09/10/2018 Demurrer, Filed
09/10/2018 Declaration, Filed
09/10/2018 Proof of Service, Filed
09/10/2018 Declaration, Filed
09/10/2018 Request for Judicial Notice, Filed
09/10/2018 Memorandum of Points & Authorities, Filed
09/10/2018 Notice of Demurrer and Demurrer, Filed
10/02/2018 Stipulation & Order, Filed
10/04/2018 Case Management Statement, Filed
10/04/2018 Proof of Service, Filed
10/04/2018 Notice of Posting of Jury Fees, Filed
10/04/2018 Proof of Service, Filed
10/05/2018 Case Management Statement, Filed
10/05/2018 Notice of Posting of Jury Fees, Filed
10/09/2018 Answer/Response/Denial - Unlimited, Filed
10/10/2018 Opposition, Filed
10/10/2018 Stipulation, Filed
10/10/2018 Objection, Filed
10/16/2018 Response, Filed

10/16/2018 Reply, Filed
10/16/2018 Declaration, Filed
10/16/2018 Proof of Service, Filed
10/23/2018 Case Management Conference ▼ Judicial Officer Anderle, Thomas P Hearing Time 8:30 AM Result Held
10/23/2018 Demurrer ▼ Judicial Officer Anderle, Thomas P Hearing Time 9:30 AM Result Held
10/23/2018 Minute Order, Filed
10/23/2018 Minute Order, Filed
10/23/2018 Settlement Conference - Ordered
10/23/2018 Case Management Order, Filed
10/31/2018 Notice of Ruling, Filed
11/07/2018 Amended Complaint, Filed
12/07/2018 Answer to Complaint, Filed
12/11/2018 Notice of Hearing on Demurrer, Filed

12/11/2018 Demurrer, Filed
12/11/2018 Memorandum of Points & Authorities, Filed
12/11/2018 Request for Judicial Notice, Filed
12/11/2018 Declaration, Filed
12/11/2018 Declaration of Demurring Party CCP 430.41(a), Filed
12/11/2018 Proof of Service, Filed
12/26/2018 Case Management Statement, Filed
12/31/2018 Case Management Statement, Filed
12/31/2018 Proof of Service, Filed
01/08/2019 Case Management Conference ▼ Judicial Officer Anderle, Thomas P Hearing Time 8:30 AM Result Held
01/08/2019 Stipulation, Filed
01/08/2019 Minute Order, Filed
01/08/2019 Case Management Order, Filed
01/09/2019 Notice, Filed
01/25/2019 Notice of Resetting Hearing, Filed
02/27/2019 Opposition, Filed
02/27/2019 Declaration, Filed

02/27/2019 Objection, Filed
03/05/2019 Reply, Filed
03/05/2019 Proof of Service, Filed
03/07/2019 Case Management Statement, Filed
03/07/2019 Proof of Service, Filed
03/07/2019 Case Management Statement, Filed
03/12/2019 Demurrer ▼ Judicial Officer Anderle, Thomas P Hearing Time 9:30 AM Result Held
03/12/2019 Minute Order, Filed
03/14/2019 Case Management Conference ▼ Judicial Officer Anderle, Thomas P Hearing Time 8:30 AM Result Held
03/14/2019 Minute Order, Filed
03/14/2019 Case Management Order, Filed
03/25/2019 Stipulation, Filed
03/25/2019 Order, Filed

03/25/2019 Proof of Service, Filed
03/26/2019 Proof of Service, Filed
04/02/2019 Status Report, Filed
04/05/2019 Answer to Complaint, Filed
04/05/2019 Proof of Service, Filed
04/25/2019 Case Management Statement, Filed
05/03/2019 Case Management Statement, Filed
05/03/2019 Proof of Service, Filed
05/03/2019 Case Management Statement, Filed
05/10/2019 Case Management Conference ▼ Judicial Officer Anderle, Thomas P Hearing Time 8:30 AM Result Held
05/10/2019 Minute Order, Filed
05/10/2019 Case Management Order, Filed
11/01/2019 Settlement Conference ▼ Judicial Officer Sterne, Colleen K Hearing Time 8:30 AM Cancel Reason Vacated

11/19/2019 Trial Confirmation Conference ▼

Judicial Officer

Anderle, Thomas P

Hearing Time

11:30 AM

Cancel Reason

Vacated

03/06/2020 Settlement Conference ▼

Judicial Officer

Sterne, Colleen K

Hearing Time

8:30 AM

Cancel Reason

Vacated

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 3601 West Olive Avenue, 8th Floor, Burbank, CA 91505-4681.


On August 6, 2020, I served true copies of the following document(s) described as **OPPOSITION TO REQUEST FOR JUDICIAL NOTICE; DECLARATION OF DANIEL J. GONZALEZ; ATTACHMENT** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission via Court's Electronic Filing System (EFS) operated by ImageSoft TrueFiling (TrueFiling) as indicated on the attached service list:

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

Executed on August 6, 2020, at Burbank, California.



Kathy Turner

SERVICE LIST
Presbyterian Camp & Conf. Centers, Inc.
v. Superior Court of Santa Barbara
(Cal. Dept of Forestry & Fire Protection etc.)
SBSC Case No. 18CV02968 • COA 2/6 Case No. B297195
Cal. Supreme Court Case No. S259850

Individual / Counsel Served	Party Represented
<p>Lee H. Roistacher, Esq. Robert W. Brockman, Jr., Esq. Garrett A. Marshall, Esq. DALEY & HEFT LLP 462 Stevens Avenue, Suite 201 Solana Beach, California 92075-2065 (858) 755-5666 • FAX: (858) 755-7870</p> <p>Email: lroistacher@daleyheft.com rbrockman@daleyheft.com gmarshall@daleyheft.com</p>	<p>Petitioner Presbyterian Camp And Conference Centers, Inc.</p>
<p>William Michael Slaughter, Esq. Jonathan David Marshall, Esq. SLAUGHTER, REAGAN & COLE, LLP 625 E. Santa Clara Street, Suite 101 Ventura, California 93001-3284 (805) 658-7800 • Fax: (805) 644-2131</p> <p>Email: slaughter@srllplaw.com marshall@srllplaw.com</p>	<p>Real Party in Interest Charles E. Cook</p>
<p>Xavier Becerra, Esq. Attorney General of California Michael J. Mongan, Esq. Solicitor General Samuel T. Harbourt, Esq.* Deputy Solicitor General 455 Golden Gate Avenue, Suite 11000 San Francisco, California 94102-7004 (415) 510-3919</p> <p>Email: Samuel.Harbourt@doj.ca.gov</p>	<p>Real Party in Interest California Department of Forestry Fire and Protection</p>

Individual / Counsel Served	Party Represented
<p>Jessica Barclay-Strobel, Esq. Attorney General of California 600 W. Broadway, Suite 1800 P.O. Box 85266 San Diego, California 92103-5203 (619) 738-9000</p> <p>Email: Jessica.barclaystrobel@doj.ca.gov</p>	<p>Real Party in Interest California Department of Forestry and Fire Protection</p>
<p>Theodore A. B. McCombs, Esq. Deputy Attorney General Natural Resources Law Section California Department of Justice 600 W. Broadway, Suite 1800 P.O. Box 85266 San Diego, California 92103-5203 (619) 738-9000</p> <p>Email: Theodore.McCombs@doj.ca.gov docketinglaawt@doj.ca.gov</p>	<p>Real Party in Interest California Department of Forestry and Fire Protection</p>
<p>Clerk of the Court Supreme Court of California 350 McAllister Street San Francisco, California 94102-3600 (415) 865-7000</p>	

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PRESBYTERIAN CAMP AND CONFERENCE CENTERS v. S.C.**
(CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION)

Case Number: **S259850**

Lower Court Case Number: **B297195**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **dgonzalez@horvitzlevy.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
OPPOSITION	2020-08-06 PCCC Opp to RJN of Cal Dept of Forestry (w attachment) (PCCC v. SCSB-Cal Forestry)

Service Recipients:

Person Served	Email Address	Type	Date / Time
William Slaughter Slaughter & Reagan LLP	slaughter@srllplaw.com	e-Serve	8/6/2020 3:07:06 PM
Lee Roistacher Daley & Heft LLP 179619	lroistacher@daleyheft.com	e-Serve	8/6/2020 3:07:06 PM
Jessica Barclay-Strobel Office of the Attorney General 280361	Jessica.BarclayStrobel@doj.ca.gov	e-Serve	8/6/2020 3:07:06 PM
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Melissa Fassett Price, Postel & Parma	mjf@ppplaw.com	e-Serve	8/6/2020 3:07:06 PM
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Daniel Gonzalez Horvitz & Levy LLP 73623	dgonzalez@horvitzlevy.com	e-Serve	8/6/2020 3:07:06 PM
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Robert W. Brockman, Jr.	rbrockman@daleyheft.com	e-Serve	8/6/2020 3:07:06 PM
Garrett A. Marshall	gmarshall@daleyheft.com	e-Serve	8/6/2020 3:07:06 PM
Jonathan David Marshall	marshall@srllplaw.com	e-Serve	8/6/2020 3:07:06 PM
Attorney General Filing Clerk	docketinglaawt@doj.ca.gov	e-Serve	8/6/2020 3:07:06 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

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

8/6/2020

Date

/s/Daniel Gonzalez

Signature

Gonzalez, Daniel (73623)

Last Name, First Name (PNum)

Horvitz & Levy LLP

Law Firm