No. _____

In the
Supreme Court of the United States

HOOPES VINEYARD LLC, HOOPES FAMILY WINERY PARTNERS, LP, LINDSAY BLAIR HOOPES,
Applicants,

v.

NAPA COUNTY, et al.,
Respondents.

On Application for Stay to the California Court of Appeal, First District, to the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit

APPENDIX TO EMERGENCY APPLICATION FOR STAY

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF NAPA

NAPA COUNTY et al., Plaintiffs, v. HOOPES FAMILY WINERY PARTNERS, LP et al., Defendants.	Case No.22CV001262 ORDER AFTER HEARING REGARDING PLAINTIFF'S REMEDIES BRIEF FOLLOWING PHASE I BENCH TRIAL DATE: October 22, 2025, 8:30 a.m., Dept. 4 Hon. Mark Boessenecker

This matter came on regularly for hearing on October 22, 2025. Attorneys Jason Dooley and Geoffrey Spellberg appeared on behalf of Plaintiff/Cross-Defendant Napa County and the People of the State of California ex rel. Sheryl L. Bratton, as Napa County Counsel (collectively, "**Plaintiffs**"), and Katharine H. Falace and Lindsay B. Hoopes appeared on behalf of Defendants/Cross-Complainants Hoopes Family Winery Partners, LP, Hoopes Winery, LLC, and Lindsay Blair Hoopes ("**Ms. Hoopes**") (collectively, "**Defendants**"). At the conclusion of the

hearing, the Court took the matter under submission. The Court, having considered the papers filed in support of and in opposition to the matter, as well as the oral argument of counsel, now rules as follows.

A. PROCEDURAL MATTERS

As directed by the Statement of Decision issued November 13, 2024 in favor of Plaintiffs, Plaintiffs provided supplemental briefing addressing the scope of their injunction request, their penalties request, and their attorney's fees and costs request. (12/12/24 Plaintiffs' Submission of Requested Equitable Relief, Penalties, Attorney's Fees, and Costs ("Remedies Br.").)

Following Defendants' request to extend the time for filing of their responsive brief, and in light of Plaintiffs' agreement conditioned upon the issuance of a preliminary injunction, the Court issued a Preliminary Injunction on February 20, 2025.

On March 7, 2025, Plaintiffs filed an Updated Request for Attorney's Fees and Penalties ("**Updated Remedies Br.**").

On March 25, 2025, Defendants filed their Opposition Briefs. For an unexplained reason, Defendants filed three separate Opposition Briefs: a 40-page Opposition to Plaintiffs' Request for Attorney's Fees ("**Attorney Fee Opp.**"), 34-page Opposition to Plaintiffs' Request for Civil Penalties ("**Penalties Opp.**"), and a 7-page Opposition to County's Request for Attorney's Fees on Behalf of Lindsay Blair Hoopes Individually ("**Ms. Hoopes Attorney Fee Opp.**"). These piecemeal briefs were not authorized by the Court, and Defendants provide no explanation for the voluminous briefing. That said, the Court has considered all of Defendants' Opposition Memoranda.

On April 8, 2025, Plaintiffs filed their Reply Briefs, responding to each separate Opposition Brief in kind: Reply in Support of Request for Attorney Fees ("**Attorney Fee Reply**"), Reply Supporting Request for Penalties ("**Penalties Reply**"), and Reply to Lindsay Blair Hoopes' Opposition to Attorney Fees ("**Reply to Ms. Hoopes Attorney Fee Opp.**").

Through Plaintiffs' submissions, Plaintiffs request that the Court adopt the Preliminary Injunction as the Permanent Injunction. (See 04/08/25 Proposed Judgment Following Bench Trial.) Additionally, Plaintiffs seek $6,100,000.00 or, alternatively, $6,581,750.00 in penalties,

$2,305,787.50 in attorneys' fees, and $111,756.00 in costs of abatement.[1] (Remedies Br., 1:12-20; Updated Remedies Br., 2:3-4; Attorney Fee Reply, 6:2-6, 15:14-15.)

B. PRELIMINARY MATTERS

With respect to Hoopes Attorney Fee Opp. filed by Defendants, it solely raises an argument disputing alter ego liability by reasserting the points made in Defendants' closing briefs following the phase I bench trial. Following the phase I bench trial and submission of closing briefs, the Court found that Plaintiffs had established alter ego liability. (See Statement of Decision, pp. 18-19.) Defendants provide no authority for reasserting their arguments now or for the Court to reconsider those arguments. As such, the Hoopes Attorney Fee Opp. is procedurally improper, and the request made through it is summarily denied on this ground.

The Court further denies Defendants' request to stay this matter based on there being pending appellate issues and no final judgment. (Attorney Fee Opp., 16:14-25.) The Court previously found that, despite the pending appeal, the Court retains jurisdiction to proceed on these post-trial matters. (See 05/29/25 Minute Order.) Moreover, the Court's concurrent ruling on Plaintiffs' Motion to Enter Judgment renders the concern by Defendants regarding lack of a final judgment moot.

C. PERMANENT INJUNCTION

On December 12, 2024, Plaintiffs filed their Remedies Brief requesting a permanent injunction pursuant to Napa County Code of Ordinances ("**NCC**") 1.20.155(A). (Remedies Br., 1:21-5:9.) On December 13, 2024, Defendants applied, *ex parte*, for an extension of time to file their post-trial brief opposing Plaintiffs' request for relief based on Ms. Hoopes' medical condition. Defendants indicated that they would not be able to begin drafting an opposition brief until March 13, 2025. (See Ex Parte Application filed December 13, 2024, at 2:18-19.) The Court heard arguments and continued hearing on the application to December 31, 2024. (See December 13, 2024, Minute Order.)

On December 30, 2025, Plaintiffs filed a "Response to Second Declaration of Katharine H. Falace in Support Of Continued Exparte Motion." Through that pleading, Plaintiffs again

[1] Plaintiffs also seek $205,958.09 in costs pursuant to Code of Civil Procedure section 1032; however, the Court elects to address those costs in its concurrent ruling on Defendants' Motion to Tax Costs.

asked the Court to deny the requested continuance. In a spirit of good will, Plaintiffs also proposed, as an alternative, that "the Court should order that the County's request for entry of Judgment and requests for fees and penalties shall be stayed per the request by Hoopes. However, Hoopes shall promptly respond to the County's proposed injunction language and the determination of the injunction be promptly determined. The Court would issue that ruling as a preliminary injunction pending final determination of the other issues."

At the continued hearing on Defendants' *ex parte* application for extension of time to file post-trial briefing, on December 31, 2025, the Court elected to pursue Plaintiffs' alternative plan. The Court denied the *ex parte* application for a continuance of all matters and ordered "Opposition to Request for Preliminary Injunction is due 1-24-25. Response to the Opposition to Request for Preliminary Injunction is due by 1-31-25." (Minute Order of December 31, 2024.) The Court set the matter for hearing on the request for a preliminary injunction on February 7, 2025. (See *ibid.*)

The Court held a hearing on the request on February 7, 2025, and took the matter under submission. On February 20, 2025, the Court filed an order titled "Preliminary Injunction Against All Defendants" ("**Preliminary Injunction**").

On February 21, 2025, Defendants filed a Notice of Appeal from the Preliminary Injunction. On March 7, 2025, the Court of Appeal issued an Order temporarily staying this Court's Preliminary Injunction. (See Order in Court of Appeal case no. A172626 filed with this Court on March 7, 2025.) On May 29, 2025, after briefing by the parties on the issue of jurisdiction, the Court concluded that it retains jurisdiction over proceedings on the merits of the case, including to proceed to judgment on the case and enter a permanent injunction, notwithstanding the appeal or stay order. (Minute Order of May 29, 2025, p. 3.) The Court takes judicial notice *sua sponte* that the appeal is still pending before the Court of Appeal.

The parties have submitted no further briefing on Plaintiffs' request for an injunction. Thus, the Preliminary Injunction is adopted as a Permanent Injunction against Defendants.

D. ATTORNEYS' FEES

Plaintiffs seek attorneys' fees, pursuant to NCC 1.20.025, totaling $2,305,787.50. (Remedies Br., 5:10; Updated Remedies Br. 2:3-4; Attorney Fee Reply, 6:2-6, 15:14-15.)

1. NCC 1.20.025 Authorizes Attorneys' Fees for this Civil Action

NCC 1.20.025 provides:

> In any action, administrative proceeding, or special proceeding to civilly abate a nuisance, attorney's fees may be recovered by the prevailing party. Recovery of attorneys' fees by the prevailing party is limited to those actions or proceedings in which the county elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the county in the action or proceeding.

(NCC 1.20.025; see also Gov't Code, § 25845, subd. (c).)

Defendants argue that the remedies provided under NCC Chapter 1.20 are not applicable because the authority for that ordinance is Government Code section 25845 ("**Section 25845**") and Plaintiffs "did not proceed by way of section 25845." (Attorney Fee Opp., 9:12-16, 24-25.) Under Defendants' understanding, the provisions of Section 25845 only apply where a county has elected to pursue abatement by an administrative procedure, not, as here, by a direct civil action. (Attorney Fee Opp., 11:16-20, 9:22-11:23.)

NCC 1.20.025, upon which Plaintiffs' request for attorneys' fees relies, was enacted pursuant to the authority of Section 25845. (See NCC 1.20.010, subd. (A).) Subdivisions (a), (c), and (i) are the only subdivisions of Section 25845 which provide authority for a county to enact an ordinance. Subdivision (i) is not at issue and has no relevance here. Subdivision (a) states that, if a county opts to, by ordinance, establish a procedure for the abatement of a nuisance, the ordinance must, "at a minimum," provide for an administrative abatement process. Subdivision (c) states that "[a] county may, by ordinance, provide for the recovery of attorneys' fees in *any action, administrative proceeding, or special proceeding* to abate a nuisance." By its plain language, subdivision (c) applies to a broader set of circumstances than the administrative proceedings discussed in subdivision (a). It follows that NCC 1.20.025, which mirrors the language of Section 25845, subdivision (c), is not limited to administrative abatement actions. Thus, the Court rejects Defendants' argument that NCC Chapter 1.20 is not applicable because Plaintiffs did not proceed by way of an administrative abatement action. (See Attorney Fee Opp., 9:22-11:23.)

Because the Court finds that Section 25845, subdivision (c) authorizes NCC 1.20.025 independent from subdivision (a), it is unnecessary for the Court to consider Defendants' additional argument regarding summary abatement under Section 25845, subdivision (a). (See Attorney Fee Opp., 13:16-14:14.)

The Court rejects Defendants' argument that the County failed to codify an ordinance to grant attorney's fees pursuant to Section 25845. (See Attorney Fee Opp., 12:8-13:15.) As briefed by Plaintiffs, NCC 1.20.025 is that ordinance. Defendants' failure to discuss, much less acknowledge, NCC 1.20.025 in their Opposition demonstrates the lack of merit of this argument. Moreover, because there is an ordinance providing for attorney's fees, the Court need not consider Defendants' argument that attorney's fees may not be awarded as an equitable remedy. (See Attorney Fee Opp., 14:15-28.)

The Court further rejects Defendants' contention that Plaintiffs are not entitled to attorney's fees because Plaintiffs were required to pursue less costly enforcement mechanisms other than litigation. (See Attorney Fee Opp., 15:1-16:13.) This argument was the basis for certain of Defendants' defenses raised in the phase I bench trial and was denied. (See 11/13/24 Statement of Decision at pp. 16-17.) As such, it is improper to be reasserted here.

2. Plaintiffs are Entitled to Their Reasonable Attorneys' Fees as Prevailing Parties

"Recovery of attorneys' fees by the prevailing party is limited to those actions or proceedings in which the county elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees." (NCC 1.20.025.) Here, Plaintiffs requested an award of attorneys' fees in their original Complaint and operative Second Amended Complaint ("**SAC**"). (10/20/22 Complaint, Prayer, ¶ 6; 12/22/23 SAC, Prayer, ¶ 6.) Thus, NCC 1.20.025 authorizes prevailing party attorneys' fees. Moreover, Plaintiffs are the prevailing party based on the Statement of Decision following the phase I bench trial and the Court's concurrent ruling on Plaintiffs' Motion for Judgment on the Pleadings.

3. Lodestar Calculation Governs the Analysis for Reasonable Attorneys' Fees

The standard method for awarding prevailing party attorneys' fees is using the lodestar amount. (*Press v. Lucky Stores, Inc.* (1983) 34 Cal.3d 311; see also *PLCM Group, Inc. v. Drezler* (2000) 22 Cal.4th 1084, 1095.) The lodestar amount is calculated by multiplying the number of

hours reasonably expended by the reasonable hourly rate. (*Serrano v. Priest* (1977) 20 Cal.3d 25, 48.) "[T]he burden is on the party seeking attorney fees to prove that the fees it seeks are reasonable." (*Gorman v. Tassajara Development Corp.* (2009) 178 Cal.App.4th 44, 98.)

Here, Plaintiffs' total fee request of $2,305,787.50 is made up of three components.

First, Plaintiffs seek reimbursement for $79,705.00[2] in fees from Aleshire & Wynder, the firm initially retained to represent Plaintiffs. (Declaration of Geoffrey Spellberg ("**Spellberg Decl.**"), ¶ 4, Exh. C.)

Second, Plaintiffs seek reimbursement for $1,847,464.50 (= $1,706,245.00 original request + $62,152.00 updated request + $79,067.50 reply) in fees from Renne Public Law Group ("**RPLG**"), the firm currently representing Plaintiffs. (Remedies Br., 6:11-16; Updated Remedies Br., 2:22-24; Attorney Fee Reply, 6:5; Spellberg Decl., Exhs. A-B; Second Declaration of Geoffrey Spellberg ("**Second Spellberg Decl.**"), Exh. A.)

Third, Plaintiffs seek reimbursement for $378,618.00 (= $354,678.00 original request + $23,940.00 updated request) in fees from County Counsel. (Remedies Br., 7:3, 8:9-10; Updated Remedies Br., 2:18-21; Declaration of Jason M. Dooley ("**Dooley Decl.**"), Exh. A; Second Declaration of Jason M. Dooley ("**Second Dooley Decl.**"), Exh. A.)

4. Certain of Defendants' Preliminary Objections are Rejected

In Opposition, Defendants contend that Plaintiffs are required to allocate their attorney's fee request between hours worked on the Public Nuisance claim and hours worked on the Unlawful Business Practices (Bus. & Prof. Code § 17200, Unfair Competition Law, "**UCL**") claim because the UCL claim does not provide for the recovery of attorney's fees. (Attorney Fee Opp., 16:26-18:22.) Plaintiffs do not dispute that UCL does not provide for the recovery of attorney's fees. (Attorney Fee Reply, 7:10-4.) However, Plaintiffs argue that no allocation is required here because the two claims are inextricably intertwined. (Attorney Fee Reply, 8:5-9:3, citing cases.) The Court agrees that allocation is not necessary. The UCL claim was entirely predicated upon the Public Nuisance claim.

[2] In Reply, Plaintiffs concede that $16,179.00 should be deducted from the original request of $95,884.00 because it was mistakenly included in the billing request. (Attorney Fee Reply, 5:28-6:3.)

Defendants request that the Court deny Plaintiffs' fee request in its entirety for overreaching. (Attorney Fee Opp., 19:9-20:21, citing *569 E. Cty. Blvd. LLC v. Backcountry Against the Dump, Inc.* (2016) 6 Cal.App.5th 426, 432 n.7.) Along those same lines, Defendants request that Plaintiffs' fee request be reduced because the billing entries are unbelievable or make it difficult to ascertain whether time was reasonably spent. (Attorney Fee Opp., 27:1-7, 28, 28:2-30:14, 35:18-36:25.) The Court recognizes its authority to deny in entirety an unreasonably inflated fee request. The Court, however, based on its familiarity of the case, does not find that Plaintiffs' fee request, as a whole, is unreasonably inflated. It is undisputable that this action involved complex, numerous, and heavily-disputed factual and legal issues, and that both parties zealously and heavily litigated their positions on the varying issues, with minimal instances of agreement on either procedural or substantive matters. "A [party] cannot litigate tenaciously and then be heard to complain about the time necessarily spent by [its adversary] in response." (*Peak-Las Positas Partners v. Bollag* (2009) 172 Cal.App.4th 101, 114.) Moreover, the Court does not find the billing entries unbelievable, difficult to understand, or otherwise demonstrative of bad billing practices.

5. Plaintiffs are Required to Serve and File Additional Materials in Support of Their Request

a. Reasonable Hourly Rate

Generally, the lodestar figure is calculated by using the reasonable hourly rate in the local community for similar work. (*PLCM Group, Inc., supra*, 22 Cal.4th at 1095.) This is also true for fee awards where the prevailing party has been represented by in-house counsel. (*Id.* at 1094-98; see also *In re Tobacco Cases I* (2011) 193 Cal.App.4th 1591, 1604-05.) The reasonable market rate should be within the range of rates charged by private attorneys of similar skill, reputation, experience for comparably complex litigation. (*Bihun v. AT&T Info. Sys.* (1993) 13 Cal.App.4th 976, 997.)

The Court finds, from the evidence presented by Plaintiffs and from the Court's experience, that (1) the hourly rates charged by Plaintiffs' attorneys from RPLG, Arthur Hartinger ($405) and Geoffrey Spellberg ($380), and (2) the $380 "litigation" hourly rate and $220 "administrative" hourly rate proposed for Jason M. Dooley and Sherri Kaiser with the

County Counsel Office, are reasonable and consistent with the fees charged in the community by attorneys of comparable experience for similar work. (Spellberg Decl., ¶¶ 8-10, Exhs. A, D; Dooley Decl., ¶¶ 2-3.)

The Court, however, is unable to find on the present record that the hourly rates charged by the remaining timekeepers at RPLG, the "litigation" and "administrative" hourly rates proposed for the remaining timekeepers with the County Counsel Office, and the rates charged by Aleshire & Wynder are reasonable and consistent with fees charged in the community by attorneys of comparable experience for similar work.

Neither Plaintiffs' Memoranda nor the Spellberg Decl. discuss or itemize the hourly rate of counsel or paralegals with Aleshire & Wynder *or* RPLG, other than submitting the billing records which contain varying hourly rates.[3] The Spellberg Decl. does not even offer an opinion that the hourly rates are reasonable. Nor does the Spellberg Decl. identify each of the timekeepers listed in the billing records, or explain their respective qualifications and experience. The only timekeepers for which Plaintiffs provide evidence of qualifications and experience are Mr. Hartinger and Mr. Spellberg. (Spellberg Decl., ¶¶ 8-10, Exh. D.)

As best the Court can tell, the RPLG records report at least 20 different timekeepers with varying hourly rates ranging from $110 to $405 as follows: $405 for Art Hartinger and Rahi Azizi, $395 for Linda Ross, $385 for Sam Wheeler, $380 for Geoff Spellberg, Ryan McGinley-Stempel, Amy Ackerman, and James Ross, $375 for Ann Danforth, $365 for Rafal Ofierski and Steve Cikes, $340 for Mauricio Grande, $305 for Abigail West, $295 for Davis Clark and Jake Freitas, $255 for Michael Cohen, $177 for Andrew Shen, $160 for Nichelle Randolph and Lara Nather, $110 for Nicholas Moore. (Spellberg Decl., Exh. A.) The Aleshire & Wynder timekeepers are identified only by their initials, and the records do not identify *any* hourly rates, only the amount of hours spent and the total amount billed (from which an hourly rate can be

[3] The RPLG billing records are 101 pages and the Aleshire & Wynder billing records are 19 pages. Both are in small print, reflect multiple different timekeepers and hourly rates, and are organized by date of work. Plaintiffs' failure to summarize or itemize the information from the attached billing records relevant to support its requested lodestar calculation is not helpful to the Court's analysis. A "categorical breakout of time expended by each attorney and paralegal [summarizing "hours billed...within several specific litigation categories, including the total hours spent"] has been specifically lauded ... as 'an especially helpful compromise between reporting hours in the aggregate (which is easy to review, but lacks informative detail) and generating a complete line-by-line billing report (which offers great detail, but tends to obscure the forest for the trees).'" (*Syers Properties III, Inc. v. Rankin* (2014) 226 Cal.App.4th 691, 695, 700.)

obtained). As best the Court can tell, the Aleshire & Wynder records report at least five different timekeepers with varying hourly rates ranging from $170 to $270 as follows: $270 for GRT and ASF, $250 for ALH and EDG, and $170 for RKM. (Spellberg Decl., Exh. C.) From this, the Court is unable to determine who is an attorney, who is a paralegal, or the experience and qualifications as to anyone.

The Court notes that the Declaration of Scott Emblidge ("**Emblidge Decl.**") provides an opinion that "[t]he billing rates for the other [RPLG] attorneys and staff [other than Mr. Hartinger and Mr. Spellberg] are extremely reasonable and well within (or below) normal billing rates for the Bay Area legal community" and the "billing rate [for Aleshire & Wynder attorneys] is very low and well below normal billing rates for attorneys handling land use litigation in the Bay Area legal community." (Emblidge Decl., ¶¶ 20-21.) However, there is no indication that Mr. Emblidge was aware of the timekeepers' identities or qualifications, as the universe of documents he reviewed was certain court records and those submitted with the instant matter. (Emblidge Decl., ¶¶ 9-10, 16.) While the Court does not necessarily disagree with Mr. Emblidge's conclusion, there is simply insufficient information before the Court from which it is able to reach the same conclusion.

Based on the foregoing, Plaintiffs have not provided sufficient information for the Court to determine whether the hourly rates for all timekeepers, except Mr. Spellberg and Mr. Haringer, are reasonable within the local community for similar work by attorneys of similar skill, reputation, and experience.

Likewise, Plaintiffs' Memoranda and evidence submitted in support of the hourly rate for County Counsel fail to provide sufficient information.

Plaintiffs propose two rates of recovery for County Counsel. (Remedies Br., 6:26-7:3.) First, Plaintiffs propose a cost-factored billing rate for "administrative" pre-litigation time spent by attorneys on the matter up to the filing of the Complaint on October 20, 2022. (*Id.*, 6:28-7:1.) Specifically, Plaintiffs propose $240 per hour for County Counsel, and $220 per hour for other in-house County Counsel. (*Id.*, 7:4-6.) Second, Plaintiffs propose $380 per hour for time spent by County Counsel during litigation commencing October 20, 2022. (*Id.*, 7:1-3, 12-14.)

Plaintiffs sufficiently show that the $220 and $240 proposed administrative rates reasonably represent the cost to County Counsel. (See Dooley Decl., ¶ 5, Exh. A ["The billing rates shown on Exhibit A are the administrative rates used by the Office ...."].) However, with respect to both the proposed administrative and litigation rates, the Dooley Decl. fails to identify each timekeeper or explain their respective qualifications and experience sufficient to support the hourly rates, much less state an opinion that the rates are within the range charged by private attorneys of similar skill, reputation, experience for comparably complex litigation. Despite the billing records showing at least six timekeepers (SB, SK, CKC, JD, LA, and WD),[4] the only timekeeper for which Plaintiffs provide evidence of qualifications and experience is Jason Dooley, who is presumably identified as "JD" on the billing records. (Dooley Decl., ¶¶ 2-3.) The Court notes Mr. Emblidge's opinion on the matter (see Emblidge Decl., ¶¶ 22-23), but, again, there is no indication that the opinion is based on the timekeepers' identities or qualifications, other than Sherri Kaiser who is presumably identified as "SK" on the billing records.

Based on the foregoing, Plaintiffs have not provided sufficient information for the Court to determine for all County Counsel timekeepers, except Mr. Dooley and Ms. Kaiser, whether the hourly litigation rate is reasonable within in the local community for similar work by attorneys of similar skill, reputation, and experience.

Plaintiffs are therefore directed to submit additional Declarations that identify, by name, *all* timekeepers for which reimbursement of attorneys' fees is sought. The Declarations should (1) contain sufficient information to explain each timekeepers' qualification and experience, and (2) provide a concise list or chart of each timekeepers' hourly rate (for County Counsel timekeepers, both the proposed administrative and litigation rates should be provided).

b. Number of Hours Reasonably Expended

A prevailing party is entitled to be compensated for "all hours reasonably spent." (*Serrano v. Unruh* (1982) 32 Cal.3d 621, 637 ["[T]he standard is whether a reasonable attorney would have believed the work to be reasonably expended in pursuit of success at the point in time when the work was performed."].) Legal fees incurred for legal services rendered by in-

[4] The Court notes that the County Counsel billing records expand 51 pages, in small print, reflect several different timekeepers by initials only, and are organized by date of work.

house counsel are recoverable in addition to legal fees by private counsel, provided the legal services are not unnecessarily duplicative. (*PLCM Group, Inc.*, *supra*, 22 Cal.4th at 1093-94; *Mix v. Tumanjan Development Corp.* (2002) 102 Cal.App.4th 1318, 1324.)

With respect to County Counsel, Plaintiffs state that the "administrative" (i.e., pre-litigation) hours total 90.3, while the "litigation" hours total 878.80. (Remedies Br., 8:5-8.) With respect to RPLG and Aleshire & Wynder, Plaintiffs' Memorandum does not state the total number of hours. Rather, the hours are only shown through the billing records submitted with the Spellberg Decl. The total hours by Aleshire & Wynder total 380.80. (Spellberg Decl., Exh. C, p. 19 (PDF p. 132).) Neither the billing records nor Plaintiffs' Memorandum assert the total number of hours for which they seek reimbursement for RPLG. Defendants calculate it to be 5,172.50 hours by RPLG. (Attorney Fee Opp., 18:24-26.)

Neither the Spellberg Decl. nor the Dooley Decl. offer an opinion that all hours spent by RPLG, Aleshire & Wynder, and County Counsel were reasonably expended on this matter or that a good faith effort was made to exclude from the fee request any hours that are excessive, redundant, or otherwise unnecessary. The Court notes the assertion made in the Spellberg Decl. that $78,168.29 incurred by RPLG was removed "as courtesy discounts and no charge discounts." (Spellberg Decl., ¶ 3.) The Court further notes that the Second Spellberg Decl. states that the updated amount of $62,152.00 in fees by RPLG "was reasonably and necessarily incurred to continue litigating the action to obtain a preliminary injunction or judgment in this action." (Second Spellberg Decl., ¶ 4.)

As noted in Footnote 8, the Spellberg Decl. and Dooley Decl. fail to provide any detail regarding the hours spent on specific tasks or broken down by phases of the litigation or by timekeeper. While Plaintiffs' Memorandum includes "a brief summary of some of the legal services provided in this action" and the Spellberg Decl. submits "summaries of the depositions taken in the case and the motions and ex-parte applications filed" (see Spellberg Decl., ¶ 5, Exh. B), Plaintiffs do not tie any of the hours reflected in the billing records to those specific "legal services," "depositions," or "motions and ex-parte applications." Thus, even assuming *arguendo* the Court found all such activities reasonable and necessary, that finding does not, on its own, support that the hours recorded in the billing records were reasonably expended. Plaintiffs'

decision to only submit the billing records seems inconsistent with Plaintiffs' subsequent assertion that "it is not the Court's job to sift through billing records to determine which fees are compensable and which are not." (Attorney Fee Reply, 12:16-18, citing *Guillory v. Hill* (2019) 36 Cal.App.5th 802, 812.) That said, the Court has reviewed the billing records for reasonableness. (See *Horsford v. Board of Trustees of Calif. State Univ.* (2005) 132 Cal.App.4th 359, 395-97 [verified time records entitled to credence absent clear indication they are erroneous].)

In addition to the billing records, Plaintiffs submit the Emblidge Decl. as apparent expert evidence supporting the number of hours spent on this matter. (Remedies Br., 10:22-11:12.) Defendants do not address, much less acknowledge the Emblidge Decl. in Opposition.

The Emblidge Decl. asserts that Mr. Emblidge has reviewed the operative SAC, operative cross-complaint, five reports from the discovery referee, the trial briefs submitted by each party, all the post-trial briefing submitted by the parties, the Court's Tentative Decision, the Court's Statement of Decision, the summary list of the 16 depositions taken in the case, the summary list of the motions/ex parte applications that were filed and adjudicated in the case, and the legal billings from the RPLG, Aleshire & Wynder, and Napa County Counsel. (Emblidge Decl., ¶¶ 9-10, 16.) Mr. Emblidge opines that "Defendants turned the case into an extremely complex litigation, involving, among other things, a deep dive into the history of the regulation of wineries, the scope of State regulation of alcohol, and the historic practices of the County and its personnel." (*Id.*, ¶ 11.) Mr. Emblidge concludes that, "[i]n light of the complexity of this case which involved eleven trial days, 40 days of deposition and 39 motions/ex parte requests and extensive discovery disputes resolved by a retired Judge acting as the Discovery Referee, it is my opinion that the billings for this matter shown on the AW and RPLG billing sheets were reasonable and necessarily incurred" and "that the amount and nature of the work performed by AW, RPLG and County Counsel on this matter were reasonable, necessary and appropriate." (*Id.*, ¶¶ 17-18.) Mr. Emblidge states that "[his] opinion is bolstered by the fact that RPLG did not charge the County for over $78,000 of billable time." (*Id.*, ¶ 17.)

The Court finds, from the Emblidge Decl., a review of the billing records, its familiarity with the case, and the parties' briefs[5] that, with the exception of fees incurred in connection with the following activities, Plaintiffs' fees were reasonably necessary to the conduct of the litigation:

- Plaintiffs' anti-SLAPP motion filed March 29, 2023;
- Media, press, "public messaging," "media strategy," and the like;
- Time reported on County Counsel billing records as "DO NOT BILL" or "NO BILL"; and
- Matters in the appellate court, as those seem subject to a request and order by the Court of Appeal.

However, the Court is unable to determine the fees incurred in connection with the aforementioned activities on the present record. Plaintiffs are therefore directed to submit additional Declaration(s) that identify all attorneys' fees associated with that activity such that the Court can reduce the requested fees by the amount.

Moreover, with respect to County Counsel, the Court is unable to determine from the present record that the legal services rendered by in-house counsel were not unnecessarily duplicative of the services provided by either Aleshire & Wynder or RPLG. (*Mix*, *supra*, 102 Cal.App.4th at 1324.) Despite recognizing the *Mix* standard in their Attorney Fee Reply, Plaintiffs provide no evidence to support that the fees are not duplicative, or to address the concerns raised by Defendants. (See Attorney Fee Opp., 33:18-34:12.)

Plaintiffs are therefore further directed to submit additional Declaration(s) that address whether Plaintiffs' fee request complies with the prohibition of duplicity of work between in-house and outside counsel under the *Mix* standard. The Court is inclined to reduce County

[5] Defendants argue that Plaintiffs cannot recover attorneys' fees for work relating to (1) Plaintiffs' unsuccessful anti-SLAPP motion, (2) Public Records requests related to Defendants, (3) opposing Defendants' cross-complaint, (4) opposing the third-parties' intervention motions (filed by Defendants' counsel), (5) transferring the case after Plaintiffs changed attorneys from Aleshire & Wynder to RPLG, (6) media and PR campaigns, (7) discovery and actions relating to people who were not witnesses called to testify, (8) discovery never disclosed to Defendants, (9) electing to recuse Judge Smith, (10) travel to Napa, (11) basic pleadings and discovery, (12) internal conferences, and (13) clerical time (Attorney Fee Opp., 20:22-26:28, 27:8-28:1, 34:13-35:17, 37:1-38:22; see also Declaration of Katharine H. Falace ISO Attorney Fee Opp, and exhibits attached thereto.)

Counsel's requested fees by a percentage should Plaintiffs be unable to present sufficient evidence on this point.

E. COSTS OF ABATEMENT

Plaintiffs seek "costs of abatement" totaling $111,756.00. Plaintiffs clarify that "costs of abatement" mean the costs incurred by the County's staff pursuant to Section 25845, subdivision (b). That subdivision provides:

> In any action to abate a nuisance, whether by administrative proceedings, judicial proceedings, or summary abatement, the owner of the parcel upon which the nuisance is found to exist shall be liable for all costs of abatement incurred by the county, including, but not limited to, administrative costs, and any and all costs incurred in the physical abatement of the nuisance. Recovery of costs pursuant to this section shall be in addition to and shall not limit any prevailing party's right to recover costs pursuant to Sections 1032 and 1033.5 of the Code of Civil Procedure or any other provision of law.

(Section 25845, subd. (b).)

Plaintiffs submit the billing sheets for County staff who worked on this matter from January 2020 through August 2024. (Dooley Decl., Exh. B.)

Defendants argue that staff time spent investigating a claim and assisting with litigation is not a cost of abatement as that term is used in Section 25845, subdivision (b). (Attorney Fee Opp., 38:23-39:4.) The Court is not convinced that Section 25845, subdivision (b) excludes from "costs of abatement" the costs of County staff in assisting with pre-litigation and litigation measures to abate a nuisance, and Defendants cite no authority in support of their position.

However, the Court agrees with Defendants that Plaintiffs' proposed rates for each staff member for which they seek reimbursement lack evidentiary support. (See Dooley Decl., Exh. B.) The Dooley Decl. merely states that "[a] true and correct copy of the billing records for County staff with respect to this Hoopes matter is attached hereto as Exhibit B." (*Id.*, ¶ 6.) However, there is no evidence to support that the amounts listed in Exhibit B were costs actually incurred by the County Counsel Office. Moreover, Exhibit B reflects several different timekeepers without identification of their name or qualification.

Plaintiffs are therefore directed to submit additional Declaration(s) that: (1) provide sufficient support for the proposition that the amounts listed in Exhibit B were costs actually

incurred by the County Counsel Office; and (2) identify, by name, each staff member for which reimbursement of costs is sought as well as support for the varying hourly rates.

F. PENALTIES

Plaintiffs seek penalties, pursuant to NCC 1.20.155 and Business and Professions Code section 17206 ("**Section 17206**"), totaling $6,100,000.00 or, under an alternative calculation proposed in Reply, $6,581,750.00. (Remedies Br., 1:12-13; Updated Remedies Br., 3:14-23; Penalties Reply, 5:22-24.) Plaintiffs contend that each code section authorizes a separate award of penalties. The aforementioned amounts are therefore reached by combining the amount sought under NCC 1.20.155 and the amount sought under Section 17206.

1. NCC 1.20.155(B)

NCC 1.20.155(B) provides that a party who willfully violates the provisions of NCC shall be liable for a civil penalty not to exceed one thousand dollars for each day, or portion thereof, the violation continues to exist.

> In determining the amount of the civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by the violator.

(NCC 1.20.155(B).)

> Each and every day any violation of this code or of any ordinance of the county, or of any condition of a permit or license or other entitlement issued by the county, law of the state, or rule or regulation promulgated pursuant thereto continues shall, unless otherwise provided, constitute a distinct and separately punishable offense.

(NCC 1.20.160, emphasis added.)

Plaintiffs argue that the factual findings by the Court expressed through the Statement of Decision support the conclusion that Defendants' violations were willful. (Remedies Br., 13:2-19.) Defendants do not address this contention; either to dispute that their violations were willful or affirmatively claim that the violations were not willful. Indeed, the gravamen of Defendants' case is that their conduct was (and is) expressly allowed, and therefore they continued to act

despite the notices of violation by Plaintiffs. Defendants appear to maintain that position through their briefing on the instant matter, stating that "[t]here is no dispute that Napa agrees unlimited customers may come to the property, and that the 'objectional' activities of 'critical thrust' are lawful winery activities legislatively denoted as critical winery functions." (Penalties Opp., 9:7-9; see also *id.*, 30:25-31:10.) Based on the foregoing, the Court is compelled to find that Defendants' conduct found to be a Public Nuisance and Unfair Business Practice was willful.

Defendants argue that the Court has no jurisdiction to impose fines under NCC 1.20.155(B) because Plaintiffs did not comply with Section 25845. (Penalties Opp., 9:15-12:13.) The Court addressed a similar argument regarding Plaintiffs' request for attorney's fees and rejected it. Defendants further argue that the imposition of penalties would be an unconstitutional ex post facto violation. (Penalties Opp., 12:14-14:12.) Defendants' argument is based on non-current versions of Section 25845 and, on that basis, is rejected.[6]

2. Section 17206

Section 17206 authorizes penalties for unlawful business practices under the UCL. Here, the Court found that Defendants violated the UCL. (See Statement of Decision.)

Section 17206 provides, in relevant part, that "[a]ny person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation ...." (§ 17206, subd. (a).)

> The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

[6] Defendants further argue in Opposition that the imposition of penalties would violate due process because Defendants relied upon this Court's order denying Plaintiffs' request for a preliminary injunction. (Penalties Opp., 14:13-20, 29:28-30:4.) This argument fails as a ruling on an application for preliminary injunction is not an adjudication of the ultimate rights in controversy; rather, it merely represents the trial court's discretionary decision whether defendant should be restrained from exercising a *claimed right* pending trial. (*Cohen v. Board of Supervisors* (1985) 40 Cal.3d 277, 286.) The Court further rejects, as procedurally improper, Defendants' reassertion of arguments regarding underlying liability for nuisance and UCL. (See Penalties Opp., 14:21-16:14, 19:20-21:8.)

(*Id.*, subd. (b).)

3. Calculation of Penalties Under NCC 1.20.155(B) and Section 17206

Plaintiffs apparently interpret the combination of NCC 1.20.155(B) and NCC 1.20.160 to mean that they are entitled to up to the maximum $1,000 penalty per day *and* per violation. Similarly, Plaintiffs contend that the Court should use a per day *and* per violation standard for the Section 17206 penalties. (Remedies Br., 14:27-15:2.) Based on that interpretation, Plaintiffs aver that, because there were four separate violations of both the NCC and Section 17206, with varying levels of severity, which each continued for 1,220 days (i.e., Oct. 20, 2021[7] to Feb. 20, 2025[8]), penalties in the amount of $6,100,000 are appropriate (i.e., $3,050,000 under NCC and UCL). (Remedies Br., 16:7-17:20.)

Alternatively, Plaintiffs propose that, for the Section 17206 penalties, they can instead be calculated imposing a $250 penalty for each of the 14,127 visitors Hoopes hosted at the winery during the 1,220-day period.[9] (Penalties Reply, 5:16-19.) This calculation amounts to $3,531,750, which, when added to the $3,050,000 NCC penalties, totals $6,581,750. (Penalties Reply, 17:2-7.)

In Opposition, Defendants contend that $6,100,000 is more than 75% of the value of the property and that $5.5 million is more than 50% of Defendants' individual net worth. (Penalties Opp., 9:9-11, 34:8-9.) Additionally, Defendants dispute the propriety of categorizing violations into four categories and the amount of penalties calculated for each category. (Penalties Opp., 16:15-19:7, 21:9-25:22, 27:5-28:2.) Defendants further contend that the daily penalty under NCC 1.20.155(B) and Section 17206, combined, should be set at the maximum under NCC, or $1,000. (*Id.*, 26:14.)

The Court declines to consider the alternative calculation proposed by Plaintiffs as it was first provided in Reply, which is improper. The Court is not convinced that the appropriate measure under either NCC 1.20.155(B) or Section 17206 is per day *and* per violation. Rather,

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[7] October 20, 2021 is one year before the Complaint was filed. Plaintiffs chose this date because the statute of limitations for government penalties is one year under Code of Civil Procedure section 340. (Remedies Br., 15:2-4, fn.2.)

[8] February 20, 2025 is the date upon which the Preliminary Injunction was entered. Plaintiffs chose this date because it was when Defendants' violations purportedly halted. (Updated Remedies Br., 3:17-19.)

[9] 14,127 visitors is calculated by extrapolating the evidence from trial that there were 8,391 visitors over 726 days. (Penalties Reply, 10:15-16, fn. 2.)

both authorities appear to contemplate only "per day" penalties, even where multiple violations occur every day. A "per day" measure also appears appropriate here, where the Statement of Decision's finding of Public Nuisance and the derivative UCL violation was based primarily on Defendants' overall conduct in providing the "Oasis" experience (a combination of on-going advertising, tastings, and sale of merchandise) as violating NCC 18.08.600. (Statement of Decision, pp. 11-12.) Moreover, after weighing all factors in considering what level of penalty to award and reviewing the parties' briefing on that point (with $1,000 being the maximum under NCC 1.20.155(B) and $2,500 being the maximum under Section 17206), the Court believes that $1,000 is appropriate under the NCC and $250 under Section 17206. The lower amount under Section 17206 is based on a balancing of (1) the purely derivative nature of the UCL violation and an attempt to avoid double penalties, and (2) a recognition that penalties under the UCL are intended for a separate purpose (i.e., deterring unfair competitive conduct) than penalties under NCC 1.20.155(B) (i.e., deterring public harm).

Thus, using Plaintiffs' 1,220 days as the number of days which Defendants' violative conduct continued, and using $1,250 ($1,000 under NCC 1.20.155(B) and $250 Section 17206) as the per day penalty, the Court calculates that the total penalty that shall be imposed is $1,525,000.

G. CONCLUSION

The Court awards the following remedies: (1) The Preliminary Injunction issued on February 20, 2025 is adopted as the Permanent Injunction against Defendants; and (2) Penalties in the amount of $1,525,000 are imposed against Defendants.

With respect to Plaintiffs' request for attorneys' fees and costs of abatement, the matter is CONTINUED to December 15, 2025, at 8:30 a.m. in Dept. 4. Plaintiffs are ordered to serve and file, no later than December 1, 2025, an additional declaration or declarations identifying: (i) the names, qualifications, and experience of all timekeepers for which reimbursement of attorneys' fees is sought, as discussed in Section (D)(5)(a) below; (ii) all fees associated with the activity discussed in Section (D)(5)(b) below; (iii) whether Plaintiffs' fee request complies with the prohibition of duplicity of work between in-house and outside counsel, as discussed in Section (D)(5)(b) below; (iv) the names and support for the hourly rates of each County staff member for

which reimbursement of costs is sought, as discussed in Section (E) below; and (v) support for the proposition that County Counsel's Office incurred the costs represented as staff time, as discussed in Section (E) below. Defendants are granted leave to file and serve any opposition thereto, limited to five pages, no later than December 8, 2025.

Date: November 3, 2025

Mark Boessenecker, Judge

Superior Court of California

County of Napa
825 Brown Street
Napa. CA 94559

Case #: 22CV001262 **NAPA COUNTY et al vs Lindsay Blair Hoopes et al**

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Lindsay B. Hoopes
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Certificate of Mailing/Service

I hereby certify that I am not a party to this cause and that a copy of the foregoing document was:

☒ **mailed** (first class postage pre-paid) in a sealed envelope or notified by **email** pursuant to CCP §1010.6
☐ **personal service** – personally delivered to the party listed above
☐ **placed in attorney/agency folders** in the ☐ Criminal Courthouse ☐ Historic Courthouse

at Napa, California on this date and that this certificate is executed at Napa, California this Date. I am readily familiar with the Court's standard practice for collection and processing of correspondence for mailing within the United States Postal Service and, in the ordinary course of business, the correspondence would be deposited with the United States Postal Service on the day on which it is collected at the Courthouse.

Date: 11/3/2025

Robert E Fleshman, Court Executive Officer

/s/ *Isabel Rodriguez*
Isabel Rodriguez, Deputy Court Executive Officer

via efile 12/30/25

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Attorneys for Plaintiffs and Cross-Defendants NAPA COUNTY and THE PEOPLE OF THE STATE OF CALIFORNIA, and Cross-Defendants DAVID MORRISON and AKENYA ROBINSON-WEBB

FILED
JAN 27 2026
Clerk of the Napa Superior Court
By: _____ Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF NAPA

NAPA COUNTY and THE PEOPLE OF THE STATE OF CALIFORNIA ex rel. SHERYL L. BRATTON, as Napa County Counsel,

Plaintiffs,

v.

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

Defendants.

AND RELATED CROSS-ACTION.

Case No. 22CV001262

EXEMPT FROM FEES (GOV. CODE § 6103)

~~PROPOSED~~ JUDGMENT FOLLOWING BENCH TRIAL

Action Filed: October 20, 2022
Trial Dates: January 29, 30, 31, February 1, 2, 5, 6, 7, 8, 9, 14, 2024
Hon. Mark Boessenecker

The County of Napa submits the attached Proposed Judgment.

DATED: December 30, 2025

RENNE PUBLIC LAW GROUP

By: _____
Geoffrey Spellberg

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF NAPA

NAPA COUNTY and THE PEOPLE OF THE STATE OF CALIFORNIA ex rel. SHERYL L. BRATTON, as Napa County Counsel, Plaintiffs, v. HOOPES FAMILY WINERY PARTNERS, LP, HOOPES VINEYARD, LLC, LINDSAY BLAIR HOOPES, and DOES 1 through 10, inclusive, Defendants. AND RELATED CROSS-ACTION.	Case No. 22CV001262 **JUDGMENT FOLLOWING BENCH TRIAL** Hon. Mark Boessenecker

This matter came on regularly for a bench trial in Department No. 5 of this Court, the Honorable Mark Boessenecker presiding. The dates of trial were January 29, 2024 to February 14, 2024. Witnesses were called and testified and evidence and argument was presented to the Court.

The Court issued its Statement of Decision on November 13, 2024 and issued a Preliminary Injunction on February 20, 2025.

During the post-trial phase, the Parties engaged in substantial briefing regarding the penalties, attorneys' fees, administrative and statutory costs, the validity of the cross-complaint filed by Cross-Complainants Hoopes Family Winery Partners, LP and Hoopes Vineyard, LLC, and motions to dismiss and for a new trial filed by the Hoopes Defendants.

Having ruled on all issues, the Court enters Judgment as follows:

The Preliminary Injunction previously entered by the Court is adopted as the Permanent Injunction and is entered as part of this Judgment. The Injunction is entered herewith jointly and severally against Defendants Hoopes Family Winery Partners, L.P., Hoopes Vineyard, LLC and Lindsay Blair Hoopes (collectively "Hoopes Defendants") with regard to the property located at 6204 Washington Street, Napa, California, 94558 (the "Property").

INJUNCTION

1. The duties, responsibilities, burdens, and obligations undertaken in connection with this Injunction shall apply to the Hoopes Defendants, jointly and severally, and any affiliates, subsidiaries, successors and assigns of each, and of any officers and employees of each.

2. In accordance with Napa County Code section 1.20.155(A), and section 17203 of the California Business and Professions Code, the Hoopes Defendants shall comply with the following:

a. Hoopes Defendants shall cease all winery activities that do not comply with Napa County Code sections 18.16.020(H) and 18.08.600 until such time as Hoopes Defendants have obtained a valid use permit authorizing any such activities and any necessary and related building, grading, or other permits. Such prohibited winery activities include:

i. All tastings of wine, however described or denoted, characterized by the consumption of any amount of wine for any purpose, by anyone other than Defendants and employees of the Winery;

ii. All tours of the Winery by members of the public;

iii. All consumption of wine purchased by members of the public on the Winery premises;

iv. All "marketing of wine," as defined by Napa County Code section 18.08.370, including all social events of a public nature, but not including advertisement or marketing of lawful activity undertaken by the Defendants at the Winery on any media;

v. All sales of wine-related and non-wine related merchandise, including tote bags, clothing, blankets, wine bottle candle holders, soap, books, ceramic bowls, hats, greeting cards and wine openers;

vi. All occupancy and assembly within winery rooms or spaces that have not been permitted for occupancy or assembly, including the areas designated as storage in the building permits on file with the County, as well as any recreational vehicles on the Property;

vii. All sales of wine not produced on the Property, including any wine produced by or for the Winery at any other site;

viii. All service of food of any kind to any member of the public, whether or not in connection with the retail sale of wine produced on site.

b. Defendants shall cease all commercial activity at the Property, which is not authorized in the zoning district in which the Property is located. Such commercial activities include:

i. All sales of non-wine-related merchandise, including tote bags, clothing, blankets, wine bottle candle holders, soap, books, ceramic bowls, hats, greeting cards and wine openers;

ii. All keeping of animals that do not qualify as animal husbandry, which is defined as the rearing or keeping of animals to sell the products they produce, such as meat, fur, dairy or eggs;

iii. Any use of animals as an attraction, enticement, or marketing activity related to a lawful winery use.

3. The Napa County Code Compliance Division shall be given full access to the Property at any time between the hours of 9:00 a.m. and 6:00 p.m., seven days a week, to conduct inspections to confirm compliance with the provisions of this Injunction. No advance notice is required for inspections during these normal business hours.

4. Hoopes Defendants shall not participate in any act or practice or form a separate entity or corporation for the purpose of engaging in acts or practices, in whole or in part, that are prohibited by this Injunction or any other purpose that would otherwise circumvent any term of this Injunction. Hoopes Defendants shall not knowingly cause, permit, or encourage any other persons or entities acting on their behalf, to engage in any act or practice prohibited by this Injunction.

5. If any clause, provision, or section of this Injunction shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this Injunction and this Injunction shall be construed and enforced as if such illegal, invalid, or unenforceable clause, provision, or section had not been contained herein.

6. The Court maintains jurisdiction over this matter, including with respect to enforcement of the terms of this Injunction.

MONETARY AWARD

Plaintiffs County of Napa and the People of the State of California are awarded the following:

1. Attorney's fees in the total amount of $2,253,991.00 pursuant to NCC 1.20.025 and California Government Code § 25845(c);
2. Costs of abatement in the amount of in the amount of $111,229.80 pursuant to Government Code § 25845(b);
3. Statutory costs in the amount of $69,792.25; and
4. Civil Penalties in the total amount of $1,525,000.00 calculated at $1,000 per day under NCC 1.20.155(B) for 1,220 days plus $250 per day under California Business and Professions Code § 17206 for 1,220 days.

The total amount awarded to Plaintiffs County of Napa and People of the State of California is $3,960,013.05. That amount is awarded to Plaintiffs and jointly and severally against Defendants Lindsay Blair Hoopes, Hoopes Family Winery Partners, LP and Hoopes Vineyard, LLC.

The Cross-complaint filed by Cross-complainants Hoopes Family Winery Partners, LP and Hoopes Vineyard, LLC against Cross-defendants County of Napa, David Morrison and Akenya Robinson-Webb is dismissed with prejudice and those Cross-complainants shall take nothing by way of their Cross-complaint.

NOW THEREFORE, Judgment is entered as follows:

1. A Permanent Injunction is entered as set forth above;
2. Judgment on the Complaint is entered in favor of Plaintiffs County of Napa and People of the State of California in the amount of $3,960,013.05 and jointly and severally against Defendants Lindsay Blair Hoopes, Hoopes Family Winery Partners, LP and Hoopes Vineyard, LLC.
3. Judgment on the Cross-complaint is entered in favor Cross-defendants County of Napa, David Morrison and Akenya Robinson-Webb and against Cross-complainants Hoopes Family Winery Partners, LP and Hoopes Vineyard, LLC

JUDGMENT IS SO ENTERED

Dated: January 23, 2026

Hon. Mark Boessenecker, Judge
Napa County Superior Court

RENNE PUBLIC LAW GROUP
Attorneys at Law

PROOF OF SERVICE

I, the undersigned, am employed by RENNE PUBLIC LAW GROUP. My business address is 350 Sansome Street, Suite 300, San Francisco, California 94104. I am readily familiar with the business practices of this office. I am over the age of 18 and not a party to this action.

On December 30, 2025, I served the following document(s):

PROPOSED JUDGMENT FOLLOWING BENCH TRIAL

by the following method(s):

☒ **Electronic Mail.** Based on an agreement of the parties to accept service by e-mail, copies of the above document(s) in PDF format were transmitted to the e-mail addresses of the parties on the attached Service List.

SERVICE LIST

Aryeh L. Kaufman Law Office of Aryeh Kaufman 5482 Wilshire Blvd., PMB 1907 Los Angeles, CA 90036 Telephone: (323) 943-2566 Facsimile: (323) 402-8598 Email: Aryeh@akaufmanlegal.com emunah@akaufmanlegal.com maura@akaufmanlegal.com leah@akaufmanlegal.com	*Counsel for Defendants* HOOPES FAMILY WINERY PARTNERS, LP, HOOPES VINEYARD, LLC and LINDSAY BLAIR HOOPES
Lindsay Blair Hoopes P.O. Box 3600 Yountville, CA 94599 Email: lindsay@hoopesvineyard.com	*Co-Counsel for Defendants* HOOPES FAMILY WINERY PARTNERS, LP, HOOPES VINEYARD, LLC and LINDSAY BLAIR HOOPES

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 30, 2025 at San Francisco, California.

Bobette T. Bramer

PROOF OF SERVICE

I, the undersigned, am employed by RENNE PUBLIC LAW GROUP. My business address is 350 Sansome Street, Suite 300, San Francisco, California 94104. I am readily familiar with the business practices of this office. I am over the age of 18 and not a party to this action.

On February 2, 2026, I served the following document(s):

NOTICE OF ENTRY OF JUDGMENT

by the following method(s):

☒ **Electronic Mail.** Based on an agreement of the parties to accept service by e-mail, copies of the above document(s) in PDF format were transmitted to the e-mail addresses of the parties on the attached Service List.

SERVICE LIST

Aryeh L. Kaufman Law Office of Aryeh Kaufman 5482 Wilshire Blvd., PMB 1907 Los Angeles, CA 90036 Telephone: (323) 943-2566 Facsimile: (323) 402-8598 Email: Aryeh@akaufmanlegal.com emunah@akaufmanlegal.com maura@akaufmanlegal.com leah@akaufmanlegal.com	*Counsel for Defendants* HOOPES FAMILY WINERY PARTNERS, LP, HOOPES VINEYARD, LLC and LINDSAY BLAIR HOOPES
Lindsay Blair Hoopes P.O. Box 3600 Yountville, CA 94599 Email: lindsay@hoopesvineyard.com	*Co-Counsel for Defendants* HOOPES FAMILY WINERY PARTNERS, LP, HOOPES VINEYARD, LLC and LINDSAY BLAIR HOOPES

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 2, 2026 at San Francisco, California.

Valerie Vitullo

Valerie Vitullo

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF NAPA

NAPA COUNTY, et al, Plaintiffs, v. LINDSAY BLAIR HOOPES, et al, Defendants.	Case No.22CV001262 ORDER AFTER HEARING ON DEFENDANTS' MOTION TO VACATE THE JUDGMENT **Date:** March 25, 2026, 11:30 a.m., Dept. 1 **Hon. Mark Boessenecker**

This matter came on regularly for hearing on March 25, 2026. Attorneys Geoffrey Spellberg, Jason M. Dooley, and Ryan McGinley-Stempel appeared on behalf of Plaintiffs, and Attorneys Aryeh Kaufman and Lindsay Blair Hoopes appeared on behalf of Defendants. At the conclusion of the hearing, the Court took the matter under submission. The Court, having considered the papers filed in support of and in opposition to the motion, as well as the oral argument of counsel, now rules as follows.

I. PRELIMINARY MATTERS

Defendants Hoopes Family Winery Partners, LP, Hoopes Vineyard, LLC, and Lindsay Hoopes (collectively, "Defendants") "move this Court to vacate or amend the judgment based on excessive damages and failure to make any inquiry into Defendants' ability to pay or the impact on their livelihood." (Notice of Motion, p. 2.) The motion is made pursuant to Code of Civil Procedure sections 187 and 663.[1] (*Ibid.*) Defendants so move "on the grounds that the fines and attorney fees imposed on Defendants are excessive in violation of the Eighth Amendment of the U.S. Constitution and Article I, Section 17, of the California Constitution. In the alternative, Defendants invite the Court to treat this filing as a renewed Motion for New Trial [pursuant to Section 657]." (*Ibid.*)

II. RELEVANT PROCEDURAL BACKGROUND

On November 03, 2025, the Court issued an Order After Hearing Regarding Plaintiff's Remedies Brief Following Phase I Bench Trial ("Penalties Order"), in which it *inter alia* (1) imposed Penalties against Defendants in the amount of $1,525,000 pursuant to Napa County Code 1.20.155(B) (NCC 1.20.155(B)) and Business and Professions Code section 17206 (Section 17206) and (2) continued the issue of Plaintiffs' request for attorneys' fees to allow for further briefing. By separate order dated November 03, 2025, the Court granted Plaintiffs' motion to enter judgment or, in the alternative, for judgment on the pleadings. By way of a Minute Order dated December 16, 2025 ("Attorneys' Fee Order"), the Court *inter alia* awarded Plaintiffs $2,253,991 in attorneys' fees. On January 27, 2026, the Court entered Judgment in Plaintiff's favor, which incorporated, among other things both the attorneys' fees and penalties previously ordered. (See 01/27/26 Judgment Following Bench Trial.)

III. JURISDICTIONAL ISSUES

At the outset of the hearing, the Court asked the parties to address whether the Court had jurisdiction to hear this Motion in light of the appeal filed by Defendants in 2025. Specifically, on November 14, 2025, Defendants filed their Notice of Appeal of the November 03, 2025 Penalties Order. "[T]he perfecting of an appeal stays proceedings in the trial court upon the

[1] All subsequent statutory references are to the Code of Civil Procedure unless otherwise specified.

judgment or order appealed from or upon the matters embraced therein or affected thereby ...." (§ 916.)

> A timely notice of appeal suspends the trial court's jurisdiction over the cause and vests jurisdiction in the appellate court ... 'The purpose of the rule depriving the trial court of jurisdiction during the pending appeal is to protect the appellate court's jurisdiction by preserving the status quo until the appeal is decided. The rule prevents the trial court from rendering an appeal futile by altering the appealed judgment or order by conducting other proceedings that may affect it. [Citation.] Accordingly, whether a matter is 'embraced' in or 'affected' by a judgment within the meaning of section 916 depends upon whether postjudgment trial court proceedings on the particular matter would have any impact on the 'effectiveness' of the appeal. If so, the proceedings are stayed; if not, the proceedings are permitted.' [Citation.]"

(*In re Marriage of Varner* (1998) 68 Cal.App.4th 932, 936.)

The subject of the instant Motion is, *inter alia*, the constitutionality of the penalties imposed through the appealed Penalties Order. Thus, the instant Motion constitutes a matter embraced in or affected by the order appealed from.

Neither party raised this jurisdictional issue through their briefs. In response to the Court's inquiry made at the outset of the hearing, Defendants argued, and Plaintiffs expressly conceded, that the Court has jurisdiction. While the Court maintains its concern that it lacks jurisdiction over this Motion, in light of the parties' contentions otherwise, the Court proceeds with this Order.

IV. LEGAL STANDARD

Section 663 provides, in relevant part: "A judgment or decree, when based upon a decision by the court ... may, upon motion of the party aggrieved, be set aside and vacated by the same court, and another and different judgment entered, for ... the following cause[], materially affecting the substantial rights of the party and entitling the party to a different judgment ... Incorrect or erroneous legal basis for the decision, not consistent with or not supported by the facts; and in such case when the judgment is set aside, the statement of decision shall be amended and corrected." (§ 663, subd. (1).)

"[S]ection 663 ... is designed to enable speedy rectification of a judgment rendered upon erroneous application of the law to facts which have been found by the court or jury or which are

otherwise uncontroverted." (*Forman v. Knapp Press* (1985) 173 Cal.App.3d 200, 203.) "[A] motion to vacate lies only where a different judgment is compelled by the facts found. ... In ruling on a motion to vacate the judgment the court cannot in any way change any finding of fact." (*Garibotti v. Hinkle* (2015) 243 Cal.App.4th 470, 477. Internal quotation marks and citations omitted.) "A CCP § 663 motion does not allow the court to reweigh the facts. It lies only on the basis of uncontroverted evidence." (Fairbank, Wegner, Wegner & Chernow, Cal. Practice Guide: Civil Trials & Evidence (The Rutter Group Oct. 2025) ¶ 18:490, citing *Simac Design, Inc. v. Alciati* (1979) 92 Cal.App.3d 146, 153.) "Thus, the court is powerless to act under § 663 where there is evidence on both sides of an issue. In such cases, a new trial motion is the proper remedy." (*Ibid.*)

V. LEGAL DISCUSSION

A. Defendants' Reliance on the Declaration of Lindsay B. Hoopes is Misplaced

Based on the above legal standard, the universe of facts properly before a court on a motion to vacate judgment are facts which either (1) have been found by the court or jury or (2) are otherwise uncontroverted. The question is limited to whether the uncontroverted record at the time judgment is entered, or the factual findings expressly stated in the judgment, compel—upon a purportedly correct application of law to those facts—a different judgment. In other words, a motion to vacate judgment does not depend upon *new* evidence. (See *Stop C-19, LLC v. Tooling Express, Inc.* (2025) 111 Cal.App.5th 803, 811 ["[A] court's decision to grant the motion does not depend on any further trial of the facts or presentation of evidence."].)

Defendants engage in no discussion of the Court's factual findings or the undisputed facts upon which the judgment is based. Defendants nowhere argue that the Court drew an incorrect conclusion of law, or rendered a mistaken judgment, upon uncontroverted evidence or upon express factual findings by the Court. Rather, Defendants argue that, based on facts presented with their instant Motion through the Declaration of Lindsay B. Hoopes ("Hoopes Decl."), the penalty and attorneys' fees are excessive. Moreover, Defendants do not assert, nor does the Hoopes Decl. show, that the facts stated therein constitute uncontroverted evidence, let alone that they were before the Court at the time the judgment was rendered. Moreover, much of the new evidence is controverted by Plaintiffs in Opposition, wherein they cite to trial testimony to

dispute the Hoopes Decl. Thus, even the new evidence is not uncontroverted. As such, section 663 provides no basis for vacating the judgment upon the Hoopes Decl.

For all the foregoing reasons (as well as those discussed below regarding Defendants' contentions on an ability-to-pay hearing), Defendants' reliance on the Hoopes Decl. is misplaced and the Court is not inclined to consider it. Moreover, Defendants in Reply appear to undermine any reliance on the Hoopes Decl. by asserting they "do not seek to relitigate any facts" and are only "seek[ing] to rely on the record ...." (Reply, p. 3.)

B. Defendants' Invitation to Treat the Motion as a Renewed Motion for New Trial is Declined

The Court acknowledges Defendants' alternative request asserted through their Notice of Motion: "In the alternative, Defendants invite the Court to treat this filing as a renewed Motion for New Trial [pursuant to Section 657]." (Notice of Motion, p. 2.) Although it may be appropriate to consider the new Hoopes Decl. on a motion for new trial, the Court declines Defendants' invitation to so construe their motion. Defendants' Memorandum of Points and Authorities engages in no discussion of the standard for a motion for new trial under section 657, much less a "renewed" motion for new trial, or upon which of the seven enumerated grounds a new trial would be justified. (See § 657, subds. (1)-(7).) Nor do Defendants provide any argument or analysis in support of this alternative request. The only reference to this request is made in the Notice of Motion. Moreover, Defendants appear to suggest that any such renewed motion for new trial would be time barred. (Notice of Motion, p. 2.) Furthermore, Plaintiffs raise objections to this alternative request. (See Opposition, p. 8, fn. 3.) For the foregoing reasons, the Court declines Defendants' invitation to treat their motion to vacate judgment as a renewed motion for new trial.

C. Defendants Fail to Establish that the Uncontroverted Facts Compel a Different Judgment

Defendants contend "the legal error here was the failure to hold an ability to pay hearing and failure to comply with the guarantees of the Eighth Amendment and California Constitution's limitations on excessive fines. ... [Defendants] seek to rely on the record to

demonstrate that the fines are unconstitutionally excessive and to secure a hearing on Defendants' ability to pay." (Reply, pp. 2-3.)

The Court first discusses the ground that there was a failure to hold an ability to pay hearing, and then turns to the ground that there was a failure to comply with the Excessive Fines Clauses of the U.S. and California Constitutions.

1. Hearing on Ability to Pay

a. Defendants' Contention that the Court Previously Failed to Consider Their Ability to Pay is Unsupported

As an initial matter, other than Defendants' Notice of Motion asserting there was a "failure to make any inquiry into Defendants' ability to pay or the impact on their livelihood" and Defendants' Reply asserting there was a "failure to hold an ability to pay hearing," Defendants' Support Memorandum and Reply develop no such argument. Rather, the only arguments developed are that (1) they have a right to an ability to pay hearing and (2) the amount of attorneys' fees and penalties is excessive under *Bajakajian v. U.S.* (1998) 524 U.S. 321, 339 because, in part, Defendants do not have the ability to pay. Neither of these developed arguments contend that the Court in the first instance failed to consider Defendants' ability to pay. Thus, the Court need not address the point. (See *Quantum Cooking Concepts, Inc. v. LV Associates, Inc.* (2011) 197 Cal.App.4th 927, 934 ["Rules of Court rule 3.1113 [governing memorandum of points and authorities] rests on a policy-based allocation of resources, preventing the trial court from being cast as a tacit advocate for the moving party's theories by freeing it from any obligation to comb the record and the law for factual and legal support that a party has failed to identify or provide."].)

Nevertheless, Defendants' contention that the Court did not consider Defendants' ability to pay deserves some comment. Notably, the Penalties Order expressly states that, despite Defendants' non-conforming papers, the Court considered all pages of the memorandum, including pages 28-34 wherein the excessive fines and ability to pay were discussed. (Penalties Order, p. 2 ["On March 25, 2025, Defendants filed their Opposition Briefs. For an unexplained reason, Defendants filed three separate Opposition Briefs: a ... 34-page Opposition to Plaintiffs' Request for Civil Penalties .... These piecemeal briefs were not authorized by the Court, and

Defendants provide no explanation for the voluminous briefing. That said, the Court has considered all of Defendants' Opposition Memoranda."].) Here, Defendants had the opportunity to oppose the amount of penalties and had the burden to raise and demonstrate their ability to pay in mitigation. Defendants, indeed, briefed the issue. Defendants did not challenge the tentative penalty amount or otherwise raise their inability to pay, either by requesting oral argument after the tentative ruling was posted the day before the hearing, or by raising/challenging the issue at the hearing other than to object to Plaintiffs' request for an increase at the hearing.

Based on the foregoing, Defendants have failed to establish that the Court did not consider Defendants' arguments regarding ability to pay when issuing the Penalties Order. This finding undermines any contention that a hearing on their ability to pay—assuming, *arguendo*, that Defendants could establish a right to such a hearing (which they cannot, as discussed below)—is necessary.

b. Defendants' Fail to Establish That They Have a Right to an Ability to Pay Hearing

With respect to Defendants' contention that they are entitled to a hearing on their ability to pay, Defendants rely on inapposite cases discussing criminal punitive fines and punitive damages in civil cases. (Support Memo, pp. 11-12, citing cases.)

But punitive damages are markedly different with respect to the requirements regarding ability to pay. (See *Beeman v. Burling* (1990) 216 Cal.App.3d 1586, 1601 ["While there is some dispute as to whether a plaintiff must present evidence of a defendant's wealth to support a claim for punitive damages [citations], there is no authority for the proposition that *statutory* damages—the amount of which is mandated by the Legislature—must be supported by evidence of the defendant's wealth."]. Emphasis in original.)

With respect to the criminal cases, Defendants cite *People v. Castellano* (2019) 33 Cal.App.5th 485, *People v. Cowan* (2020) 47 Cal.App.5th 32, and *People v. Kopp* (2025) 19 Cal.5th 1 for the proposition that courts cannot impose punitive fines without giving the defendant, on request, an opportunity to present evidence and argument why such monetary exactions exceed his ability to pay. Assuming that proposition applies in the instant civil context, it was only held in *Castellano* and *Cowan* and was disapproved by *Kopp*. Instead, *Kopp* held that

there is no due process requirement to hold an ability to pay hearing before imposing every punitive fine. (*Kopp, supra*, 19 Cal.5th at 23.) *Kopp* "clarif[ied] that the excessive fines analysis, which considers ability to pay, is the proper vehicle to challenge punitive fines." (*Ibid.*)

Moreover, where a statute, like Section 17206, sets a range of penalty for each violation, consideration of defendant's financial condition is generally not proper, as the amount has been set by a legislative body. (*Rich v. Schwab* (1998) 63 Cal.App.4th 803, 816-17; *Beeman, supra*, 216 Cal.App.3d at 1598-99; see also *People v. Braum* (2020) 49 Cal.App.5th 342, 362-63; *People v. First Federal Credit Corp.* (2002) 104 Cal.App.4th 721, 731 [holding there is no requirement "to present evidence of defendants' wealth in order to obtain the penalties mandated by sections 17206 and 17536. Under the statutory scheme, the trial court was required to impose civil penalties, and the issue of defendants' financial condition was a matter the defendants could raise in mitigation"]; *State of California v. City and County of San Francisco* (1979) 94 Cal.App.3d 522, 530-31 [holding that once evidence of statutory violation is presented, defendant bears the burden of establishing court should impose less than statutory maximum.].)

Based on the foregoing, Defendants have failed to establish an ability to pay hearing is required. Thus, the Judgment is not in error because it imposed penalties without a hearing on Defendants' ability to pay.[2]

2. Excessive Fines Clause

a. Framework

Both the federal and state Constitutions prohibit excessive fines. (U.S. Const., 8th Amend.; Cal. Const., art. I, § 17.) As the United States Supreme Court has observed, the "touchstone of the constitutional inquiry under the Excessive Fines Clause is the principle of proportionality: The amount of the forfeiture must bear some relationship to the gravity of the offense that it is designed to punish." (*Bajakajian, supra*, 524 U.S. at 334.) The four considerations bearing on proportionality are: "(1) the defendant's culpability; (2) the

[2] While not raised by either party's briefs in the instant motion, the Court notes that, in opposition to Plaintiffs' request for penalties, Defendants "reserve[d] the right to conduct an evidentiary hearing on the ability to pay with personal financial information provided under seal." (03/25/25 Opposition to Penalties, p. 34.) Plaintiffs objected to that contention in response. (04/08/25 Reply, pp. 14-16.) To the best of the Court's recollection, this Motion is the first instance by which Defendants attempt to invoke that reservation.

relationship between the harm and the penalty; (3) the penalties imposed in similar statutes; and (4) the defendant's ability to pay." (*Id.* at 337-38.)

b. Excessive Fines Clause Application

As an initial matter, Defendants appear to direct their claim of excessive fines toward both the award of attorneys' fees ($2,253,991) and civil penalties ($1,525,000) – a total of $3,778,991.

As for the attorneys' fees, the Court awarded $2,253,991 following a thorough Lodestar Analysis. (See 11/03/25 Order; 12/16/25 Minute Order.) Defendants argue that the excessive fines clause applies because the attorneys' fee award is punitive and imposed by the government. (Reply, pp. 7-9.) The Court is not persuaded that the attorneys' fee award is punitive; it is solely remedial, and therefore it is not subject to the excessive fines analysis. Accordingly, the only amount at issue is the $1,525,000 in penalties.

As for the civil penalties, the Court awarded $1,525,000 broken down by: $1,220,000 [=1,220 days x $1,000/day] pursuant to the NCC 1.20.155(B) and $305,000 [=1,220 days x $250/day] pursuant to Section 17206. The Court used the maximum daily penalty of $1,000 under NCC 1.20.155(B) and a minimal daily penalty of $250 under Section 17206 after considering all relevant circumstances, including, but not limited to, the *Bajakajian* factors, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, and any corrective action taken by the violator, as well as the parties' respective briefing on those factors. (See Penalties Order, pp. 16-19.) Moreover, the Court, by expressly stating it had considered the excessive fines argument raised through Defendants' brief and thereafter imposing a penalty of $1,525,000, implicitly found such penalty did not violate the Excessive Fines Clause.

Defendants fail to persuade the Court that it incorrectly applied the law to the facts where Defendants fail to engage in any acknowledgment or discussion of the Court's analysis or factual findings through the Penalties Order and instead simply reassert the same argument as previously advanced.

VI. CONCLUSION

The Motion is DENIED.

Date: March 27, 2026

Mark Boessenecker, Judge

Superior Court of California

County of Napa
825 Brown Street
Napa. CA 94559

Case #: 22CV001262 **NAPA COUNTY et al vs Lindsay Blair Hoopes et al**

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Certificate of Mailing/Service

I hereby certify that I am not a party to this cause and that a copy of the foregoing document was:

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☐ **personal service** – personally delivered to the party listed above
☐ **placed in attorney/agency folders** in the ☐ Criminal Courthouse ☐ Historic Courthouse

at Napa, California on this date and that this certificate is executed at Napa, California this Date. I am readily familiar with the Court's standard practice for collection and processing of correspondence for mailing within the United States Postal Service and, in the ordinary course of business, the correspondence would be deposited with the United States Postal Service on the day on which it is collected at the Courthouse.

Date: 3/27/2026

Robert E Fleshman, Court Executive Officer

/s/ *Isabel Rodriguez*
Isabel Rodriguez, Deputy Court Executive Officer

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF NAPA

NAPA COUNTY, et al, Plaintiffs, v. LINDSAY BLAIR HOOPES, et al, Defendants.	Case No.22CV001262 ORDER AFTER HEARING ON DEFENDANTS' MOTION FOR ORDER STAYING ENFORCEMENT OF JUDGMENT AND ORDER FOR WAIVER OF BOND PENDING APPEAL; OR, IN THE ALTERNATIVE, ORDER TEMPORARILY STAYING ENFORCEMENT OF JUDGMENT **Date:** March 25, 2026, 11:30 a.m., Dept. 1 **Hon. Mark Boessenecker**

This matter came on regularly for hearing on March 25, 2026. Attorneys Geoffrey Spellberg, Jason M. Dooley, and Ryan McGinley-Stempel appeared on behalf of Plaintiffs, and Attorneys Anastasia Boden and Bridget Conlan appeared on behalf of Defendants. At the conclusion of the hearing, the Court took the matter under submission. The Court, having considered the papers filed in support of and in opposition to the motion, as well as the oral argument of counsel, now rules as follows.

I. PRELIMINARY MATTERS

Defendants Hoopes Family Winery Partners, LP, Hoopes Vineyard, LLC, and Lindsay Hoopes (collectively, "Defendants") move for (1) an order confirming that enforcement of the permanent injunction embraced in the Judgment is stayed by operation of law pursuant to Code of Civil Procedure section 916, subdivision (a), and restraining Plaintiffs from taking any steps to enforce the injunction (including contempt proceedings) during the pendency of the appeal; (2) an order staying enforcement and collection of the monetary penalties and any other monetary awards embraced in the Judgment without an undertaking pursuant to Code of Civil Procedure §§ 917.1 and 995.240; or (3) in the alternative, an order temporarily staying enforcement of the Judgment pursuant to Code of Civil Procedure § 918 to allow Defendants to pursue appellate remedies.[1] (Notice of Motion, p. 1.)

II. RELEVANT BACKGROUND

On November 03, 2025, the Court issued an Order After Hearing Regarding Plaintiff's Remedies Brief Following Phase I Bench Trial, in which it *inter alia* (1) adopted the preliminary injunction issued on February 07, 2025 as the permanent injunction against Defendants, (2) imposed penalties against Defendants in the amount of $1,525,000, and (3) continued the issue of Plaintiffs' request for attorneys' fees and costs of abatement to allow for further briefing. By separate orders dated November 03, 2025, the Court (1) continued the issue of Defendants' motion to tax Plaintiffs' costs to allow for further briefing and (2) granted Plaintiffs' motion to enter judgment or, in the alternative, for judgment on the pleadings. On November 14, 2025, Defendants filed their Notice of Appeal of the November 03, 2025 Order After Hearing Regarding Plaintiff's Remedies Brief Following Phase I Bench Trial.

By way of a Minute Order dated December 16, 2025, the Court *inter alia* awarded Plaintiffs $69,792.25 in costs, $2,253,991 in attorneys' fees, and $111,229.80 in costs of abatement. On January 27, 2026, the Court entered Judgment in Plaintiff's favor, which incorporated the permanent injunction and monetary awards previously ordered. (See 01/27/26 Judgment Following Bench Trial.)

The relevant portions of the permanent injunction raised through Defendants' motion are:

[1] All subsequent statutory references are to the Code of Civil Procedure unless otherwise specified.

2. In accordance with Napa County Code section 1.20.155(A), and section 17203 of the California Business and Professions Code, the Hoopes Defendants shall comply with the following:

a. Hoopes Defendants shall cease all winery activities that do not comply with Napa County Code sections 18.16.020(H) and 18.08.600 until such time as Hoopes Defendants have obtained a valid use permit authorizing any such activities and any necessary and related building, grading, or other permits. Such prohibited winery activities include:

i. All tastings of wine, however described or denoted, characterized by the consumption of any amount of wine for any purpose, by anyone other than Defendants and employees of the Winery;

ii. All tours of the Winery by members of the public;

iii. All consumption of wine purchased by members of the public on the Winery premises;

iv. All "marketing of wine," as defined by Napa County Code section 18.08.370, including all social events of a public nature, but not including advertisement or marketing of lawful activity undertaken by the Defendants at the Winery on any media;

v. All sales of wine-related and non-wine related merchandise, including tote bags, clothing, blankets, wine bottle candle holders, soap, books, ceramic bowls, hats, greeting cards and wine openers;

vi. All occupancy and assembly within winery rooms or spaces that have not been permitted for occupancy or assembly, including the areas designated as storage in the building permits on file with the County, as well as any recreational vehicles on the Property;

vii. All sales of wine not produced on the Property, including any wine produced by or for the Winery at any other site;

viii. All service of food of any kind to any member of the public, whether or not in connection with the retail sale of wine produced on site.

b. Defendants shall cease all commercial activity at the Property, which is not authorized in the zoning district in which the Property is located. Such commercial activities include:

i. All sales of non-wine-related merchandise, including tote bags, clothing, blankets, wine bottle candle holders, soap, books, ceramic bowls, hats, greeting cards and wine openers;

ii. All keeping of animals that do not qualify as animal husbandry, which is defined as the rearing or keeping of animals to sell the products they produce, such as meat, fur, dairy or eggs;

iii. Any use of animals as an attraction, enticement, or marketing activity related to a lawful winery use.

3. The Napa County Code Compliance Division shall be given full access to the Property at any time between the hours of 9:00 a.m. and 6:00 p.m., seven days a week, to conduct inspections to confirm compliance with the provisions of this Injunction. No advance notice is required for inspections during these normal business hours.

III. LEGAL DISCUSSION

A. Defendants' Request Regarding Stay of Permanent Injunction Pursuant to Section 916, Subdivision (a)

Defendants argue that, "on November 14, 2025, Defendants timely filed a notice of appeal of the Court's Order, dated November 3, 2025, entering a permanent injunction and imposing monetary penalties in the amount of $1,525,000 against Defendants. ... The injunction is mandatory in nature and effect because it changes the status quo, and is thus stayed by operation of law during the pendency of the appeal. (*Daly v. San Bernardino County Bd. of Supervisors* (2021) 11 Cal.5th 1030, 1035; Code Civ. Proc., § 916(a).) The injunction compels affirmative acts and dismantling of existing operations, rendering it mandatory as a matter of substance, not form." (*Id.* at pp. 1-2)

1. Legal Background

"[T]he perfecting of an appeal stays proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein or affected thereby, including enforcement of the judgment or order, but the trial court may proceed upon any other matter embraced in the action and not affected by the judgment or order." (§ 916, subd. (a).) As applied to injunctions, "if the injunction in this case is mandatory in character, and not merely prohibitory, it is automatically stayed or suspended pending the appeal." (*Associated Lumber &*

Box Co. v. Superior Court (1947) 79 Cal.App.2d 577, 581.) On the other hand, a prohibitive injunction remains in force pending an appeal and "the lower court has full power to punish its violation" pending its appeal. (*Gilman v. Superior Court* (1927) 86 Cal.App. 259, 266.)

"An injunction that requires no action and merely preserves the status quo (a so-called prohibitory injunction) ordinarily takes effect immediately, while an injunction requiring the defendant to take affirmative action (a so-called mandatory injunction) is automatically stayed during the pendency of the appeal." (*Daly, supra*, 11 Cal.5th at 1035.) "To determine whether an injunction is mandatory or prohibitory, we 'examine the terms and effect of the injunction in order to discover its character. [Citation.]' 'The purpose of mandatory relief is to compel the performance of a substantive act or a change in the relative positions of the parties. [Citations.] By contrast, the prohibitive order seeks to restrain a party from a course of conduct or to halt a particular condition. [Citation.] The character of prohibitory injunctive relief, however, is not changed to mandatory in nature merely because it incidentally requires performance of an affirmative act. [Citation.]'" (*People ex rel. Brown v. iMergent, Inc.* (2009) 170 Cal.App.4th 333, 342 (*iMergent*).)

The character of an injunction is determined not by its label or form, but by examining its terms, provisions, and practical effect on the parties. As the California Supreme Court explained, "an order entirely negative or prohibitory in form may prove upon analysis to be mandatory and affirmative in essence and effect." (*Kettenhofen v. Superior Court* (1961) 55 Cal.2d 189, 191 [holding a preliminary injunction ordering removal of a fence along a boundary was mandatory despite being framed as preventing interference with an easement]; see also *Pomin v. Superior Court* (1941) 44 Cal.App.2d 206 [holding that an order prohibiting the "maintaining of the fence" was actually mandatory because it required the performance of an act—removal of the fence—that would change the relative rights of the parties].) Courts must look beyond the surface language to discover whether the injunction truly preserves the status quo (prohibitive) or compels substantive action (mandatory).

Courts have recognized that orders to "cease" from ongoing conduct may be mandatory when they require defendants to surrender positions they currently hold. (See *City of Pasadena v. City of Alhambra* (1946) 75 Cal.App.2d 91 ["[I]f the injunction compels a party affirmatively to

surrender a position which he holds and which upon the facts alleged by him he is entitled to hold, it is mandatory."].)

2. Legal Discussion

Here, Defendants argue that the injunction compels affirmative acts and dismantling of existing operations, rendering it mandatory as a matter of substance, not form. Defendants cite *Daly, supra*, 11 Cal.5th 1030 in support. In *Daly*, the court found "[t]he superior court's order to remove and replace the board member was a mandatory injunction—a command that the board take affirmative action to remedy the violation found by the trial court." (*Id.*, at 1035.)

Plaintiffs cite *iMergent, Inc., supra*, 170 Cal.App.4th at 342 in support of their position that the injunction is prohibitive and therefore not stayed. There, the court found the trial court's order "enjoining defendants from conducting any further business in California without first complying with the SAMP Act" was a prohibitive injunction, noting that "the injunction does not prevent defendants from conducting business in California. Rather, it merely conditions their continued activity on compliance with California's consumer protection laws." (*Id.*, at 341-42.) The court also relied upon the fact that defendants had previously stipulated to operate its business in compliance with those very laws, which supported that the injunction was prohibitive because it "simply compelled them to abide by their agreement and to maintain the status quo...." (*Id.* at 343.)

While the question, in the Court's mind, is not free from doubt, the Court has come to the conclusion that Paragraphs 2(a)-(b) and 3 should be viewed as mandatory, rather than prohibitive, and are therefore automatically stayed pending an appeal. It would therefore be error for Plaintiffs to take any steps to enforce Paragraphs 2 or 3 during pendency of the appeal.

While, on the one hand, these paragraphs require Defendants to "cease" activity that does not comply, sounding prohibitory, on the other hand, the paragraphs can also be interpreted as requiring affirmative action by Defendants, which is mandatory in nature. Specifically, the primary objective Plaintiffs have consistently advanced through this litigation is for Defendants to obtain the appropriate permits to bring their business activities into compliance with the Napa County Code (NCC); not to force Defendants out of business. In that context, the requirement that Defendants cease all activities "until such time as Hoopes Defendants have obtained a valid

use permit authorizing any such activities and any necessary and related building, grading, or other permits" does not sincerely contemplate the "dismantling" or "shutdown" of Defendants' business (as Defendants phrase it), but instead is, in practice, a requirement that Defendants take affirmative action (i.e., apply for the appropriate permits) to bring their business operations into compliance.

Moreover, Defendants have consistently asserted, and continue to assert, that their business activities and use of the property are supported by their purported "vested property rights." While Defendants' position was not substantiated at trial, Defendants have held that position (notwithstanding the lack of basis therefor) perpetually since the beginning of their business operations on the property. Such perpetual status is distinguishable from that in *United Railroads of San Francisco v. Superior Court* (1916) 172 Cal. 80 (*United Railroads*), where there existed an earlier status before the defendant began violating the law. Based on the competing statuses in *United Railroads*, the Court held that the relevant status quo was not that prevailing at the time of the injunction—i.e., when San Francisco had already begun its disputed use of the tracks and sought to keep going—but an earlier "actual peaceable, uncontested status which preceded the pending controversy." (*Id.*, at 87; see also *Daly*, *supra*, 11 Cal.5th at 1045 [discussing *United Railroads*].) *United Railroads* reasoned: "The fact that the defendant had for some time been enjoying its asserted right to so run cars does not change the character of the order. If this were not so, almost any injunction against the doing of repeated acts would be mandatory if the performance of the acts had begun and been carried on for any considerable time prior to the application for the injunction." (*Id.*, at 91, Concurring Opn. of Sloss, J.)

Given the perpetual status of Defendants' holding—and operating under—their claimed right, the effect of the injunction's cessation order here is to change, and not maintain, the status quo between the parties regardless of whether the baseline for the status quo is fixed from the time the injunction was entered or from the last actual, peaceable, uncontested status which preceded the pending controversy. (See also *Dosch v. King* (1961) 192 Cal.App.2d 800, 804 ["An injunction is prohibitory if its effect is to leave the parties in the same position as they were prior to the entry of the judgment, while it is mandatory in effect if its enforcement would be to change the position of the parties and compel them to act in accordance with the judgment

rendered."]; *Daly, supra*, 11 Cal.5th at 1045-48; see also *id.* at 1040-44 [explaining the purpose behind the stay of an injunction, including that it is to prevent rendering a reversal on appeal ineffectual due to the change of the parties' relative positions compelled by the injunction and to avoid injuries from the premature enforcement of a determination].)

In Opposition, Plaintiffs argue that section 917.8, subdivision (c) compels that the permanent injunction not be stayed. (Opposition, p. 7.) "The perfecting of an appeal does not stay proceedings, in the absence of an order of the trial court providing otherwise or of a writ of supersedeas ... [i]f a judgment or order adjudges a building or place to be a nuisance and, as part of that judgment or order, directs the closing or discontinuance of any specific use of the building or place for any period of time." (§ 917.8, subd. (c).) Defendants point out that, under section 917.8, the Court retains authority to "provide otherwise." (Support Memo, p. 12.) Defendants further argued at the hearing that the Court did not make a finding that the building is a nuisance; rather, it found the uses a nuisance.

The Court agrees with Defendants that the permanent injunction does not find a place or building a nuisance. While it references certain "winery rooms or spaces," the gravamen of the injunction clearly relates to the business activities and uses on the property. Thus, the Court questions section 917.8, subdivision (c)'s applicability. Even assuming *arguendo* it applies, its application is only "in the absence of an order of the trial court providing otherwise" and, thus, may be altered by the present order. (§ 917.8.)

Based on the foregoing, Defendants' request regarding the stay of the permanent injunction is GRANTED.

B. Defendants' Request Regarding Stay of Monetary Penalties Pursuant to Sections 917.1 and 995.240

Defendants next request an order staying enforcement and collection of the monetary penalties and any monetary awards embraced in the judgment without an undertaking pursuant to sections 917.1 and 995.240.

The default rule is that, "*[u]nless an undertaking is given*, the perfecting of an appeal shall not stay enforcement of the judgment or order in the trial court if the judgment or order is

... [m]oney or the payment of money, whether consisting of a special fund or not, and whether payable by the appellant or another party to the action." (§ 917.1, subd. (a)(1), emphasis added.)

However, "[t]he court may, in its discretion, waive a provision for a bond in an action or proceeding and make such orders as may be appropriate as if the bond were given, if the court determines that the principal is unable to give the bond because the principal is indigent and is unable to obtain sufficient sureties, whether personal or admitted surety insurers. In exercising its discretion the court shall take into consideration all factors it deems relevant, including but not limited to the character of the action or proceeding, the nature of the beneficiary, whether public or private, and the potential harm to the beneficiary if the provision for the bond is waived." (§ 995.240.)

"A party seeking relief under this statute must make a motion to the trial court and has the burden of proving he was in fact indigent." (*Burkes v. Robertson* (2018) 26 Cal.App.5th 334, 346, citing *Fuller v. State of California* (1969) 1 Cal.App.3d 664, 668, 670-71 [party seeking waiver must establish both financial need and effort to obtain a bond].)

Here, Defendants contend they are indigent under section 995.240 and cannot obtain sufficient sureties. "Defendants lack the assets, income, and/or collateral to obtain the necessary bond. Defendants have exercised due diligence to obtain bond, but have been denied consideration." (Notice, p. 2; see Declaration of Spencer Hoopes and Declaration of Lindsay Hoopes.) Plaintiffs argue that Defendants have not sufficiently shown they are indigent, and that evidence from trial suggests Defendants are not so indigent. The Court agrees with Plaintiffs and does not find that Defendants have sufficiently met their burden to show indigency.

As such, Defendants' request to stay the monetary penalties pursuant to sections 995.240 is DENIED.

C. Defendants' Alternative Request Regarding Temporary Stay of Judgment Pursuant to Section 918

Defendants alternatively request an order temporarily staying enforcement of the judgment pursuant to section 918 to allow Defendants to pursue appellate remedies.

"[T]he trial court may stay the enforcement of any judgment or order." (§ 918, subd. (a).) However, "[i]f the enforcement of the judgment or order would be stayed on appeal only by the

giving of an undertaking, a trial court shall not have power, without the consent of the adverse party, to stay the enforcement thereof pursuant to this section for a period which extends for more than 10 days beyond the last date on which a notice of appeal could be filed." (*Id.*, subd. (b).) This applies "whether or not an appeal will be taken from the judgment or order and whether or not a notice of appeal has been filed." (*Id.*, subd. (c).)

Here, Plaintiffs do not consent to the stay of enforcement. Thus, the Court is only authorized, under section 918, to temporarily stay the judgment for a period up to 10 days beyond the last date when the notice of appeal could be filed. Defendants asserted at the February 24, 2026 *ex parte* hearing that the last day to file a notice of appeal (despite having already filed a notice of appeal) is March 30, 2026, or 60 days from January 27, 2026 when the court entered a Judgment. With the additional 10 days, this would bring the temporary stay through April 9, 2026.

The Court sees no issue with this brief and temporary stay as to the monetary judgment. As such, Defendants' request for a temporary stay of the monetary judgment under section 918 is GRANTED.

IV. CONCLUSION

The Motion is GRANTED in part and DENIED in part. The Court finds that Paragraphs 2 and 3 of the Permanent Injunction are mandatory and are therefore automatically stayed. Defendants' request for a temporary stay of the monetary judgment under section 918 is GRANTED. Defendants' request for a waiver of bond pending appeal pursuant to section 995.240 is DENIED.

Date: March 27,2026

Mark Boessenecker, Judge

Superior Court of California

County of Napa
825 Brown Street
Napa. CA 94559

Case #: 22CV001262 **NAPA COUNTY et al vs Lindsay Blair Hoopes et al**

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Certificate of Mailing/Service

I hereby certify that I am not a party to this cause and that a copy of the foregoing document was:

☒ **mailed** (first class postage pre-paid) in a sealed envelope or notified by **email** pursuant to CCP §1010.6
☐ **personal service** – personally delivered to the party listed above
☐ **placed in attorney/agency folders** in the ☐ Criminal Courthouse ☐ Historic Courthouse

at Napa, California on this date and that this certificate is executed at Napa, California this Date. I am readily familiar with the Court's standard practice for collection and processing of correspondence for mailing within the United States Postal Service and, in the ordinary course of business, the correspondence would be deposited with the United States Postal Service on the day on which it is collected at the Courthouse.

Date: 3/27/2026

Robert E Fleshman, Court Executive Officer

/s/ *Isabel Rodriguez*
Isabel Rodriguez, Deputy Court Executive Officer

Nos. A175111 & Pending Appellate Number (March 30, 2026 NOA of final judgment)

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT DIVISION TWO

NAPA COUNTY, et al.,
Plaintiffs and Respondents,

v.

LINDSAY BLAIR HOOPES, HOOPES VINEYARD, LLC, and HOOPES FAMILY WINERY PARTNERS, LP,
Defendants and Appellants/Petitioners.

Proceedings of the Napa County Superior Court
Case No. 22CV001262
Hon. Mark Boessenecker
Dept. 4; Tel.: (707) 299-1100

PETITION FOR WRIT OF SUPERSEDEAS; REQUEST FOR IMMEDIATE STAY; MEMORANDUM OF POINTS AND AUTHORITIES

IMMEDIATE STAY REQUESTED
(Excessive Fines and Fees and Issued Writ of Execution Will Bankrupt Company and Disable All Operations Frustrating Purpose of Appeal, Stay of Money Judgment Expires April 9)

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CERTIFICATE OF INTERESTED ENTITIES OR PARTIES

There are no entities or persons having either an ownership interest of 10% or more in the party or parties filing this certificate or a financial or other interest in the outcome of the proceeding. (Rules of Court, rule 8.208(e)(1).)

By: *Lindsay Blair Hoopes*

Lindsay Blair Hoopes

Attorneys for Appellants Lindsay Blair Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP

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INTRODUCTION: REQUEST FOR IMMEDIATE STAY

An immediate stay is necessary to prevent irreparable harm to petitioners. For more than 40 years, the Hoopes family has operated a state-licensed winery in Napa County. After an 11-day bench trial, the Superior Court entered a preliminary injunction that shut down virtually all commercial operations. This Court stayed that injunction on March 7, 2025.

Despite the stay, the trial court converted the preliminary injunction to a permanent injunction, word-for-word, without taking further evidence, and imposed a monetary judgment of $3,960,013.05, more than the lifetime revenue from operations on the property. The judgment imposes $1,525,000 in civil penalties imposed to punish past conduct, $2,253,991 in attorney's fees, $111,229.80 in abatement costs, and $69,792.25 in statutory costs. Through an alter ego finding resting on a single paragraph that omits a required element, the full judgment reaches Lindsay Hoopes individually—the sole income provider for four minor children and the primary caretaker for a permanently disabled parent.

The trial court recognized the injunction was too severe to enforce pending appeal, and impliedly found that the operations subject to the fines were licensed. It found the injunction is mandatory—that it "change[s], and not maintain[s], the status quo between the parties"—and therefore automatically stayed under Code of Civil Procedure section 916. (4-PA-2672–2673.)

The monetary penalties and associated costs are equally devastating, and the Court did not stay their enforcement. The fines effectively seize all operating capital and assets. Because the required bond exceeds both the value of the property and the business's lifetime revenue, payment *and* finding an appellate bond is impossible.

As a result, the business faces inevitable sale of the property, bankruptcy and closure—the very irreparable harm cautioning against imposition of the injunction pending appeal. The financial records introduced at trial confirm that the business could never reasonably pay the fines or fees, individually or in the aggregate, precisely because it exceeds the total lifetime revenue generated by the property. Where a party cannot realistically satisfy the underlying penalties, it necessarily follows that it cannot post a bond in that amount. In practical terms, this requirement forecloses any meaningful opportunity to seek appellate relief and effectively closes the courthouse doors.

Notwithstanding, the trial court denied the discretionary bond waiver under section 995.240 and granted only a temporary stay through April 9, 2026. The required bond—over $5.9 million by the County's own calculation—exceeds the defendants' capacity, rendering them indigent for purposes of obtaining a bond. Their cumulative retail merchandise revenue over the past four years was just $22,000 (4-PA-2390; RT 13–14), and defendants submitted declarations and evidence of unsuccessful

efforts to obtain a bond. (4-PA-2365–2367; 4-PA-2372–2375.)) Rather than rebut this evidence, the County pointed to evidence from a trial held two years earlier to the effect that individual defendant Lindsay Hoopes was able to purchase the winery real property, and therefore, the County speculates, she must have means for a bond. The court accepted the County's speculation without developing a current record on bondability, encumbrances, or surety availability—and notwithstanding the County's own attorney's contrary concession at the penalties hearing that Hoopes is "not particularly wealthy." (RT 16; 4-PA-2674–2675.)

After April 9, the County will begin enforcing the full judgment against a small family winery, and against an individual whose personal liability rests on a contested and deeply flawed alter ego theory. This petition asks this Court to issue a decision immediately to maintain the status quo of the lawful business: stay enforcement of the monetary judgment pending appeal.

PETITION FOR WRIT OF SUPERSEDEAS

I. PARTIES AND JURISDICTION

1. Petitioners Hoopes Family Winery Partners, LP, Hoopes Vineyard, LLC, and Lindsay Blair Hoopes are the defendants and cross-complainants in Napa County Superior Court Case No. 22CV001262. (3-PA-1384.) Together, they operate

a licensed Napa County winery commonly known as Hoopes Vineyard. Although these parties have distinct legal identities—a distinction material to the alter ego issues discussed below—this petition uses "Hoopes Vineyard" to refer to the winery enterprise for convenience.

2. The judgment entered on January 27, 2026, imposes a permanent injunction against Hoopes Vineyard and governs the use and operation of the winery property located at 6204 Washington Street, in Napa County, imposing penalties totaling $1,525,000 and attorney's fees of $2,253,991. (4-PA-2309–2312.)

3. Hoopes Vineyard has filed a timely notice of appeal from the permanent injunction, and that appeal is currently pending before this Court in Case No. A175111 (6-PA-3607) as well as a timely notice of appeal from the judgment and denial of post-trial motions. (6-PA-3633)

4. Respondents are Napa County and the People of the State of California ex rel. the Napa County Counsel.

II. BACKGROUND

5. Hoopes Vineyard has operated for decades as a family-owned winery, including production, storage, marketing, on-site tastings, direct-to-consumer sales, and wine club memberships—all activities expressly authorized under its Type-02 ABC license. (Bus. & Prof. Code § 23358, subd. (a)(2), (3); 4-PA-2337–2338.)

6. In 2022, Napa County filed an enforcement action alleging that the winery conducted public tastings exceeding its small winery exemption, sold non-wine merchandise, held social events, and maintained animals for marketing purposes—all in alleged violation of Napa County Code section 18.08.600(C). (1-PA-16–84.) Notably, an earlier judge assigned to this matter—Judge Cynthia Smith—denied the County's request for a preliminary injunction, finding that Hoopes Vineyard's conduct did not constitute nuisance per se under Napa County Code sections 1.20.020 and 18.144.040. Notably, Judge Smith concluded that there were no violations of law based on the conduct alleged. Judge Mark Boessenecker later reached the opposite conclusion.

7. On February 20, 2025, the Superior Court entered a sweeping preliminary injunction that prohibited on-site tastings, tours, consumption, marketing, and virtually all commercial activity—including activities expressly authorized by the winery's ABC license—effectively ordering the shutdown of the winery's operations. (3-PA-1376–1379.) This Court granted interim relief staying enforcement of that injunction pending appellate proceedings.

8. Following a bench trial, the Superior Court entered a permanent injunction adopting the same restrictions. (4-PA-2158.) The permanent injunction—identical in every operative provision to the preliminary injunction this Court previously stayed—among other things:

(a) Prohibits on-site tastings except under narrow court-defined limitations—effectively eliminating the tasting program that is the winery's primary customer-acquisition channel;

(b) Restricts marketing and promotional activity, including activities that constitute protected commercial speech;

(c) Prohibits sale of wine not produced on the property, overriding sales practices authorized under the ABC license;

(d) Requires warrantless access to the property for compliance inspections up to 63 hours per week; and

(e) Imposes operational limitations that compel affirmative restructuring of the winery's business model.

(3-PA-1376–1379.)

9. On March 27, 2026, the trial court found the permanent injunction is mandatory and automatically stayed under section 916, but denied the bond waiver and granted only a temporary stay of the monetary judgment through April 9, 2026. (4-PA-2667–2676.)

STATEMENT OF THE CASE

A. The Hoopes family operates a licensed winery on property the County approved for that use.

10. A winery has operated at 6204 Washington Street in Napa for more than 40 years under a small winery use permit exemption dating to 1984. (4-PA-2385.) In 2019, the Hoopes family applied for a Type-02 ABC license to conduct tastings and direct-to-consumer sales. The County confirmed in writing that the intended use was "allowed and approved" and that a "use permit" had "been approved" as of 1987. (4-PA-2385.) The Department of Alcoholic Beverage Control issued the license. The County raised no objection. The Department approved an expansion in March 2021 for an external consumer wine tasting area, and the County again raised no objection.

11. Spencer Hoopes, the 78-year-old patriarch, is permanently disabled and a two-time organ transplant recipient. His daughter Lindsay manages the winery and supports four young children. (4-PA-2374; 4-PA-2343; 4-PA-2366.)

B. The County filed an enforcement action alleging zoning violations, but an earlier judge denied injunctive relief.

12. In October 2022, Napa County filed an enforcement action alleging zoning and land-use violations. (1-PA-86.) The Second Amended Complaint alleged alter ego liability—but only

as to Hoopes Vineyard, LLC, not Hoopes Family Winery Partners, LP. (3-PA-565.)

13. An earlier judge assigned to the matter—Judge Cynthia Smith—denied the County's request for a preliminary injunction, finding that Hoopes Vineyard's conduct did not constitute nuisance per se under Napa County Code sections 1.20.020 and 18.144.040 or appear to violate any law or condition of the use permit. Judge Mark Boessenecker later reached the opposite conclusion on the same ordinances.

C. After an 11-day bench trial, the court found certain violations but extended alter ego liability on a deficient record.

14. The case proceeded to a Phase I bench trial in January and February 2024—11 days of testimony over two weeks. (3-PA-1307 [trial dates January 29–31, February 1–2, 5–9, 17, 2024].) The court issued its Statement of Decision on November 13, 2024. It found that Hoopes Vineyard conducted public tastings, sold merchandise, held social events, and used animals for marketing purposes in violation of Napa County Code section 18.08.600(C). (3-PA-1321–1323.)

15. On alter ego, the Statement of Decision devoted a single paragraph: the court found that Lindsay Hoopes "controls, directs, and manages Hoopes LLC," "regularly commingles her finances with the LLC finances," and "uses her personal money to support all activities," based primarily on the testimony of Lisa

Brooks. (3-PA-1324–1325.) The court stated it found "the two required factors set forth in *Automotriz*"—but the paragraph addresses only unity of interest (control and commingling). It does not analyze the second required factor: whether an inequitable result would follow from respecting the corporate form. And it extends the finding parenthetically to the LP: "She operates the LLC (and the LP) effectively as a sole proprietorship[.]" (3-PA-1324.) Alter ego was never pleaded against the LP.

16. The Statement of Decision deferred penalties, attorney fees, costs, and the scope of the injunction to supplemental briefing. (3-PA-1325.)

D. This Court stayed the preliminary injunction that shut down winery operations.

17. On February 20, 2025, the trial court entered a preliminary injunction shutting down essentially all commercial winery operations. (3-PA-1376–1379.) Hoopes appealed (Case No. A172626). On March 7, 2025, this Court stayed enforcement of the preliminary injunction, recognizing that the winery's operations warranted preservation pending appellate review.

E. Without further hearing or evidence, the trial court adopts the identical order as permanent.

18. On May 29, 2025, the trial court concluded it retained jurisdiction notwithstanding the appeal and stay. On

November 3, 2025—with the appellate stay still in effect—the court entered a permanent injunction. It did not draft new injunctive language. It did not narrow or modify any provision. It did not address the constitutional concerns that presumably prompted this Court's stay. It simply adopted the preliminary injunction, verbatim, as permanent:

> The parties have submitted no further briefing on Plaintiffs' request for an injunction. Thus, the Preliminary Injunction is adopted as a Permanent Injunction against Defendants.

(4-PA-2143.)

19. The preliminary and permanent injunctions are word-for-word identical in every operative provision. All eight categories of prohibited winery activities, all three categories of prohibited commercial activities, the 63-hour-per-week warrantless inspection regime, and the anti-circumvention provisions are identical. (*Compare* 3-PA-1377–1378, *with* 4-PA-2310–2311; see also 4-PA-2143 and 4-PA-2158 [adopting same].)

20. When defendants attempted to challenge the alter ego finding in their fee opposition, the court summarily denied the challenge as "procedurally improper"—without addressing its merits. (4-PA-2142)

F. The judgment imposes nearly $4 million against a family winery, and the trial court denied a stay.

21. On November 14, 2025, Hoopes filed a notice of appeal from the permanent injunction (Case No. A175111). On November 21, 2025, the first appeal was dismissed—leaving the permanent injunction in place without a stay.

22. On January 27, 2026, the court entered a judgment of $3,960,013.05—jointly and severally against Lindsay Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP. (4-PA-2308–2309.) The judgment imposes $1,525,000 in civil penalties ($1,000/day plus $250/day for 1,220 days), $2,253,991 in attorney fees, $111,229.80 in abatement costs, and $69,792.25 in statutory costs. (4-PA-2312.) The permanent injunction is incorporated into and entered as part of the judgment. (4-PA-2309 ["The Preliminary Injunction previously entered by the Court is adopted as the Permanent Injunction and is entered as part of this Judgment."].)

G. The trial court found the injunction is mandatory but denied a stay of the monetary judgment.

23. On March 27, 2026, the trial court ruled on defendants' motion for stay pending appeal. It analyzed the permanent injunction and concluded it is mandatory—that it "change[s], and not maintain[s], the status quo between the parties" and is "in practice, a requirement that Defendants take

affirmative action." (4-PA-2672–2673.) The court therefore found the injunction automatically stayed under section 916.

24. But the court denied the bond waiver under section 995.240. Defendants had submitted declarations and evidence of unsuccessful efforts to obtain a bond. (4-PA-2366–2367; 4-PA-2373–2375.) The County argued that evidence from a trial held two years earlier suggested defendants were not indigent, pointing to the 2024 purchase price of the winery property and Lindsay Hoopes's prior real estate holdings. (4-PA-2402–2403.) The court accepted the County's characterization in a single paragraph, without identifying specific evidence, without addressing whether the financial picture had changed in two years, and without developing a record on current bondability or surety availability. (4-PA-2674–2675.) After that date, the full $3,960,013.05 judgment is enforceable. Defendants requested an ability to pay hearing to support the inability to pay and bond, but were denied.

25. The trial court also denied the motion to vacate the judgment. It held that the Statement of Decision's discussion of penalties "implicitly" addressed the Eighth Amendment excessive fines analysis under *United States v. Bajakajian* (1998) 524 U.S. 321. (4-PA-2687.) The court raised sua sponte that it may lack jurisdiction under section 916 to hear the motion, since the penalties order was already on appeal, but proceeded after both parties stated it had jurisdiction. (4-PA-2681.)

III. IRREPARABLE HARM

26. If the County pursues active enforcement of the monetary judgment—nearly $4 million against entities that bankruptcy attorneys confirm would be forced into bankruptcy (4-PA-2366, 2374)— and the winery will not have sufficient capital. (*Id.*)

27. The total judgment—including $1,525,000 in penalties, $2,253,991 in attorney's fees, and $111,229.80 in abatement costs—exceeds the winery's capacity to pay. Bankruptcy attorneys have indicated that both Hoopes Family Winery Partners, LP and Hoopes Vineyard, LLC are eligible for and would inevitably be forced into bankruptcy. (4-PA-2374.) Napa County has issued a writ of execution and indicated an intent to seize all bank assets, which will abruptly halt all business operations and force termination of employees.

28. California courts have long recognized that destruction of business goodwill and customer relationships constitutes irreparable harm. (*Food & Grocery Bureau of Southern California v. Garfield* (1941) 18 Cal.2d 174, 176–77; *Deepwell Homeowners' Protective Ass'n v. City Council* (1965) 239 Cal.App.2d 63, 65–66.) Once employees are terminated, distribution relationships dissolved, wine club memberships cancelled, and market position eroded, an appellate reversal cannot restore the business to its prior condition.

29. The monetary judgment accomplishes indirectly what the Court recognized could not be done directly through the injunction. In staying the injunction, the Court necessarily determined that enforcing it pending appeal was irreparable harm—namely, the forced shutdown of Defendants' business. But that same outcome is certain if the monetary judgment remains enforceable pending appeal. The judgment is of such magnitude that it would immediately exhaust all operating capital and assets, and it cannot be bonded because it exceeds the value of the property and the entirety of the business's lifetime revenue. Thus, while the Court stayed the injunction to avoid irreparable harm, it left in place a monetary judgment that guarantees the same result. The practical effect is to nullify the stay and foreclose any meaningful right to appellate review.

IV. REQUEST FOR IMMEDIATE TEMPORARY STAY

30. Hoopes Vineyard requests that this Court issue an immediate temporary stay of enforcement of the monetary judgment entered on January 27, 2026—pending determination of this petition. (Code Civ. Proc. § 923; Rules of Ct., rule 8.112.) The trial court's temporary stay of the monetary judgment under section 918 expires April 9, 2026. (4-PA-2674–2676.) Without this Court's intervention before that date, the County may begin enforcing a judgment of $3,960,013.05 against entities that

bankruptcy attorneys have confirmed would be forced into bankruptcy. (4-PA-2374.)

31. Enforcement of the monetary judgment—nearly $4 million against entities that bankruptcy attorneys confirm cannot pay—will force the winery into insolvency, eliminating all business operations, pending appeal. (4-PA-2366, 4-PA-2374.) The total judgment of nearly $4 million—imposed against a small family winery whose retail merchandise generated approximately $22,000 in cumulative retail merchandise revenue (4-PA-2390; RT 13–14)—creates an impossible compliance paradox: the trial court denied the bond waiver, and the judgment exceeds any bond the defendants could post. (4-PA-2390; 4-PA-2675.) Bankruptcy attorneys have confirmed that both entities would inevitably be forced into bankruptcy. (4-PA-2374, 4-PA-2366.)

32. Through an alter ego finding resting on a single paragraph that fails to address the required "inequitable result" element, the full judgment reaches Lindsay Hoopes individually—the sole income provider for four minor children and the primary caretaker for her 78-year-old father, a permanently disabled two-time organ transplant recipient. (3-PA-1324–1325; 4-PA-2366; 4-PA-2374.) That finding was never pleaded against Hoopes Family Winery Partners, LP, yet the court extended it to all three defendants. (3-PA-564–565.)

33. The appeal raises substantial legal questions independently warranting supersedeas, including: (1) whether

the Napa County Code's own definition of agriculture—which encompasses tasting and direct sales—forecloses the County's nuisance theory, and whether a county can enjoin activities the State has expressly licensed to the premises under Civil Code section 3482 and the ABC licensing scheme and that are expressly lawful activities at wineries in Napa (Bus. & Prof. Code § 23358); (2) whether the permanent injunction—adopted verbatim from the preliminary injunction without further briefing, hearing, or tailoring (4-PA-2143)—can stand where six of its twelve operative provisions have no basis in the Statement of Decision (3-PA-1306–1325); (3) whether the alter ego finding satisfies the two-prong *Automotriz* test; (4) whether the injunction's warrantless inspection regime, speech restrictions, and $1,525,000 in penalties against a small family winery satisfy constitutional requirements; and (5) whether the Unfair Competition Claims, duplicitous of the deficient nuisance per se claims, are supported in fact *or* law.

34. The balance of equities is not close. The County litigated on an ordinary civil timeline for four years after seeking interim relief that initially failed (Judge Smith denied the preliminary injunction) and then litigated on an ordinary civil timeline, requesting many continuances to accommodate attorney vacations. No environmental agency has ever intervened. A septic inspection during the litigation confirmed the system was operating and compliant. (3-PA-1344.) A stay will simply preserve the conditions that have existed throughout the

litigation. Denial of a stay will decide the case before this Court can determine whether the judgment was lawful.

V. AUTHENTICITY OF EXHIBITS AND PRAYER FOR RELIEF

35. The exhibits in the Petitioners' Appendix are true and correct copies of original documents on file with the respondent court.

36. Some exhibits accompanying this Petition are true and correct copies, subject to a Motion for Consideration ("MFC") including a Declaration in support of harm derivative of the judgment.

VI. PRAYER FOR RELIEF

Petitioners Lindsay Blair Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP respectfully pray that this Court:

Issue an immediate temporary stay of enforcement of the monetary judgment entered on January 27, 2026, pending determination of this petition;

- Issue a writ of supersedeas pursuant to Code of Civil Procedure section 923 and Rules of Court, rule 8.112, staying enforcement of the monetary judgment entered on January 27, 2026, in Napa County Superior Court, Case No. 22CV001262, pending final

determination of the appeal in Case No. A175111, or, in the alternative, staying enforcement against Lindsay Hoopes individually pending resolution of the alter ego issues on appeal, or, in the further alternative, barring active execution on the judgment—including levies, keepers, turnover orders, receivership, or forced sale—while permitting the County to preserve lien priority through passive recordation, conditioned on anti-dissipation and notice requirements as this Court deems just; and

- Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

By: *Lindsay Blair Hoopes*
Lindsay Blair Hoopes

Attorneys for Appellants Lindsay Blair Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP

VERIFICATION

I have read the foregoing Petition for Writ of Supersedeas and know its contents. I am a party to this action. The matters stated in the document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters 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.

Executed on April 2, 2026, at Napa, California.

Lindsay Blair Hoopes

Lindsay Blair Hoopes

MEMORANDUM OF POINTS AND AUTHORITIES

SUMMARY OF ARGUMENT

This petition presents the Court with a case in which the trial court has already done much of the work. The court found the permanent injunction is mandatory and automatically stayed. What remains is the monetary judgment—$3,960,013.05—which the temporary stay protects only through April 9, 2026.

The monetary judgment is the real emergency. Absent relief by April 9, the County is poised to commence aggressive enforcement—indeed, it has expressly indicated it will—against a small, family-run winery that has generated only $22,000 in total retail merchandise revenue. The scale of the judgment renders compliance impossible. The County will also enforce the full $3.96 million judgment against Lindsay Hoopes individually, without the requisite alter-ego findings. The court refused to make any finding that Lindsay Hoopes personally could pay that amount, and she declared she could not. The appeal raises substantial legal questions, including whether the trial court's denial of the bond waiver under section 995.240 was an abuse of discretion.

The appeal presents substantial legal questions independently warranting supersedeas. The trial court imposed $1,525,000 in penalties with only an "implicit" finding under the Excessive Fines Clause. The alter ego finding extends the full

judgment to an individual based on a single paragraph that omits a required element and reaches an entity against which alter ego was never pleaded. The permanent injunction—adopted verbatim from the preliminary injunction this Court previously stayed—reaches far beyond the trial court's own findings. And the injunction mirrors one this Court already found warranted preservation.

The balance of equities is straightforward. The Winery's only significant asset is real property—it is not going anywhere. The County litigated for four years after seeking interim relief that initially failed (Judge Smith denied the preliminary injunction) and then litigating on an ordinary civil timeline. A stay preserves existing conditions. Denial decides the case.

STANDARD OF REVIEW

A writ of supersedeas protects the appellate court's jurisdiction and ensures that its eventual decision has practical effect. (Code Civ. Proc. § 923; *Mills v. County of Trinity* (1979) 98 Cal.App.3d 859.) Supersedeas is appropriate when (1) enforcement will cause irreparable harm, (2) the appeal presents substantial legal questions, and (3) the balance of equities favors maintaining the status quo. (*Deepwell Homeowners' Protective Ass'n v. City Council* (1965) 239 Cal.App.2d 63, 65–66.)

This Court's authority under section 923 and Rules of Court, rule 8.112, extends to monetary judgments as well as injunctions. Where the trial court has denied a bond waiver under section 995.240, this Court retains independent authority to stay enforcement on whatever conditions it deems just. (*Deepwell*, *supra*, 239 Cal.App.2d at pp. 65–66.) The purpose of section 916 "is to protect the appellate court's jurisdiction by preserving the status quo until the appeal is decided." (*Elsea v. Saberi* (1992) 4 Cal.App.4th 625, 629.) Code of Civil Procedure section 917.8, subdivision (c)—which addresses stays in nuisance actions—governs automatic stays under section 916, not discretionary supersedeas under section 923. This Court's authority to preserve its jurisdiction through supersedeas is independent of the automatic-stay provisions. (*Mills*, *supra*, 98 Cal.App.3d at p. 861.) The rule is that courts will grant supersedeas where denial would deprive the appellant of the benefit of a reversal. (*People ex rel. San Francisco Bay Conserv. & Dev. Comm'n v. Town of Emeryville* (1968) 69 Cal.2d 533, 537.)

ARGUMENT

A. Without supersedeas, the appeal is meaningless—active enforcement—levies on operating accounts, receivership, or forced sale of the winery property—will destroy the Winery before this Court can review the judgment.

Supersedeas is appropriate where enforcement would so change existing conditions that meaningful appellate relief becomes unavailable, depriving the appellant of the benefit of a reversal. (*San Francisco Bay Conserv. & Develop. Commn.*, *supra*, 69 Cal.2d at p. 537.) (*Deepwell*, *supra*, 239 Cal.App.2d at pp. 65–66; *Mills*, *supra*, 98 Cal.App.3d at p. 861.)

The permanent injunction is textually identical to the preliminary injunction this Court stayed. (*Compare* 3-PA-1377–1378, *with* 4-PA-2310–2311.) The trial court adopted it without modification or further analysis. (4-PA-2143.) As the trial court agreed, the permanent injunction warrants a stay. But it is incoherent to pause the injunction while allowing enforcement of the fines to move forward. Enforcement of the fines will effectively have the same devastating impact on the Winery's business as the injunction.

1. Enforcement of the monetary penalties eliminates the Winery's capacity to survive.

A stay is warranted to prevent the business from being "wiped out" during the pendency of the appeal. (*Davis v. Custom Component Switches, Inc.* (1970) 13 Cal.App.3d 21, 27 [ordering writ of supersedeas].) California courts have long recognized that destruction of business goodwill and customer relationships constitutes irreparable harm that cannot be remedied by a later appellate reversal. (*Food & Grocery Bureau of Southern California v. Garfield* (1941) 18 Cal.2d 174, 176–77.) Customers who cannot visit Hoopes Vineyard will redirect patronage to competing wineries. Distribution and referral relationships weakened during the cessation period may shift permanently. Even a complete appellate reversal cannot compel former customers to return, reconstruct dissipated goodwill, or reclaim lost market share. (*Id.*)

2. The judgment creates an impossible compliance paradox.

The total judgment approaches $4 million against a small family winery whose retail merchandise in the past four years generated total cumulative retail merchandise revenue of approximately $22,000. (4-PA-2390; RT 13–14.) The judgment demands nearly $4 million from entities that the trial court itself found warranted protection from the injunction pending appeal. Yet the trial court denied the bond waiver under section 995.240

without an adequate record on current bondability, encumbrances, or surety availability—leaving the Defendants exposed to active enforcement of a judgment they demonstrably cannot satisfy or bond. (Decl. of Paul Fazzio, ¶¶ 4–8.) Bankruptcy attorneys have confirmed that both entities are eligible for and would inevitably be forced into bankruptcy. (4-PA-2374, 4-PA-2390.) An appellate reversal cannot resurrect a family winery that enters bankruptcy and will be forced to cease all operations during the pendency of the appeal.

3. Without a stay, active enforcement will accomplish what the stayed injunction cannot.

Even though the trial court found the injunction is automatically stayed as mandatory, enforcement of the monetary judgment achieves the identical shutdown. If the County pursues active enforcement after April 9—which they have communicated without hesitation they will—levying on operating accounts, seeking a receiver, or forcing a sale of the winery property—the result will be the same operational destruction the stayed injunction was meant to prevent.

4. The alter ego finding extends devastation to an individual and her family.

Through the alter ego finding, the full judgment reaches Lindsay Hoopes individually—the sole income provider for four minor children and the primary caretaker for Spencer Hoopes,

her 78-year-old father, who is permanently disabled and a two-time organ transplant recipient. (4-PA-2366; 4-PA-2374.) That finding rests on a single paragraph in the Statement of Decision that does not address the "inequitable result" element required by *Automotriz Del Golfo De California v. Resnick* (1957) 47 Cal.2d 792, 796, and extends alter ego to an entity against which it was never pleaded. (3-PA-1324–1325; 3-PA-565.) If the finding is erroneous—and it raises substantial questions discussed in Part C.4 below—enforcement will devastate an individual and her family based on a legal theory no published California decision has sanctioned in a nuisance abatement action.

B. The appeal raises substantial legal questions reviewed de novo.

This Court may consider whether the appeal presents substantial, non-frivolous legal issues warranting full appellate consideration. (*Mills*, *supra*, 98 Cal.App.3d at p. 861.) Hoopes Vineyard need not establish that it will prevail; it is sufficient that the issues are serious. (*Deepwell*, *supra*, 239 Cal.App.2d at pp. 65–66.)

This Court's prior stay of the preliminary injunction—which is textually identical to the permanent injunction now under review—itself demonstrates the substantiality of the legal questions presented. The critical appellate questions are legal, not factual. What Hoopes Vineyard did is largely undisputed—it conducted tastings, direct-to-consumer sales, and marketing

activities authorized under its ABC license. The legal questions—whether those activities are actionable as a nuisance per se given the ABC license and Civil Code section 3482, whether the injunction exceeds the trial court's own findings, whether the alter ego finding satisfies the requirements for piercing the corporate veil, and whether the remedy is constitutionally permissible—are reviewed de novo. The appeal presents at least five such questions that independently satisfy the substantial-issue threshold.

1. The injunction enjoins, and the monetary penalty penalizes, activities the State has expressly licensed, raising a substantial preemption question.

Hoopes Vineyard operates under a Type-02 ABC license, which expressly authorizes on-site tastings, direct-to-consumer sales, and related commercial activity. (Bus. & Prof. Code § 23358, subd. (a)(2), (3).) Civil Code section 3482 provides that "[n]othing which is done or maintained under the express authority of a statute can be deemed a nuisance." The permanent injunction enjoins the very activities that the State has licensed. The monetary judgment assesses fines for activities expressly authorized by Petitioner's state license, the Napa County Code, and that the first judge to consider the issue determined did not amount to violation of any law. Whether a county can declare as a nuisance and enjoin conduct that the State has expressly authorized is a question of statutory interpretation and

regulatory preemption that this Court reviews de novo. (*Korean American Legal Advocacy Foundation v. City of Los Angeles* (1994) 23 Cal.App.4th 376, 393.)

Under California's permissive zoning framework, an expressly authorized use cannot be impliedly prohibited by reading disparate code provisions together. (*People v. Venice Suites, LLC* (2021) 71 Cal.App.5th 715, 730–34 [under permissive zoning scheme, court's function "is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted"] (quoting Code Civ. Proc. § 1858).) The County confirmed in writing that the winery's intended use was "allowed and approved." (4-PA-2385.) The County cannot now manufacture a prohibition by creatively interpreting separate code sections to impliedly restrict what it expressly authorized and what the State licensed at the premises.

2. Two judges reached opposite conclusions on the same ordinances—and the nuisance per se theory requires more than the trial court provided.

Judge Cynthia Smith denied the County's request for a preliminary injunction, finding that Hoopes Vineyard's conduct did not constitute nuisance per se under Napa County Code sections 1.20.020 and 18.144.040. Judge Boessenecker reached the opposite conclusion on the same ordinances. That two judges reviewing the same code provisions reached directly contradictory legal conclusions on the same facts and in reference to the same

Napa codes is itself powerful evidence that the legal question is substantial. The interpretation of those ordinances—whether they establish nuisance per se liability—is a legal question reviewed de novo on appeal.

Napa County admits it did not establish harm; thus, they concede there is no liability in general public nuisance, which they cannot prove absent a predicate offense identified. The Napa County Code further indicates that small winery exemptions "shall" have "[m]arketing, sales, and other accessory uses." The injunction and monetary judgments expressly contradict local law, as well. (NCC § 18.08.040(H)(2).) Tastings, marketing, and wine sales are allowed at wineries, and there is no dispute that Petitioner is a winery. The liability finding and injunction directly contradict these express legal authorizations. A nuisance per se can never lie as to expressly legal conduct.

The nuisance per se theory is particularly vulnerable because it requires identification of a specific code provision that the defendant violated, and the violation must itself constitute the nuisance. (*People v. ConAgra Grocery Products Co.* (2017) 17 Cal.App.5th 51, 112.) Despite repeated requests, Napa County refused to declare one, and the Court did not hold them to this burden. This is a due process problem, as well.

Further, a general finding that conduct violated zoning ordinances—without identifying the specific provision and explaining how its violation constitutes a nuisance—does not

support nuisance per se liability. Under *Venice Suites*, conditions on land use cannot be implied; they must be expressly stated. (*People v. Venice Suites, LLC*, *supra*, 71 Cal.App.5th at pp. 730–34.) The County confirmed the winery's use was "allowed and approved"—it cannot now impose conditions that were never part of that approval. Restrictions on accessory uses cannot be implied, either, as they are derivative of the primary use by law. (NCC § 18.04.040; Gov't Code § 65852.)

3. The permanent injunction exceeds the scope of the trial court's own findings.

The overbreadth of the injunction belies the shaky ground on which the underlying judgment rests. Of the permanent injunction's twelve operative provisions, six have no basis in the Statement of Decision (non-estate wine sales, food service, warrantless compliance access, civil penalties, attorney fees, anticircumvention provision), three are broader than the violations actually found (wine tastings, marketing, unpermitted spaces), and only two are directly supported (assuming they are even violations of any law). The scope of this disconnect raises a substantial question about whether the permanent injunction can stand. This is a legal question reviewed de novo. And the fact that the court adopted the preliminary injunction without modification or reconciliation with its findings underscores the problem: it never performed the tailoring analysis that *Gallo* and *Englebrecht* require.

4. The alter ego finding extends the entire judgment to an individual without the traditional justifications for piercing the corporate veil.

The trial court's alter ego finding transforms a code-enforcement dispute into a personal liability action against Lindsay Hoopes, making her individually responsible for the permanent injunction, $1,525,000 in penalties, and $2,253,991 in attorney fees. (3-PA-1324; 4-PA-2312.) That finding raises a substantial legal question because it rests on a single paragraph in the Statement of Decision that does not satisfy the doctrine's requirements—and because it extends to an entity against which alter ego was never pleaded.

Alter ego requires two showings: (1) a unity of interest and ownership such that the separate personalities of the entity and individual no longer exist, and (2) an inequitable result if the corporate form is respected. (*Automotriz Del Golfo De California v. Resnick* (1957) 47 Cal.2d 792, 796.) The County bore the burden on both. (*Associated Vendors, Inc. v. Oakland Meat Packing Co.* (1962) 210 Cal.App.2d 825, 837.)

The court found that Lindsay Hoopes "controls, directs, and manages Hoopes LLC," "regularly commingles her finances with the LLC finances," and "uses her personal money to support all activities." (3-PA-1324.) But these findings, even taken at face value, do not satisfy the doctrine.

The findings address only the first *Automotriz* factor—unity of interest. The Statement of Decision does not analyze, or even mention, the second required factor: whether an inequitable result would follow from respecting the corporate form. The court stated it found "the two required factors"—but the paragraph contains analysis of only one. That omission is not a gap in reasoning; it is the absence of a required element.

What the court found actually undermines the doctrine's purpose. Lindsay Hoopes uses "her personal money to support all activities" of the entities. (3-PA-1324.) An individual putting personal money *into* a business entity is the *opposite* of the conduct alter ego was designed to address. The doctrine targets individuals who siphon assets *out* of entities to evade obligations—not individuals who fund entities with personal resources. (*Sonora Diamond Corp. v. Superior Court* (2000) 83 Cal.App.4th 523, 538–39 [piercing the corporate veil allows courts to disregard the corporate identity "where an abuse of the corporate privilege justifies holding the equitable ownership of a corporation liable for the actions of the corporation" and alter ego targets use of corporate form "to perpetrate a fraud, circumvent a statute, or accomplish some other wrongful or inequitable purpose"].) There is no finding that Lindsay Hoopes used the entities to shield personal assets, strip entity value, or evade any obligation.

The finding extends to Hoopes Family Winery Partners, LP—but the County's Second Amended Complaint pleaded alter

ego only as to Hoopes Vineyard, LLC. (3-PA-565.) The court's parenthetical extension—"She operates the LLC (and the LP) effectively as a sole proprietorship" (3-PA-1324)—imposes alter ego liability on an entity against which it was never alleged and that the undisputed facts indicated Ms. Hoopes has no ownership in. That is a due process problem.

No published California decision has applied alter ego in a nuisance abatement action to impose personal monetary liability on a corporate manager of solvent entities. The proper framework for individual liability in a nuisance action is personal participation—not veil piercing. (*People v. Pac. Landmark, LLC* (2005) 129 Cal.App.4th 1203 [managers of limited liability companies are not immune from personal liability if they have participated in tortious or criminal conduct—but liability was imposed based on personal involvement in allowing the nuisance to persist, not merely management status].) The trial court bypassed this framework and used alter ego to reach the same result—without the personal-participation findings that *Pacific Landmark* requires.

Whether the trial court properly applied alter ego raises questions reviewed under distinct standards. The threshold pleading defect—that alter ego was never alleged against the LP—is reviewed de novo. But the factual findings underlying the first *Automotriz* factor (unity of interest, commingling) are reviewed for substantial evidence. And the legal question whether those findings satisfy the doctrine's requirements is

reviewed de novo. (*Mesler v. Bragg Mgmt. Co.* (1985) 39 Cal.3d 290, 300.) It independently satisfies the substantial-issue standard.

5. The judgment implicates multiple independent constitutional constraints.

The appeal raises constitutional questions that independently warrant supersedeas.

Excessive fines. The trial court made only an "implicit" finding under the Excessive Fines Clause. The $1,525,000 in penalties raises serious Eighth Amendment concerns under *United States v. Bajakajian* (1998) 524 U.S. 321, 334 (a punitive forfeiture violates the Excessive Fines Clause if grossly disproportional to the gravity of the offense). But the trial court never performed the proportionality analysis *Bajakajian* requires. When defendants raised the issue on the motion to vacate, the court held that the Statement of Decision's discussion of penalties "implicitly" addressed the constitutional standard. (4-PA-2687.) An "implicit" finding on a constitutional question is not a finding—it is the absence of one. At the October 2025 penalties hearing, the County's own attorney conceded that they do not claim that "Hoopes is particularly wealthy." (RT 16:18–19.) The County nonetheless sought to nearly double the penalties—from $1,525,000 to $2,745,000—characterizing them as punishment for "four years" of "willfully violating" ordinances through past conduct, distinct from the injunction's forward-looking remedial

purpose. (RT 11:19–27.) A penalty imposed to punish past conduct is a "fine" subject to the Excessive Fines Clause. Whether $1,525,000 in penalties imposed against a small family winery that generated $22,000 in cumulative retail merchandise revenue satisfies the Excessive Fines Clause is a substantial legal question this Court reviews de novo. (*Timbs v. Indiana* (2019) 586 U.S. 146, 149–50.) The $2,253,991 in attorney fees, which the trial court characterized as "solely remedial," compounds the disproportionality: the total monetary burden of nearly $4 million dwarfs the cumulative retail merchandise revenue that generated the alleged violations.

The bond requirement creates a constitutional circularity. The trial court denied the bond waiver under section 995.240, yet the entire judgment exceeds the defendants' ability to pay. If the penalty is excessive under the Eighth Amendment because it is grossly disproportional to the defendants' means, then the bond—which must equal or exceed the judgment—is by definition also beyond their means. Requiring an unobtainable bond as a condition of appellate review does not protect the judgment creditor; it forecloses review of the judgment's legality and closes the courthouse doors. Whether this circularity denies meaningful appellate access is itself a substantial legal question. (*See Lindsey v. Normet* (1972) 405 U.S. 56, 77–79 [conditioning appellate review on requirements appellants cannot meet raises due process concerns].)

The trial court compounded this constitutional defect. It denied Defendants' request for an ability-to-pay hearing, yet relied on "evidence from trial" of alleged ability to pay in denying the bond waiver. (4-PA-2674–2675.) Without a separate ability-to-pay determination, the court bootstrapped an unconstitutional penalty into an unattainable bond requirement—foreclosing meaningful appellate review of both.

Regulatory taking, warrantless inspection, and First Amendment concerns. The permanent injunction, if ultimately enforced, would eliminate all economically beneficial use of property developed for licensed winery operations—a per se taking under *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 1015–19, and/or regulatory taking under *Penn Cent. Transp. Co. v. City of New York* (1978) 438 U.S. 104. The nuisance exception does not apply because the government authorized the very use it now seeks to abate. (Civ. Code § 3482.) Whether an injunction that strips a state-licensed business of all commercial operations effects a compensable taking is a constitutional question reviewed de novo. The injunction also requires warrantless property access up to 63 hours per week (4-PA-2311), raising Fourth Amendment concerns (*See v. City of Seattle* (1967) 387 U.S. 541, 543), and restricts marketing and promotional activity, implicating First Amendment protections for truthful commercial speech (*Cent. Hudson Gas & Elec. Corp. v. Public Serv. Comm'n* (1980) 447 U.S. 557, 566).

Statutory authority for penalties and attorney fees. The County sued Hoopes for public nuisance under Civil Code section 731—a general civil action—rather than following the administrative enforcement procedures in Chapter 1.20 of the Napa County Code. But the $1,525,000 in civil penalties and $2,253,991 in attorney fees the County recovered are remedies available only under Chapter 1.20, which was enacted under Government Code section 25845. Section 25845 conditions the exercise of that authority on mandatory administrative prerequisites—citation, an opportunity to remediate, and a hearing before the Board of Supervisors (Gov't Code § 25845, subd. (a); NCC § 1.20.010(A)(1))—none of which occurred here. The question on appeal is whether the County can bypass the mandatory procedures that authorize Chapter 1.20, yet still collect Chapter 1.20 remedies. That is a question of statutory interpretation reviewed de novo, and it implicates over $3.7 million of the judgment. (*San Diego County v. California Water and Tel. Co.* (1947) 30 Cal.2d 817, 823–24 [where the Legislature specifies the manner to exercise a statutory power, the specified procedure is "exclusive"]; *Comm. of Seven Thousand v. Superior Court* (1988) 45 Cal.3d 491, 511.)

Each of these questions independently satisfies the substantial-question standard and warrant supersedeas.

C. The balance of equities overwhelmingly favors a stay.

1. Enforcement threatens irreversible destruction; a stay preserves existing conditions.

Where denial of a stay threatens irreparable harm and issuance merely preserves existing conditions pending review, the balance of equities favors maintaining the status quo. (*Mills*, *supra*, 98 Cal.App.3d at p. 859.)

On one side: enforcement will compel cessation of a family business, bankrupt both entities, and inflict irreversible harm on a disabled patriarch and his daughter's family. Closure of the business that was established over decades, and business goodwill and reputation developed over time, cannot be reversed by a later appellate ruling. (4-PA-2338–2339.)

On the other side: a stay will simply preserve the operational conditions that existed throughout four years of litigation, during which the County did not seek or obtain emergency relief. A government's choice to tolerate conditions for years undermines its claim of urgency. (*Beames v. City of Visalia* (2019) 43 Cal.App.5th 741 [the fact that "the city was content to leave the nonconforming use alone for years pointed to a lack of urgency with which the potential hardship on the property owner was incommensurate"].) The County's four-year ordinary litigation timeline is the strongest possible evidence that there is no emergency requiring enforcement during the brief period of

appellate review. Whatever interest the County may have in speeding up collection of the monetary penalty at this point certainly does not rise to the level that would be necessary to justify the extreme measure of bankrupting the Winery before its appeal can be heard.

The County faces no risk from a stay. The Winery's only significant asset is real property—the 6204 Washington Street parcel. Real property cannot be dissipated or hidden pending appeal. A stay without a traditional surety bond does not prejudice the County because the security—the real property itself—will remain available to satisfy any judgment this Court ultimately affirms.

2. Targeted conditions—including alternative security and the indigency exception—can protect any public interest without destroying the family business.

If this Court has specific concerns, those concerns can be addressed through targeted stay conditions without shutting down the Winery's entire commercial operation. Rule 8.112, subdivision (d)(1), of the Rules of Court authorizes this Court to impose "any conditions it deems just" on a supersedeas stay—including conditions that go beyond a traditional surety bond.

Concerning the fines, Code of Civil Procedure section 995.240 provides that a court shall waive the bond requirement upon a showing that the party is unable to obtain the bond

because of indigency or its equivalent. The total judgment of $3,960,013.05—jointly and severally imposed against entities that the judgment simultaneously threatens with bankruptcy—presents precisely the circumstances the indigency exception addresses. Lindsay Hoopes has no current income from the winery and has invested her lifetime earnings into the business. (4-PA-2342–2343.) Spencer Hoopes, permanently disabled and a two-time organ transplant recipient, has no assets beyond Social Security that could support a bond. (4-PA-2374.) Bankruptcy attorneys have confirmed that both entities are eligible for bankruptcy. (4-PA-2374.) No surety will bond a judgment that exceeds the obligor's capacity to pay. Sureties do not accept real property as collateral for the type of bond needed here, and the winery property has already been declined as collateral. (Decl. of Paul Fazzio, ¶¶ 6–7.) The limited assets of Hoopes Vineyard are not sufficient nor acceptable collateral to obtain a surety bond, even for a lower amount than the monetary judgment that has been imposed. (Decl. of Paul Fazzio, ¶¶ 6–8.) Requiring an unobtainable bond as a condition of a stay is functionally indistinguishable from denial of meaningful appellate review. (Code Civ. Proc. § 995.240.) There will be nothing to salvage upon appeal because the business will not exist if the monetary judgment is not stayed.

CONCLUSION

The trial court has found the injunction is mandatory and automatically stayed. What remains is the monetary judgment—which, if enforced after April 9, will destroy the family winery before this Court can determine whether the judgment was lawful. The appeal presents substantial de novo legal questions, including an excessive fines analysis resting on an "implicit" finding and an alter ego theory extending nearly $4 million in personal liability on a deficient record. The County faces no risk: the Winery's only significant asset is real property that cannot be dissipated.

Hoopes Family Winery requests that this Court issue a writ of supersedeas staying enforcement of the monetary judgment pending resolution of the appeal, with such conditions as the Court deems appropriate—including, for example, a lien on the real property at 6204 Washington Street to secure any judgment ultimately affirmed, and an anti-dissipation order prohibiting transfer or encumbrance of the property pending appeal.

Respectfully submitted,

Lindsay Blair Hoopes

Attorneys for Appellants Lindsay Blair Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP

CERTIFICATE OF WORD COUNT

Pursuant to rule 8.204, subdivision (c)(1) of the Rules of Court, attorney Lindsay Blair Hoopes, counsel for Appellants Lindsay Blair Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP, certifies and represents that this brief, including footnotes, contains 8,014 words, as counted by Microsoft Word 365, the word-processing software used to produce this brief.

By: *Lindsay Blair Hoopes*
Lindsay Blair Hoopes

Attorneys for Appellants Lindsay Blair Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP

DECLARATION OF SERVICE

I, Karmen R. Bushman, declare as follows:

I am a resident of the State of Wisconsin, employed in Sacramento, California. I am over the age of 18 years and am not a party to the above-entitled action. My business address is Pacific Legal Foundation, 555 Capitol Mall, Suite 1290, Sacramento, California 95814.

On April 2, 2026, a true copy of PETITION FOR WRIT OF SUPERSEDEAS, MOTION FOR CONSIDERATION AND ATTACHED EXHIBIT, AND PETITIONERS' APPENDIX OF EXHIBITS (SIX VOLUMES), was electronically filed with the Court through Truefiling.com. Notice of this filing will be sent to those below who are registered with the Court's efiling system. Those who are not registered will receive a hard copy via first-class U.S. Mail, postage thereon fully prepaid, and deposited in a mailbox regularly maintained by the United States Postal Service in De Pere, Wisconsin.

Office of the Clerk
for the Hon. Mark Boessenecker
Napa Superior Court
Super. Ct. No. 22CV001262
(Via Mail – Writ only)

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Counsel for Plaintiffs and Respondent

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 2nd day of April, 2026, at Los Angeles, California.

Karmen R. Bushman
Karmen R. Bushman

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

NAPA COUNTY, et al.,

Plaintiffs and Respondents,

v.

LINDSAY BLAIR HOOPES, et al.,

Defendants and Appellants.

A175111 & A176066

(Napa County Super. Ct. No. 22CV001262)

BY THE COURT:

Pending further consideration and disposition of the petitions for writ of supersedeas on file herein, enforcement of the monetary judgment entered on January 27, 2026 is temporarily stayed.

The court requests that the parties discuss whether any conditions should be imposed in the event supersedeas is granted, such as an expedited briefing schedule in the appeal without allowance for automatic extensions of time. (See Cal. Rules of Court, rules 8.360(c)(5).) If the parties believe an expedited briefing schedule for the appeal is appropriate, the court requests that they propose such a schedule. The court advises the parties that a writ of supersedeas may issue without oral argument. (Cal. Rules of Court, rule 8.112(d).) In addition to regular service of this order, the Clerk of Division Two shall forthwith notify the parties of the contents of this order.

DATE: 04/08/2026 Stewart, P.J., P.J.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

NAPA COUNTY, et al.,

Plaintiffs and Respondents,

v.

LINDSAY BLAIR HOOPES, et al.,

Defendants and Appellants.

A175111 & A176066

(Napa County Super. Ct. No. 22CV001262)

BY THE COURT:

Having considered the petitions, informal responses, and attached records, the April 8, 2026 temporary stay of the January 27, 2026 monetary judgment is dissolved, and the petitions for writ of supersedeas are denied. The opposed motions to consider the declaration of Paul Fazzio in support of the supersedeas petitions are also denied.

DATE: 05/29/2026 Stewart, P.J., P.J.

No. _____

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

NAPA COUNTY, et al.,

Respondents and Appellees,

v.

LINDSAY BLAIR HOOPES, HOOPES VINEYARD, LLC, and HOOPES FAMILY WINERY PARTNERS, LP,

Petitioners and Appellants.

Court of Appeal of the State of California
First Appellate District, Division 2
Case Nos. A175111 & A176066

Superior Court of California, County of Napa
The Honorable Mark Boessenecker
Civil Case No. 22CV001262

PETITION FOR REVIEW, VERIFIED PETITION FOR WRIT OF SUPERSEDEAS OR, IN THE ALTERNATIVE, PETITION FOR WRIT OF MANDATE

IMMEDIATE REQUEST FOR STAY OF MONETARY JUDGMENT

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Attorney for Petitioners and Appellants Lindsay Blair Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP

CERTIFICATE OF INTERESTED ENTITIES OR PARTIES

There are no entities or persons having either an ownership interest of 10% or more in the party or parties filing this certificate or a financial or other interest in the outcome of the proceeding. (Rules of Court, rule 8.208(e)(1).)

By: *Anastasia Boden*
Anastasia Boden
Attorneys for Petitioners and Appellants Lindsay Blair Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP

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To: THE HONORABLE PATRICIA GUERRERO, CHIEF JUSTICE, AND THE HONORABLE ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT:

Lindsay Blair Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP, Petitioners, hereby petition this Honorable Court pursuant to California Rules of Court, Rule 8.486, to review the denial of petition for writ of supersedeas, and grant a petition for writ of supersedeas, in light of the order in the Court of Appeal of the State of California, First Appellate District, Division Two, filed on May 29, 2026, denying in that court a petition for writ of supersedeas. A copy of the order is included as an attachment to this Petition (hereinafter "Order Dissolving Stay of Monetary Judgment and Denying Petition for Writ of Supersedeas") (7-PA-3693.). In the alternative, Petitioners respectfully request this Court issue a writ of mandate directing the Court of Appeal to issue a writ of supersedeas.

In addition, pursuant to California Rules of Court, Rule 8.116, Petitioners respectfully request this Court issue a temporary stay of the Superior Court's order of monetary judgment during the pendency of the appeal (consolidated A175111 & A176066) or at least while this petition remains pending.

I. INTRODUCTION: REQUEST FOR IMMEDIATE STAY

An immediate stay is necessary to prevent irreparable harm to Petitioners. For more than 40 years, the Hoopes family has operated a state-licensed winery in Napa County. After an 11-day bench trial, the Superior Court entered a preliminary injunction that shut down virtually all commercial operations. The appellate court stayed that injunction on March 7, 2025.

Despite the stay, the trial court converted the preliminary injunction to a permanent injunction, word-for-word, without taking further evidence, and imposed a monetary judgment of $3,960,013.05, more than the lifetime revenue from operations on the property. The judgment imposes $1,525,000 in civil penalties imposed to punish past conduct, $2,253,991 in attorney's fees, $111,229.80 in abatement costs, and $69,792.25 in statutory costs. Through an alter ego finding resting on a single paragraph that omits a required element, the full judgment reaches Lindsay Hoopes individually—the sole income provider for four minor children and the primary caretaker for a permanently disabled parent.

The trial court recognized the injunction was too severe to enforce pending appeal, and impliedly found that the operations subject to the fines were licensed. It found the injunction is mandatory—that it "change[s], and not maintain[s], the status quo between the parties"—and therefore automatically stayed it under Code of Civil Procedure section 916. (4-PA-2672–2673.)

The monetary penalties and associated costs are equally devastating, and the trial court did not stay their enforcement.

The fines effectively seize all operating capital and assets. Because the required bond exceeds both the value of the property and the business's lifetime revenue, payment *and* finding an appellate bond is impossible.

As a result, the business faces inevitable sale of the property, bankruptcy and closure—the very irreparable harm that supported the trial court's decision not to impose the injunction against Defendants pending appeal. The financial records introduced at trial confirm that the business could never reasonably pay the fines or fees, individually or in the aggregate, precisely because it exceeds the total lifetime revenue generated by the property. Where a party cannot realistically satisfy the underlying penalties, it necessarily follows that it cannot post a bond in that amount. In practical terms, this requirement forecloses any meaningful opportunity to seek appellate relief and effectively closes the courthouse doors in an important case with significant constitutional claims.

Nevertheless, the trial court denied the discretionary bond waiver under section 995.240 and granted only a temporary stay through April 9, 2026. The required bond—more than $5.9 million by the County's own calculation—exceeds the defendants' capacity, rendering them indigent for purposes of obtaining a bond. Their cumulative retail merchandise revenue over the past four years was just $22,000 (4-PA-2390; RT 13–14), and defendants submitted declarations and evidence of unsuccessful efforts to obtain a bond. (4-PA-2365–2367; 4-PA-2372–2375.) Rather than rebut this evidence, the County pointed

to evidence from a trial held two years earlier to the effect that individual defendant Lindsay Hoopes was able to purchase the winery real property, and therefore, the County speculates, she must have means for a bond. The court accepted the County's speculation without developing a *current* record on bondability, encumbrances, or surety availability—and notwithstanding the County's own attorney's contrary concession at the penalties hearing that Hoopes is "not particularly wealthy." (RT 16; 4-PA-2674–2675.)

A petition for writ of supersedeas was filed in the appellate court on April 2, 2026. (7-PA-3639.) The appellate court granted a temporary stay of the monetary judgment on April 8, 2026. (7-PA-3691.) The parties have not yet filed their appellate briefs. But on May 29, 2026, the appellate court dissolved the stay of monetary fines and denied petition for writ of supersedeas. (7-PA-3693.)

As a result, the County can immediately begin enforcing the full monetary judgment against a small family winery, and against an individual whose personal liability rests on a contested and deeply flawed alter ego theory. But Defendants don't have money to pay it. The effect will be to end Defendants' ability to continue this case and to force Lindsay Hoopes into destitution.

This case presents a review-worthy question: whether a court may deny a section 995.240 indigency bond waiver and thereby condition a stay, and meaningful appellate review, on a bond that exceeds the debtor's demonstrated ability to pay.

Access-to-review is a question of law of statewide importance arising directly from the order under review. This Court cannot simply wait until the appeal ends because the vineyard will be shuttered, with the courts unable to provide any relief long before that happens.

This petition asks this Court to immediately stay enforcement of the monetary judgment to maintain the status quo of a lawful business and to prevent financial ruin before the appeal can be heard: stay enforcement of the monetary judgment pending appeal.

II. VERIFIED PETITION FOR WRIT OF SUPERSEDEAS

By this verified petition, Petitioner Lindsay Blair Hoopes alleges as follows:

This Petition is supported by the attached Memorandum of Points and Authorities and the Appellant's Writ Appendix, submitted pursuant to California Rule of Court 8.112(a)(4)(B).

III. PARTIES AND JURISDICTION

1. Petitioners Hoopes Family Winery Partners, LP, Hoopes Vineyard, LLC, and Lindsay Blair Hoopes are the defendants and cross-complainants in Napa County Superior Court Case No. 22CV001262. (3-PA-1384.) Together, they operate a licensed Napa County winery commonly known as Hoopes Vineyard. Although these parties have distinct legal identities—a distinction material to the alter ego issues discussed below—this petition uses "Hoopes Vineyard" to refer to the winery enterprise for convenience.

2. The judgment entered on January 27, 2026, imposes a permanent injunction against Hoopes Vineyard and governs the use and operation of the winery property located at 6204 Washington Street, in Napa County. It further imposes penalties totaling $1,525,000 and attorney's fees of $2,253,991. (4-PA-2309–2312.) The judgment did not find that Hoopes' activity caused any harm to the public.

3. Hoopes Vineyard has filed a timely notice of appeal from the permanent injunction, and that appeal is currently pending before the Court of Appeal, First Appellate District, Division Two in Case No. A175111 (6-PA-3607) as well as a timely notice of appeal from the judgment and denial of post-trial motions Case No. A176066 (consolidated). (6-PA-3633)

4. Respondents are Napa County and the People of the State of California ex rel. the Napa County Counsel.

IV. BACKGROUND

5. Hoopes Vineyard has operated for decades as a family-owned winery, including production, storage, marketing, on-site tastings, direct-to-consumer sales, and wine club memberships—all activities expressly authorized under its state Type-02 ABC license. (Bus. & Prof. Code § 23358, subd. (a)(2), (3); 4-PA-2337–2338.)

6. In 2022, Napa County filed an enforcement action alleging that the winery conducted public tastings exceeding its small winery exemption, sold non-wine merchandise (ie. candles and tote bags), and maintained animals for marketing purposes—all in alleged violation of Napa County Code section

18.08.600(C). (1-PA-16–84.) Notably, an earlier judge assigned to this matter—Judge Cynthia Smith—denied the County's request for a preliminary injunction, finding that Hoopes Vineyard's conduct did not constitute nuisance per se under Napa County Code sections 1.20.020 and 18.144.040. Judge Smith concluded that there were no violations of law based on the conduct alleged. Judge Mark Boessenecker later reached the opposite conclusion.

7. On February 20, 2025, the Superior Court entered a sweeping preliminary injunction that prohibited any on-site tastings, tours, consumption, marketing, and virtually all commercial activity—including activities expressly authorized by the winery's ABC license—effectively ordering the shutdown of the winery's operations. (3-PA-1376–1379.) This Court granted interim relief staying enforcement of that injunction pending appellate proceedings.

8. Following a bench trial, the Superior Court entered a permanent injunction adopting the same restrictions. (4-PA-2158.) The permanent injunction—identical in every operative provision to the preliminary injunction this Court previously stayed—among other things:

(a) Prohibits on-site tastings except under narrow court-defined limitations—effectively eliminating the tasting program that is the winery's primary customer-acquisition channel;

(b) Restricts marketing and promotional activity, including activities that constitute protected commercial speech;

(c) Prohibits sale of wine not produced on the property, overriding sales practices authorized under the ABC license;

(d) Requires warrantless access to the property for compliance inspections up to 63 hours per week; and

(e) Imposes operational limitations that compel affirmative restructuring of the winery's business model.

(3-PA-1376–1379.)

9. On March 27, 2026, the trial court found the permanent injunction is mandatory and automatically stayed under section 916, but denied the bond waiver and granted only a temporary stay of the monetary judgment through April 9, 2026. (4-PA-2667–2676.)

10. On April 2, 2026, Defendants filed a petition for writ of supersedeas and request for immediate stay of the monetary judgment in the Court of Appeal. (7-PA-3639.)

11. On April 8, 2026, the Court of Appeal granted a temporary stay. (7-PA-3691.)

12. On May 29, 2026, the Court of Appeal dissolved the stay and denied the petition for writ of supersedeas. (7-PA-3693.)

STATEMENT OF THE CASE

A. The Hoopes family operates a licensed winery on property the County approved for that use.

13. A winery has operated at the property at 6204 Washington Street in Napa for more than 40 years under a small winery use permit exemption dating back to 1984. (4-PA-2385.)

In 2019, the Hoopes family applied for a state Type-02 ABC license to conduct tastings and direct-to-consumer sales. The County confirmed in writing that the intended use was "allowed and approved" and that a "use permit" had "been approved" as of 1987. (4-PA-2385.) The Department of Alcoholic Beverage Control therefore issued the license. The County raised no objection. The Department approved an expansion in March 2021 for an external consumer wine tasting area, and the County again raised no objection.

14. Spencer Hoopes, the 78-year-old patriarch, is permanently disabled and a two-time organ transplant recipient. His daughter Lindsay manages the winery and supports four young children. (4-PA-2374; 4-PA-2343; 4-PA-2366.)

B. The County filed an enforcement action alleging zoning violations, but an earlier judge denied injunctive relief.

15. In October 2022, Napa County filed an enforcement action alleging zoning and land-use violations. (1-PA-86.) The Second Amended Complaint alleged alter ego liability—but only as to Hoopes Vineyard, LLC, not Hoopes Family Winery Partners, LP. (3-PA-565.)

16. An earlier judge assigned to the matter—Judge Cynthia Smith—denied the County's request for a preliminary injunction, finding that Hoopes Vineyard's conduct did not constitute nuisance per se under Napa County Code sections 1.20.020 and 18.144.040 or appear to violate any law or

condition of the use permit. Judge Mark Boessenecker later reached the opposite conclusion on the same ordinances.

C. After an 11-day bench trial, the court found certain violations but extended alter ego liability on a deficient record.

17. The case proceeded to a Phase I bench trial in January and February 2024—11 days of testimony over two weeks. (3-PA-1307 [trial dates January 29–31, February 1–2, 5–9, 17, 2024].) The court issued its Statement of Decision on November 13, 2024. It found that Hoopes Vineyard conducted public tastings, sold merchandise, held social events, and used animals for marketing purposes in violation of Napa County Code section 18.08.600(C). (3-PA-1321–1323.)

18. On alter ego, the Statement of Decision devoted a single paragraph: the court found that Lindsay Hoopes "controls, directs, and manages Hoopes LLC," "regularly commingles her finances with the LLC finances," and "uses her personal money to support all activities," based primarily on the testimony of Lisa Brooks. (3-PA-1324–1325.) The court stated it found "the two required factors set forth in *Automotriz*"—but the paragraph addresses only unity of interest (control and commingling). It does not analyze the second required factor: whether an inequitable result would follow from respecting the corporate form. And it extends the finding parenthetically to the LP: "She operates the LLC (and the LP) effectively as a sole proprietorship[.]" (3-PA-1324.) Alter ego was never pleaded against the LP.

19. The Statement of Decision deferred penalties, attorney fees, costs, and the scope of the injunction to supplemental briefing. (3-PA-1325.)

D. The appellate court stayed the preliminary injunction that shut down winery operations.

20. On February 20, 2025, the trial court entered a preliminary injunction shutting down essentially all commercial winery operations. (3-PA-1376–1379.) Hoopes appealed (Case No. A172626). On March 7, 2025, the appellate court stayed enforcement of the preliminary injunction, recognizing that the winery's operations warranted preservation pending appellate review.

E. Without further hearing or evidence, the trial court adopts the identical order as permanent.

21. On May 29, 2025, the trial court concluded it retained jurisdiction notwithstanding the appeal and stay. On November 3, 2025—with the appellate stay still in effect—the court entered a permanent injunction. It did not draft new injunctive language. It did not narrow or modify any provision. It did not address the constitutional concerns that presumably prompted this Court's stay. It simply adopted the preliminary injunction, verbatim, as permanent:

> *The parties have submitted no further briefing on Plaintiffs' request for an injunction. Thus, the Preliminary Injunction is adopted as a Permanent Injunction against Defendants.*

(4-PA-2143.)

22. The preliminary and permanent injunctions are word-for-word identical in every operative provision. All eight categories of prohibited winery activities, all three categories of prohibited commercial activities, the 63-hour-per-week warrantless inspection regime, and the anti-circumvention provisions are identical. (*Compare* 3-PA-1377–1378, *with* 4-PA-2310–2311; see also 4-PA-2143 and 4-PA-2158 [adopting same].)

23. When defendants attempted to challenge the alter ego finding in their fee opposition, the court summarily denied the challenge as "procedurally improper"—without addressing its merits. (4-PA-2142)

F. The judgment imposes nearly $4 million against a family winery, and the trial court denied a stay.

24. On November 14, 2025, Hoopes filed a notice of appeal from the permanent injunction (Case No. A175111). On November 21, 2025, the first appeal was dismissed—leaving the permanent injunction in place without a stay.

25. On January 27, 2026, the trial court entered a judgment of $3,960,013.05—jointly and severally against Lindsay Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP. (4-PA-2308–2309.) The judgment imposes $1,525,000 in civil penalties ($1,000/day plus $250/day for 1,220 days), $2,253,991 in attorney fees, $111,229.80 in abatement costs, and $69,792.25 in statutory costs. (4-PA-2312.) The permanent injunction is incorporated into and entered as part of

the judgment. (4-PA-2309 ["The Preliminary Injunction previously entered by the Court is adopted as the Permanent Injunction and is entered as part of this Judgment."].)

G. The trial court found the injunction is mandatory but denied a stay of the monetary judgment.

26. On March 27, 2026, the trial court ruled on Defendants' motion for stay pending appeal. It analyzed the permanent injunction and concluded it is mandatory—that it "change[s], and not maintain[s], the status quo between the parties" and is "in practice, a requirement that Defendants take affirmative action." (4-PA-2672–2673.) The court therefore found the injunction automatically stayed under section 916.

27. But the court denied the bond waiver under section 995.240. Defendants had submitted declarations and evidence of unsuccessful efforts to obtain a bond. (4-PA-2366–2367; 4-PA-2373–2375.) The County argued that evidence from a trial held two years earlier suggested defendants were not indigent, pointing to the 2024 purchase price of the winery property and Lindsay Hoopes's prior real estate holdings. (4-PA-2402–2403.) The court accepted the County's characterization in a single paragraph, without identifying specific evidence, without addressing whether the financial picture had changed in two years, and without developing a record on current bondability or surety availability. (4-PA-2674–2675.) Defendants requested an ability to pay hearing to support the inability to pay and bond, but were denied.

28. The trial court also denied the motion to vacate the judgment based on the state and federal constitutions' protections against excessive fines. It held that the Statement of Decision's discussion of penalties "implicitly" addressed the Eighth Amendment excessive fines analysis under *United States v. Bajakajian* (1998) 524 U.S. 321. (4-PA-2687.)

H. The appellate court granted a temporary stay, then dissolved it.

29. On April 8, 2026, the appellate court granted a temporary stay of the monetary judgment. However, on May 29, 2026, before the parties had submitted appellate briefing, the appellate court dissolved the stay and denied petitions for writ of supersedeas, leaving Hoopes vulnerable to financial destruction before the appeal can be heard. (7-PA-3693.)

V. IRREPARABLE HARM

30. If the County pursues active enforcement of the monetary judgment—nearly $4 million against entities that bankruptcy attorneys confirm would be forced into bankruptcy (4-PA-2366, 2374)— and the winery will not have sufficient capital to continue operating as it may lawfully do under the trial court's stay. (*Id.*)

31. The total judgment—including $1,525,000 in penalties, $2,253,991 in attorney's fees, and $111,229.80 in abatement costs—exceeds the winery's capacity to pay. Bankruptcy attorneys have indicated that both Hoopes Family Winery Partners, LP and Hoopes Vineyard, LLC are eligible for and would inevitably be forced into bankruptcy. (4-PA-2374.) Napa County has issued a writ of execution and indicated an

intent to seize all bank assets, which will abruptly halt all business operations and force termination of employees.

32. California courts have long recognized that destruction of business goodwill and customer relationships constitutes irreparable harm. (*Food & Grocery Bureau of Southern California v. Garfield* (1941) 18 Cal.2d 174, 176–77; *Deepwell Homeowners' Protective Ass'n v. City Council* (1965) 239 Cal.App.2d 63, 65–66.) Once employees are terminated, distribution relationships dissolved, wine club memberships cancelled, and market position eroded, an appellate reversal cannot restore the business to its prior condition. In fact, it's unlikely the business would survive long enough to pursue the appeal.

33. The monetary judgment accomplishes indirectly what the trial and appellate courts recognized could not be done directly through the injunction. In staying the injunction, the appellate court necessarily determined that enforcing it pending appeal was irreparable harm—namely, the forced shutdown of Defendants' business. But that same outcome is certain if the monetary judgment remains enforceable pending appeal. The judgment is of such magnitude that it would immediately exhaust all operating capital and assets, and it cannot be bonded because it exceeds the value of the property and the entirety of the business's lifetime revenue. Thus, while the lower courts stayed the injunction to avoid irreparable harm, they now leave in place a monetary judgment that guarantees the same result. The practical effect is to nullify

the stay and foreclose any meaningful right to appellate review.

VI. REQUEST FOR IMMEDIATE TEMPORARY STAY

34. Hoopes Vineyard requests that this Court issue an immediate temporary stay of enforcement of the monetary judgment entered on January 27, 2026—pending determination of this petition. (Code Civ. Proc. § 923; Rules of Ct., rule 8.112.) Without this Court's immediate intervention, the County may begin enforcing a judgment of $3,960,013.05 against Defendants, causing them to go into bankruptcy and likely ending the adjudication of their constitutional rights. (4-PA-2374.)

35. Enforcement of the monetary judgment—nearly $4 million against entities that bankruptcy attorneys confirm cannot pay—will force the winery into insolvency, eliminating all business operations, pending appeal. (4-PA-2366, 4-PA-2374.) The total judgment of nearly $4 million—imposed against a small family winery whose lifetime revenue from operations on the property is far below that—creates an impossible compliance paradox: the trial court denied the bond waiver, and the judgment exceeds any bond the defendants could post. (4-PA-2390; 4-PA-2675.)

36. Through an alter ego finding resting on a single paragraph that fails to address the required "inequitable result" element, the full judgment reaches Lindsay Hoopes individually—the sole income provider for four minor children and the primary caretaker for her 78-year-old father, a permanently disabled two-time organ transplant recipient. (3-PA-

1324–1325; 4-PA-2366; 4-PA-2374.) That finding was never pleaded against Hoopes Family Winery Partners, LP, yet the court extended it to all three defendants. (3-PA-564–565.)

37. The appeal raises substantial legal questions independently warranting supersedeas, including: (1) whether the Napa County Code's own definition of agriculture—which encompasses tasting and direct sales—forecloses the County's nuisance theory, and whether a county can enjoin activities the State has expressly licensed to the premises under Civil Code section 3482 and the ABC licensing scheme and that are expressly lawful activities at wineries in Napa (Bus. & Prof. Code § 23358); (2) whether the permanent injunction—adopted verbatim from the preliminary injunction without further briefing, hearing, or tailoring (4-PA-2143)—can stand where six of its twelve operative provisions have no basis in the Statement of Decision (3-PA-1306–1325); (3) whether the alter ego finding satisfies the two-prong *Automotriz* test; (4) whether the injunction's warrantless inspection regime, speech restrictions, and $1,525,000 in penalties against a small family winery satisfy constitutional requirements; and (5) whether the Unfair Competition Claims, duplicitous of the deficient nuisance per se claims, are supported in fact *or* law.

38. The balance of equities is not close. The County litigated on an ordinary civil timeline for four years after seeking interim relief that initially failed (Judge Smith denied the preliminary injunction) and then litigated on an ordinary civil timeline, requesting many continuances to accommodate attorney

vacations. No member of the public has ever been harmed by Defendants' allegedly unlawful operations. No environmental agency has ever intervened. A septic inspection during the litigation confirmed the system was operating and compliant. (3-PA-1344.) A stay will simply preserve the conditions that have existed throughout the litigation. Denial of a stay will decide the case before the appellate court can determine whether the judgment was lawful.

VII. AUTHENTICITY OF EXHIBITS AND PRAYER FOR RELIEF

39. The exhibits in the Petitioners' Appendix are true and correct copies of original documents on file with the respondent court.

40. Some exhibits accompanying this Petition are true and correct copies, subject to a Motion for Consideration ("MFC") including a Declaration in support of harm derivative of the judgment.

VIII. PRAYER FOR RELIEF

Petitioners Lindsay Blair Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP respectfully pray that this Court:

Issue an immediate temporary stay of enforcement of the monetary judgment entered on January 27, 2026, pending determination of this petition;

- Issue a writ of supersedeas pursuant to Code of Civil Procedure section 923 and Rules of Court, rule 8.112, staying enforcement of the monetary judgment

entered on January 27, 2026, in Napa County Superior Court, Case No. 22CV001262, pending final determination of the appeal in Case No. A175111 & A176066, or, in the alternative, staying enforcement against Lindsay Hoopes individually pending resolution of the alter ego issues on appeal, or, in the further alternative, barring active execution on the judgment—including levies, keepers, turnover orders, receivership, or forced sale—while permitting the County to preserve lien priority through passive recordation, conditioned on anti-dissipation and notice requirements as this Court deems just;

- Issue a writ of mandate directing the Court of Appeal to issue a writ of supersedeas; and
- Grant such other and further relief as this Court deems just and proper.

Date: May 29, 2026

By: *Anastasia Boden*
Anastasia Boden

Attorney for Appellants Lindsay Blair Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP

VERIFICATION

I, Anastasia Boden, declare as follows:

I am counsel for Defendants and Appellants Lindsay Blair Hoopes, Hoopes Vineyard LLC, and Hoopes Family Winery Partners LP. I have prepared the foregoing Petition for Writ of Supersedeas and know its contents. The facts alleged in the Petition pertaining to the judicial proceedings and the judicial record of the underlying lawsuit are within my own knowledge and I know these facts to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed on May 29, 2026, in Sacramento California.

/s/ Anastasia Boden
Anastasia Boden

MEMORANDUM OF POINTS AND AUTHORITIES

SUMMARY OF ARGUMENT

Defendants ask this Court to put an end to the destruction of their business so that the appeal may continue and Defendants receive full adjudication of their constitutional rights. The trial court already found the permanent injunction that would have ended their business operations is mandatory and automatically stayed. What remains is the monetary judgment—$3,960,013.05—which the appellate court refused to stay.

The monetary judgment is an emergency. Absent immediate relief, the County is poised to commence aggressive enforcement—indeed, it has expressly indicated it will—against a small, family-run winery that cannot pay and that attorneys have confirmed will be forced into bankruptcy. The scale of the judgment renders compliance impossible. The County will also enforce the full $3.96 million judgment against Lindsay Hoopes individually, without the requisite alter-ego findings. The court refused to make any finding that Lindsay Hoopes personally could pay that amount, and she declared she could not. The appeal raises substantial legal questions, including whether the trial court's denial of the bond waiver under section 995.240 was an abuse of discretion and whether the fines are unconstitutionally excessive given that there's been zero harm to the public and yet will bankrupt the parties. The alter ego finding extends the full judgment to an individual based on a single paragraph that omits a required element and reaches an entity against which alter ego was never pleaded. The

permanent injunction—adopted verbatim from the preliminary injunction this Court previously stayed—reaches far beyond the trial court's own findings. And the injunction mirrors one this Court already found warranted preservation.

The balance of equities is straightforward. The Winery's only significant asset is real property—it is not going anywhere. A stay preserves existing conditions. Denial decides the case.

STANDARD OF REVIEW

A writ of supersedeas protects the appellate court's jurisdiction and ensures that its eventual decision has practical effect. (Code Civ. Proc. § 923; *Mills v. County of Trinity* (1979) 98 Cal.App.3d 859.) Supersedeas is appropriate when (1) enforcement will cause irreparable harm, (2) the appeal presents substantial legal questions, and (3) the balance of equities favors maintaining the status quo. (*Deepwell Homeowners' Protective Ass'n v. City Council* (1965) 239 Cal.App.2d 63, 65–66.)

This Court's authority under section 923 and Rules of Court, rule 8.112, extends to monetary judgments as well as injunctions. Where the trial court has denied a bond waiver under section 995.240, this Court retains independent authority to stay enforcement on whatever conditions it deems just. (*Deepwell*, *supra*, 239 Cal.App.2d at pp. 65–66.) The purpose of section 916 "is to protect the appellate court's jurisdiction by preserving the status quo until the appeal is decided." (*Elsea v. Saberi* (1992) 4 Cal.App.4th 625, 629.) Code of Civil Procedure section 917.8, subdivision (c)—which addresses stays in nuisance

actions—governs automatic stays under section 916, not discretionary supersedeas under section 923. This Court's authority to preserve appellate jurisdiction through supersedeas is independent of the automatic-stay provisions. (*Mills*, *supra*, 98 Cal.App.3d at p. 861.) The rule is that courts will grant supersedeas where denial would deprive the appellant of the benefit of a reversal. (*People ex rel. San Francisco Bay Conserv. & Dev. Comm'n v. Town of Emeryville* (1968) 69 Cal.2d 533, 537.)

ARGUMENT

A. Without supersedeas, the appeal is meaningless—active enforcement—levies on operating accounts, receivership, or forced sale of the winery property—will destroy the Winery before the appellate court can review the judgment.

Supersedeas is appropriate where enforcement would so change existing conditions that meaningful appellate relief becomes unavailable, depriving the appellant of the benefit of a reversal. (*San Francisco Bay Conserv. & Develop. Comm'n*, *supra*, 69 Cal.2d at 537.) (*Deepwell*, *supra*, 239 Cal.App.2d at pp. 65–66; *Mills*, *supra*, 98 Cal.App.3d at p. 861.)

The permanent injunction is textually identical to the preliminary injunction the appellate court stayed. (*Compare* 3-PA-1377–1378, *with* 4-PA-2310–2311.) The trial court adopted it without modification or further analysis. (4-PA-2143.) As the trial court agreed, the permanent injunction warrants a stay. But it is incoherent to pause the injunction while allowing enforcement of the fines to move forward, as the appellate court has now done.

Enforcement of the fines will effectively have the same devastating impact on the Winery's business as the injunction.

1. Enforcement of the monetary penalties eliminates the Winery's capacity to survive.

A stay is warranted to prevent the business from being "wiped out" during the pendency of the appeal. (*Davis v. Custom Component Switches, Inc.* (1970) 13 Cal.App.3d 21, 27 [ordering writ of supersedeas].) California courts have long recognized that destruction of business goodwill and customer relationships constitutes irreparable harm that cannot be remedied by a later appellate reversal. (*Food & Grocery Bureau of Southern California v. Garfield* (1941) 18 Cal.2d 174, 176–77.) Customers who cannot visit Hoopes Vineyard will redirect patronage to competing wineries. Distribution and referral relationships weakened during the cessation period may shift permanently. Even a complete appellate reversal cannot compel former customers to return, reconstruct dissipated goodwill, or reclaim lost market share. (*Id.*)

2. The judgment creates an impossible compliance paradox.

The total judgment approaches $4 million against a small family winery whose retail merchandise on the property in the past four years generated approximately $22,000, (4-PA-2390; RT 13–14) and demands nearly $4 million from entities that the trial court itself found warranted protection from the injunction pending appeal. Yet the trial court denied the bond waiver under

section 995.240 without an adequate record on current bondability, encumbrances, or surety availability—leaving the Defendants exposed to active enforcement of a judgment they demonstrably cannot satisfy or bond. (Decl. of Paul Fazzio, ¶¶ 4–8.) Bankruptcy attorneys have confirmed that both entities are eligible for and would inevitably be forced into bankruptcy. (4-PA-2374, 4-PA-2390.) An appellate reversal cannot resurrect a family winery that enters bankruptcy and will be forced to cease all operations during the pendency of the appeal.

3. Without a stay, active enforcement will accomplish what the stayed injunction cannot.

Even though the trial court found the injunction is automatically stayed as mandatory, enforcement of the monetary judgment achieves the identical shutdown. If the County pursues active enforcement now—which they have communicated without hesitation they will—levying on operating accounts, seeking a receiver, or forcing a sale of the winery property—the result will be the same operational destruction the stayed injunction was meant to prevent.

4. The alter ego finding extends devastation to an individual and her family.

Through the alter ego finding, the full judgment reaches Lindsay Hoopes individually—the sole income provider for four minor children and the primary caretaker for Spencer Hoopes, her 78-year-old father, who is permanently disabled and a two-time organ transplant recipient. (4-PA-2366; 4-PA-2374.) That

finding rests on a single paragraph in the Statement of Decision that does not address the "inequitable result" element required by *Automotriz Del Golfo De California v. Resnick* (1957) 47 Cal.2d 792, 796, and extends alter ego to an entity against which it was never pleaded. (3-PA-1324–1325; 3-PA-565.) If the finding is erroneous—and it raises substantial questions discussed in Part C.4 below—enforcement will devastate an individual and her family based on a legal theory no published California decision has sanctioned in a nuisance abatement action.

B. The appeal raises substantial legal questions reviewed de novo.

This Court may consider whether the appeal presents substantial, non-frivolous legal issues warranting full appellate consideration. (*Mills*, *supra*, 98 Cal.App.3d at p. 861.) Hoopes Vineyard need not establish that it will prevail; it is sufficient that the issues are serious. (*Deepwell*, *supra*, 239 Cal.App.2d at pp. 65–66.)

The appellate court's prior stay of the preliminary injunction—which is textually identical to the permanent injunction now under review—itself demonstrates the substantiality of the legal questions presented. The critical appellate questions are legal, not factual. What Hoopes Vineyard did is largely undisputed—it conducted tastings, direct-to-consumer sales, and marketing activities authorized under its ABC license. The legal questions—whether those activities are actionable as a nuisance per se given the ABC license and Civil Code section 3482, whether the injunction exceeds the trial

court's own findings, whether the alter ego finding satisfies the requirements for piercing the corporate veil, and whether the remedy is constitutionally permissible—are reviewed de novo. The appeal presents at least five such questions that independently satisfy the substantial-issue threshold.

1. The injunction enjoins, and the monetary penalty penalizes, activities the State has expressly licensed, raising a substantial preemption question.

Hoopes Vineyard operates under a Type-02 ABC license, which expressly authorizes on-site tastings, direct-to-consumer sales, and related commercial activity. (Bus. & Prof. Code § 23358, subd. (a)(2), (3).) Civil Code section 3482 provides that "[n]othing which is done or maintained under the express authority of a statute can be deemed a nuisance." The permanent injunction enjoins the very activities that the State has licensed. The monetary judgment assesses fines for activities expressly authorized by Petitioner's state license, the Napa County Code, and that the first judge to consider the issue determined did not amount to violation of any law. Whether a county can declare as a nuisance and enjoin conduct that the State has expressly authorized is a question of statutory interpretation and regulatory preemption that the appellate court reviews de novo. (*Korean American Legal Advocacy Foundation v. City of Los Angeles* (1994) 23 Cal.App.4th 376, 393.)

Under California's permissive zoning framework, an expressly authorized use cannot be impliedly prohibited by reading disparate code provisions together. (*People v. Venice*

Suites, LLC (2021) 71 Cal.App.5th 715, 730–34 [under permissive zoning scheme, court's function "is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted"] (quoting Code Civ. Proc. § 1858).) The County confirmed in writing that the winery's intended use was "allowed and approved." (4-PA-2385.) The County cannot now manufacture a prohibition by creatively interpreting separate code sections to impliedly restrict what it expressly authorized and what the State licensed at the premises.

2. Two judges reached opposite conclusions on the same ordinances—and the nuisance per se theory requires more than the trial court provided.

Judge Cynthia Smith denied the County's request for a preliminary injunction, finding that Hoopes Vineyard's conduct did not constitute nuisance per se under Napa County Code sections 1.20.020 and 18.144.040. Judge Boessenecker reached the opposite conclusion on the same ordinances. That two judges reviewing the same code provisions reached directly contradictory legal conclusions on the same facts and in reference to the same Napa codes is itself powerful evidence that the legal question is substantial. The interpretation of those ordinances—whether they establish nuisance per se liability—is a legal question reviewed de novo on appeal.

Napa County admits it did not establish harm; thus, they concede there is no liability in general public nuisance, which they cannot prove absent a predicate offense identified. The Napa County Code further indicates that small winery exemptions

"shall" have "[m]arketing, sales, and other accessory uses." The injunction and monetary judgments expressly contradict local law, as well. (NCC § 18.08.040(H)(2).) Tastings, marketing, and wine sales are allowed at wineries, and there is no dispute that Petitioner is a winery. The liability finding and injunction directly contradict these express legal authorizations. A nuisance per se can never lie as to expressly legal conduct.

The nuisance per se theory is particularly vulnerable because it requires identification of a specific code provision that the defendant violated, and the violation must itself constitute the nuisance. (*People v. ConAgra Grocery Products Co.* (2017) 17 Cal.App.5th 51, 112.) Despite repeated requests, Napa County refused to declare one, and the Court did not hold them to this burden. This is a due process problem, as well.

Further, a general finding that conduct violated zoning ordinances—without identifying the specific provision and explaining how its violation constitutes a nuisance—does not support nuisance per se liability. Under *Venice Suites*, conditions on land use cannot be implied; they must be expressly stated. (*People v. Venice Suites, LLC*, *supra*, 71 Cal.App.5th at pp. 730–34.) The County confirmed the winery's use was "allowed and approved"—it cannot now impose conditions that were never part of that approval. Restrictions on accessory uses cannot be implied, either, as they are derivative of the primary use by law. (NCC § 18.04.040; Gov't Code § 65852.)

3. The permanent injunction exceeds the scope of the trial court's own findings.

The overbreadth of the injunction belies the shaky ground on which the underlying judgment rests. Of the permanent injunction's twelve operative provisions, six have no basis in the Statement of Decision (non-estate wine sales, food service, warrantless compliance access, civil penalties, attorney fees, anticircumvention provision), three are broader than the violations actually found (wine tastings, marketing, unpermitted spaces), and only two are directly supported (assuming they are even violations of any law). The scope of this disconnect raises a substantial question about whether the permanent injunction can stand. This is a legal question reviewed de novo. And the fact that the court adopted the preliminary injunction without modification or reconciliation with its findings underscores the problem: it never performed the tailoring analysis that *Gallo* and *Englebrecht* require.

4. The alter ego finding extends the entire judgment to an individual without the traditional justifications for piercing the corporate veil.

The trial court's alter ego finding transforms a code-enforcement dispute into a personal liability action against Lindsay Hoopes, making her individually responsible for the permanent injunction, $1,525,000 in penalties, and $2,253,991 in attorney fees. (3-PA-1324; 4-PA-2312.) That finding raises a substantial legal question because it rests on a single paragraph in the Statement of Decision that does not satisfy the doctrine's

requirements—and because it extends to an entity against which alter ego was never pleaded.

Alter ego requires two showings: (1) a unity of interest and ownership such that the separate personalities of the entity and individual no longer exist, and (2) an inequitable result if the corporate form is respected. (*Automotriz Del Golfo De California v. Resnick* (1957) 47 Cal.2d 792, 796.) The County bore the burden on both. (*Associated Vendors, Inc. v. Oakland Meat Packing Co.* (1962) 210 Cal.App.2d 825, 837.)

The court found that Lindsay Hoopes "controls, directs, and manages Hoopes LLC," "regularly commingles her finances with the LLC finances," and "uses her personal money to support all activities." (3-PA-1324.) But these findings, even taken at face value, do not satisfy the doctrine.

The findings address only the first *Automotriz* factor—unity of interest. The Statement of Decision does not analyze, or even mention, the second required factor: whether an inequitable result would follow from respecting the corporate form. The court stated it found "the two required factors"—but the paragraph contains analysis of only one. That omission is not a gap in reasoning; it is the absence of a required element.

What the court found actually undermines the doctrine's purpose. Lindsay Hoopes uses "her personal money to support all activities" of the entities. (3-PA-1324.) An individual putting personal money *into* a business entity is the *opposite* of the conduct alter ego was designed to address. The doctrine targets individuals who siphon assets *out* of entities to evade

obligations—not individuals who fund entities with personal resources. (*Sonora Diamond Corp. v. Superior Court* (2000) 83 Cal.App.4th 523, 538–39 [piercing the corporate veil allows courts to disregard the corporate identity "where an abuse of the corporate privilege justifies holding the equitable ownership of a corporation liable for the actions of the corporation" and alter ego targets use of corporate form "to perpetrate a fraud, circumvent a statute, or accomplish some other wrongful or inequitable purpose"].) There is no finding that Lindsay Hoopes used the entities to shield personal assets, strip entity value, or evade any obligation.

The finding extends to Hoopes Family Winery Partners, LP—but the County's Second Amended Complaint pleaded alter ego only as to Hoopes Vineyard, LLC. (3-PA-565.) The court's parenthetical extension—"She operates the LLC (and the LP) effectively as a sole proprietorship" (3-PA-1324)—imposes alter ego liability on an entity against which it was never alleged and that the undisputed facts indicated Ms. Hoopes has no ownership in. That is a due process problem.

No published California decision has applied alter ego in a nuisance abatement action to impose personal monetary liability on a corporate manager of solvent entities. The proper framework for individual liability in a nuisance action is personal participation—not veil piercing. (*People v. Pac. Landmark, LLC* (2005) 129 Cal.App.4th 1203 [managers of limited liability companies are not immune from personal liability if they have participated in tortious or criminal conduct—but liability was

imposed based on personal involvement in allowing the nuisance to persist, not merely management status].) The trial court bypassed this framework and used alter ego to reach the same result—without the personal-participation findings that *Pacific Landmark* requires.

Whether the trial court properly applied alter ego raises questions reviewed under distinct standards. The threshold pleading defect—that alter ego was never alleged against the LP—is reviewed de novo. But the factual findings underlying the first *Automotriz* factor (unity of interest, commingling) are reviewed for substantial evidence. And the legal question whether those findings satisfy the doctrine's requirements is reviewed de novo. (*Mesler v. Bragg Mgmt. Co.* (1985) 39 Cal.3d 290, 300.) It independently satisfies the substantial-issue standard.

5. The judgment implicates multiple independent constitutional constraints.

The appeal raises constitutional questions that independently warrant supersedeas.

Excessive fines. The trial court made only an "implicit" finding under the Excessive Fines Clause. The $1,525,000 in penalties raises serious Eighth Amendment concerns under *United States v. Bajakajian* (1998) 524 U.S. 321, 334 (a punitive forfeiture violates the Excessive Fines Clause if grossly disproportional to the gravity of the offense). But the trial court never performed the proportionality analysis *Bajakajian* requires. When defendants raised the issue on the motion to

vacate, the court held that the Statement of Decision's discussion of penalties "implicitly" addressed the constitutional standard. (4-PA-2687.) An "implicit" finding on a constitutional question is not a finding—it is the absence of one. At the October 2025 penalties hearing, the County's own attorney conceded that they do not claim that "Hoopes is particularly wealthy." (RT 16:18–19.) The County nonetheless sought to nearly double the penalties—from $1,525,000 to $2,745,000—characterizing them as punishment for "four years" of "willfully violating" ordinances through past conduct, distinct from the injunction's forward-looking remedial purpose. (RT 11:19–27.) A penalty imposed to punish past conduct is a "fine" subject to the Excessive Fines Clause. Whether $1,525,000 in penalties imposed against a small family winery that generated $22,000 in cumulative retail merchandise revenue satisfies the Excessive Fines Clause is a substantial legal question this Court reviews de novo. (*Timbs v. Indiana* (2019) 586 U.S. 146, 149–50.) The $2,253,991 in attorney fees, which the trial court characterized as "solely remedial," compounds the disproportionality: the total monetary burden of nearly $4 million dwarfs the cumulative retail merchandise revenue that generated the alleged violations.

The bond requirement creates a constitutional circularity. The trial court denied the bond waiver under section 995.240, yet the entire judgment exceeds the defendants' ability to pay. If the penalty is excessive under the Eighth Amendment because it is grossly disproportional to the defendants' means, then the bond—which must equal or exceed the judgment—is by definition also

beyond their means. Requiring an unobtainable bond as a condition of appellate review does not protect the judgment creditor; it forecloses review of the judgment's legality and closes the courthouse doors. Whether this circularity denies meaningful appellate access is itself a substantial legal question. (*See Lindsey v. Normet* (1972) 405 U.S. 56, 77–79 [conditioning appellate review on requirements appellants cannot meet raises due process concerns].)

The trial court compounded this constitutional defect. It denied Defendants' request for an ability-to-pay hearing, yet relied on "evidence from trial" of alleged ability to pay in denying the bond waiver. (4-PA-2674–2675.) Without a separate ability-to-pay determination, the court bootstrapped an unconstitutional penalty into an unattainable bond requirement—foreclosing meaningful appellate review of both.

Regulatory taking, warrantless inspection, and First Amendment concerns. The permanent injunction, if ultimately enforced, would eliminate all economically beneficial use of property developed for licensed winery operations—a per se taking under *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 1015–19, and/or regulatory taking under *Penn Cent. Transp. Co. v. City of New York* (1978) 438 U.S. 104. The nuisance exception does not apply because the government authorized the very use it now seeks to abate. (Civ. Code § 3482.) Whether an injunction that strips a state-licensed business of all commercial operations effects a compensable taking is a constitutional question reviewed de novo. The injunction also

requires warrantless property access up to 63 hours per week (4-PA-2311), raising Fourth Amendment concerns (*See v. City of Seattle* (1967) 387 U.S. 541, 543), and restricts marketing and promotional activity, implicating First Amendment protections for truthful commercial speech (*Cent. Hudson Gas & Elec. Corp. v. Public Serv. Comm'n* (1980) 447 U.S. 557, 566).

Statutory authority for penalties and attorney fees. The County sued Hoopes for public nuisance under Civil Code section 731—a general civil action—rather than following the administrative enforcement procedures in Chapter 1.20 of the Napa County Code. But the $1,525,000 in civil penalties and $2,253,991 in attorney fees the County recovered are remedies available only under Chapter 1.20, which was enacted under Government Code section 25845. Section 25845 conditions the exercise of that authority on mandatory administrative prerequisites—citation, an opportunity to remediate, and a hearing before the Board of Supervisors (Gov't Code § 25845, subd. (a); NCC § 1.20.010(A)(1))—none of which occurred here. The question on appeal is whether the County can bypass the mandatory procedures that authorize Chapter 1.20, yet still collect Chapter 1.20 remedies. That is a question of statutory interpretation reviewed de novo, and it implicates over $3.7 million of the judgment. (*San Diego County v. California Water and Tel. Co.* (1947) 30 Cal.2d 817, 823–24 [where the Legislature specifies the manner to exercise a statutory power, the specified procedure is "exclusive"]; *Comm. of Seven Thousand v. Superior Court* (1988) 45 Cal.3d 491, 511.)

Each of these questions independently satisfies the substantial-question standard and warrant supersedeas.

C. The balance of equities overwhelmingly favors a stay.

1. Enforcement threatens irreversible destruction; a stay preserves existing conditions.

Where denial of a stay threatens irreparable harm and issuance merely preserves existing conditions pending review, the balance of equities favors maintaining the status quo. (*Mills*, *supra*, 98 Cal.App.3d at p. 859.)

On one side: enforcement will compel cessation of a family business, bankrupt both entities, and inflict irreversible harm on a disabled patriarch and his daughter's family. Closure of the business that was established over decades, and business goodwill and reputation developed over time, cannot be reversed by a later appellate ruling. (4-PA-2338–2339.)

On the other side: a stay will simply preserve the operational conditions that existed throughout four years of litigation, during which the County did not seek or obtain emergency relief. A government's choice to tolerate conditions for years undermines its claim of urgency. (*Beames v. City of Visalia* (2019) 43 Cal.App.5th 741 [the fact that "the city was content to leave the nonconforming use alone for years pointed to a lack of urgency with which the potential hardship on the property owner was incommensurate"].) The County's four-year ordinary litigation timeline is the strongest possible evidence that there is

no emergency requiring enforcement during the brief period of appellate review. Whatever interest the County may have in speeding up collection of the monetary penalty at this point certainly does not rise to the level that would be necessary to justify the extreme measure of bankrupting the Winery before its appeal can be heard.

The County faces no risk from a stay. The Winery's only significant asset is real property—the 6204 Washington Street parcel. Real property cannot be dissipated or hidden pending appeal. A stay without a traditional surety bond does not prejudice the County because the security—the real property itself—will remain available to satisfy any judgment this Court ultimately affirms.

2. Targeted conditions—including alternative security and the indigency exception—can protect any public interest without destroying the family business.

If this Court has specific concerns, those concerns can be addressed through targeted stay conditions without shutting down the Winery's entire commercial operation. Rule 8.112, subdivision (d)(1), of the Rules of Court authorizes this Court to impose "any conditions it deems just" on a supersedeas stay—including conditions that go beyond a traditional surety bond.

Concerning the fines, Code of Civil Procedure section 995.240 provides that a court shall waive the bond requirement upon a showing that the party is unable to obtain the bond because of indigency or its equivalent. The total judgment of $3,960,013.05—jointly and severally imposed against entities

that the judgment simultaneously threatens with bankruptcy—presents precisely the circumstances the indigency exception addresses. Lindsay Hoopes has no current income from the winery and has invested her lifetime earnings into the business. (4-PA-2342–2343.) Spencer Hoopes, permanently disabled and a two-time organ transplant recipient, has no assets beyond Social Security that could support a bond. (4-PA-2374.) Bankruptcy attorneys have confirmed that both entities are eligible for bankruptcy. (4-PA-2374.) No surety will bond a judgment that exceeds the obligor's capacity to pay. Sureties do not accept real property as collateral for the type of bond needed here, and the winery property has already been declined as collateral. (Decl. of Paul Fazzio, ¶¶ 6–7.) The limited assets of Hoopes Vineyard are not sufficient nor acceptable collateral to obtain a surety bond, even for a lower amount than the monetary judgment that has been imposed. (Decl. of Paul Fazzio, ¶¶ 6–8.) Requiring an unobtainable bond as a condition of a stay is functionally indistinguishable from denial of meaningful appellate review. (Code Civ. Proc. § 995.240.) There will be nothing to salvage upon appeal because the business will not exist if the monetary judgment is not stayed.

CONCLUSION

The trial court has found the injunction is mandatory and automatically stayed. What remains is the monetary judgment—which, if enforced, will destroy the family winery before the appellate court can determine whether the judgment was lawful. The appeal presents substantial de novo legal questions,

including an excessive fines analysis resting on an "implicit" finding and an alter ego theory extending nearly $4 million in personal liability on a deficient record. The County faces no risk: the Winery's only significant asset is real property that cannot be dissipated.

Hoopes Family Winery requests that this Court issue a writ of supersedeas staying enforcement of the monetary judgment pending resolution of the appeal, with such conditions as the Court deems appropriate—including, for example, a lien on the real property at 6204 Washington Street to secure any judgment ultimately affirmed, and an anti-dissipation order prohibiting transfer or encumbrance of the property pending appeal.

Dated: May 29, 2026.

Respectfully submitted,

By: *Anastasia Boden*
Anastasia Boden

Attorney for Appellants Lindsay Blair Hoopes, Hoopes Vineyard, LLC, and Hoopes Family Winery Partners, LP

CERTIFICATE OF WORD COUNT

The text of the Petition for Review consists of 8,534 words as counted by the Microsoft Word Program used to generate the said Petition for Writ of Supersedeas.

Executed on May 29, 2026.

s/Anastasia Boden
Anastasia Boden

DECLARATION OF SERVICE

I, Karmen Bushman, declare:

I am a citizen of the United States and employed in Sacramento County, California. I am over the age of eighteen years and not a party to this action. My business address is 555 Capitol Mall, Suite 1290, Sacramento, California 95814.

On May 29, 2026, I caused a true copy of the PETITION FOR REVIEW, VERIFIED PETITION FOR WRIT OF SUPERSEDEAS OR, IN THE ALTERNATIVE, PETITION FOR WRIT OF MANDATE to be electronically delivered via Truefiling upon the following:

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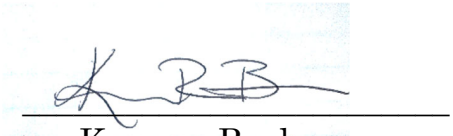
Via U.S. Mail

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

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 29, 2026, at De Pere, Wisconsin.



Karmen Bushman

S296873

IN THE SUPREME COURT OF CALIFORNIA

En Banc

LINDSAY BLAIR HOOPES et al., Petitioners,

v.

COURT OF APPEAL, FIRST APPELLATE COURT, DIVISION TWO et al., Respondents;

NAPA COUNTY et al., Real Parties in Interest.

Petitioners' motion for consideration of declaration and motion to augment the record are granted.

The petition for writ of mandate and application for stay are denied.

GUERRERO
Chief Justice