

Supreme Court Case No: S194501

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

HOPE DiCAMPLI-MINTZ,
Plaintiff and Appellant,

v.

COUNTY OF SANTA CLARA, et al.
Defendants and Respondents.

After a Decision by the Court of Appeal,
Sixth Appellate District, Case No. H034160
[Santa Clara County Superior Court, Case No. 1-07-CV-089159]

**OBJECTION TO COUNTY OF SANTA CLARA'S
REQUEST FOR JUDICIAL NOTICE**

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FILED WITH PERMISSION
SUPREME COURT
FILED

FEB - 8 2012

Frederick K. Ohlrich Clerk

Deputy

RECEIVED

FEB - 1 2012

CLERK SUPREME COURT

PLEASE TAKE NOTICE that Plaintiff and Appellant HOPE DiCAMPLI-MINTZ hereby objects to this Court's consideration of certain materials attached to the County of Santa Clara's Request for Judicial Notice, namely: the Declaration of Jenny S. Lillge on the letterhead of Legislative Intent Service, Inc.; materials referred to in the Lillge Declaration that are not attached; and a four-page document entitled "Legislative History Report and Analysis."

This objection has been previously stated by the Consumer Attorneys of California in its *amicus curiae* brief filed in support of Plaintiff and Appellant DiCampli-Mintz (footnote 2 at page 12) and by Plaintiff/Appellant in her Answer to the *amicus curiae* brief of the CSAC Excess Insurance Authority, California League of Cities, and California State Association of Counties (footnote 1 at page 3).

None of the aforementioned materials are properly subject to judicial notice pursuant to *Evidence Code* sections 451, 452, 453 or 459. Thus, they are also not properly noticeable pursuant to *Cal. Rule of Court* 8.252.

The Lillge declaration is not based upon personal knowledge. That declaration also refers to material that is not attached. Additionally, a four-page document entitled "Legislative History Report and Analysis" is attached but is unsworn.

Plaintiff/Appellant does not object to, and joins in, the County's request to take judicial notice of the *California Law Revision Commission Recommendation and Study Relating to the Presentation of Claims Against Public Entities* (January 1959). Such special study commission reports are appropriately referred to and relied upon as aids in interpretation. See, *Brian W. v. Superior Court* (1978) 20 Cal.3d 618, 622; 7 Witkin, *Summary of California Law, 10th Ed.*, Constitutional Law, § 123, p. 230.

Dated: January 30, 2012

Respectfully submitted,

CAMPBELL,WARBURTON,
FITZSIMMONS, SMITH, MENDELL
& PASTORE

By: 
Lisa Jeong Cummins

Attorneys for Plaintiff and Appellant
HOPE DiCAMPLI-MINTZ

1 PROOF OF SERVICE

2 **CASE NAME:** DiCAMPLI-MINTZ vs. BUI
3 **COURT:** California Court of Appeal Sixth Appellate District #H034160
4 **CASE NO.:** Santa Clara County No. 1-07-CV-089159

5 I am a citizen of the United States. My business address is 64 West Santa Clara
6 Street, San Jose, California 95113. I am employed in the County of Santa Clara where
7 this service occurs. I am over the age of eighteen years and not a party to the within
8 action or cause. On the date set forth below, following ordinary business practice, I
9 served the following documents described as:

8 **OBJECTION TO COUNTY OF SANTA CLARA'S REQUEST FOR JUDICIAL NOTICE**

9 in the manner indicated below, by enclosing a true copy thereof on the following parties
10 in a sealed envelope in the ordinary course of business, as follows:

10 **SEE ATTACHED ATTORNEY LIST**

11
12 **U.S. MAIL:** I am readily familiar with my employer's normal business practice for
13 collection and processing of mail for mailing with the United States Postal
14 Service, and that practice is that all mail is deposited with the United States
15 Postal Service the same day as the day of collection in the ordinary course of
16 business. I caused such documents, with postage thereon fully prepaid, to be
17 placed in the United States Mail at San Jose, California.

16 **FACSIMILE TRANSMISSION:** I caused such documents to be transmitted to the
17 facsimile numbers of all parties.

17 **CERTIFIED MAIL - RETURN RECEIPT REQUESTED:** I caused such documents,
18 with postage thereon fully prepaid, to be placed in the United States Mail at San
19 Jose, California.


19 **PERSONAL SERVICE/HAND DELIVERY:** I caused such documents to be
20 personally delivered.

21 **EXPRESS SERVICE:** I caused such documents to be deposited with an Express
22 Service Carrier or Express Mail in accordance with carrier's designated practice.

22 **STATE:** I declare under penalty of perjury under the laws of the State of
23 California that the foregoing is true and correct.

24 **FEDERAL:** I declare that I am employed in the office of a member of the bar of this court
25 at whose direction the service was made.

26 Executed on January 31, 2012, at San Jose, California.

27 
28 Connie Hammad

ATTORNEY LIST

CASE NAME: DiCAMPLI-MINTZ vs. BUI
COURT: California Court of Appeal Sixth Appellate District #H034160
CASE NO.: Santa Clara County No. 1-07-CV-089159

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