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9 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
 10 **COUNTY OF LOS ANGELES**

11 HAROLD P. STURGEON,
 12 Plaintiff,
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14 v.

15 LOS ANGELES COUNTY; GLORIA
 16 MOLINA, in her official capacity as a
 member of the Los Angeles County Board of
 17 Supervisors; YVONNE B. BURKE, in her
 official capacity as a member of the Los
 18 Angeles County Board of Supervisors; ZEV
 YAROSLAVSKY, in his official capacity as
 19 a member of the Los Angeles County Board
 of Supervisors; DON KNABE, in his official
 20 capacity as a member of the Los Angeles
 County Board of Supervisors; MICHAEL D.
 21 ANTONOVICH, in his official capacity as
 member of the Los Angeles County Board of
 22 Supervisors; J. TYLER McCAULEY, in his
 official capacity as Auditor-Controller for
 23 Los Angeles County; LARRY GONZALEZ,
 in his official capacity as Division Chief of
 the Countywide Payroll Division of the Los
 24 Angeles County Department of Auditor-
 Controller; and DAVID E. JANSSEN, in his
 25 capacity as Chief Administrative Officer of
 Los Angeles County,
 26

27 Defendants.
 28

) Case No. _____

) **COMPLAINT FOR DECLARATORY AND**
) **INJUNCTIVE RELIEF; DEMAND FOR**
) **JURY TRIAL**

) Assigned to:

INTRODUCTION

1
2 1. Plaintiff, a taxpayer and resident of the County of Los Angeles, seeks to restrain, prevent,
3 and otherwise enjoin Defendants from continuing to pay "local judicial benefits" to the judges of the Los
4 Angeles Superior Court, as payment of such benefits contravenes Cal. Const., Art. VI, §§ 19-20, Cal.
5 Const., Art. XVI, § 6, and Cal. Gov. Code § 77000, *et seq.*, among other relevant statutes and provisions
6 of law. Plaintiff also seeks a judgment declaring that the payment of "local judicial benefits" is
7 unlawful.

JURISDICTION

8
9 2. Jurisdiction in this case is found under California Code of Civil Procedure § 526(a),
10 which provides as follows:

11 An action to obtain a judgment, restraining and preventing any illegal expenditure of,
12 waste of, or injury to, the estate, funds, or other property of a county, town, city or city
13 and county of the state, may be maintained against any officer thereof, or any agent, or
14 other person, acting in its behalf, either by a citizen resident therein, or by a corporation,
who is assessed for and is liable to pay, or, within one year before the commencement of
the action, has paid, a tax therein.

PARTIES

15
16 3. Plaintiff Harold P. Sturgeon is a resident and taxpayer of Los Angeles County. Plaintiff
17 has paid taxes to Los Angeles County in the one-year period prior to commencement of this action.

18 4. Defendant Los Angeles County is a local public entity in the State of California. Los
19 Angeles County is being sued herein solely for declaratory relief determining and declaring that the
20 payment of "local judicial benefits" is unlawful.

21 5. Defendant Gloria Molina is a member of the Los Angeles County Board of Supervisors,
22 in which capacity she authorized and has the power and authority to terminate payment of "local judicial
23 benefits." Supervisor Molina is being sued in her official capacity.

24 6. Defendant Yvonne B. Burke is a member of the Los Angeles County Board of
25 Supervisors, in which capacity she authorized and has the power and authority to terminate payment of
26 "local judicial benefits." Supervisor Burke is being sued in her official capacity.

1 7. Defendant Zev Yaroslavsky is a member of the Los Angeles County Board of
2 Supervisors, in which capacity he authorized and has the power and authority to terminate payment of
3 "local judicial benefits." Supervisor Yaroslavsky is being sued in his official capacity.

4 8. Defendant Don Knabe is a member of the Los Angeles County Board of Supervisors, in
5 which capacity he authorized and has the power and authority to terminate payment of "local judicial
6 benefits." Supervisor Knabe is being sued in his official capacity.

7 9. Defendant Michael D. Antonovich is a member of the Los Angeles County Board of
8 Supervisors, in which capacity he authorized and has the power and authority to terminate payment of
9 "local judicial benefits." Supervisor Antonovich is being sued in his official capacity.

10 10. Defendant J. Tyler McCauley ("McCauley") is the Auditor-Controller for Los Angeles
11 County, in which capacity he authorized, distributed, or has power and authority to terminate payment of
12 "local judicial benefits." Auditor-Controller McCauley is being sued in his official capacity.

13 11. Defendant Larry Gonzales ("Gonzales") is the Division Chief of the Countywide Payroll
14 Division of the Los Angeles County Department of Auditor-Controller, in which capacity he authorized,
15 distributed, or has power and authority to terminate payment of "local judicial benefits." Division Chief
16 Gonzales is being sued in his official capacity.

17 12. Defendant David E. Janssen ("Janssen") is the Chief Administrative Officer of Los
18 Angeles County, in which capacity he authorized, distributed, or has power and authority to terminate
19 payment of "local judicial benefits." Chief Administrative Officer Janssen is being sued in his official
20 capacity.

21 **NOTICE TO GOVERNMENT**

22 13. In March 2006, Plaintiff provided a draft of this pleading to each of the Los Angeles
23 County supervisors and officials named herein and requested that they immediately terminate payment
24 of "local judicial benefits" to the judges of the Los Angeles County Superior Court. The Los Angeles
25 County supervisors and officials named herein have refused or failed to terminate such payments, and,
26 on information and belief, will not do so in the future, no matter how long Plaintiff might wait. As a
27 result of the failure and refusal of the foregoing public officials to take appropriate action, this taxpayer
28 lawsuit is the only viable means to stop the unlawful expenditure and waste of county funds.

1 **STATEMENT OF FACTS**

2 14. Article VI, section 19 of the California Constitution provides that "[t]he Legislature shall
3 prescribe compensation for judges of courts of record." Similarly, Article VI, section 20 of the
4 California Constitution provides that "[t]he Legislature shall provide for retirement, with reasonable
5 allowance, of judges of courts of record for age and disability."

6 15. Article XVI, section 6 of the California Constitution provides that "[t]he Legislature shall
7 have no power ... to make any gift or authorize the making of any gift, of any public money ... to any
8 individual" Pursuant to this provision, the Legislature cannot authorize a county to make a gift of its
9 public funds to judges.

10 16. In 1998, the California Legislature declared that "[l]ocal funding of trial courts may
11 create disparities in the availability of the courts for the resolution of disputes and the dispensation of
12 justice." Cal. Gov. Code § 77100(c). That same year, the State of California started to eliminate local
13 funding of trial courts by enacting the Brown-Presley Trial Court Funding Act, codified at California
14 Government Code Sections 77000 *et seq.*

15 17. In 1997, the State of California enacted legislation providing that "[o]n and after July 1,
16 1997, the state shall assume sole responsibility for the funding of court operations, as defined in Section
17 77003 and Rule 810 of the California Rules of Court" Cal. Gov. Code § 77200. This same
18 legislation also provided that "[c]ommencing on July 1, 1997, no county shall be responsible for funding
19 court operations, as defined in Section 77003 and Rule 810 of the California Rules of Court" Both
20 Section 77003 and Rule 810 define "court operations" to include all "[s]alaries, benefits, and public
21 agency retirement contributions for superior and municipal court judges"

22 18. This clear intent of the 1997 legislation was to eliminate county funding of all court
23 operations and replace that funding with state funding. Gov't Code § 77207 ("The Legislature shall
24 appropriate trial court funding.")

25 19. Pursuant to the 1997 legislation, commencing in the 1997-98 fiscal year, each county
26 within the State of California was required to remit a specified amount of money to the state
27 government, based upon the amount of money the county had expended on court operations during the
28 1994-95 fiscal year. Gov't Code § 77201(b)(1). A county could seek to reduce the amount of money it

1 was required to remit to the State of California in 1998 by declaring that the amount it expended on court
2 operations in the 1994-95 fiscal year included the cost of "local judicial benefits," in which case the
3 county would continue to be responsible for the cost of such benefits for that year. Gov't Code §
4 77201(c)(3).

5 20. While a subsequently enacted statute provided that, commencing in the 1999-2000 fiscal
6 year and for each fiscal year thereafter, the amount a county was required to submit to the State of
7 California could be adjusted by an amount equal to any reduction for "local judicial benefits" allowed in
8 1998, the statute made clear that any reduction for subsequent years was allowable only "to the extent a
9 county filed an appeal with the Controller with respect to the findings made by the Department of
10 Finance," and the statute made no reference to any continuing responsibility for cost of "local judicial
11 benefits." Gov't Code § 77201.1(b)(4).

12 21. On information and belief, Los Angeles County did not file any appeal with the
13 Controller with respect to any findings made by the Department of Finance regarding payment of "local
14 judicial benefits."

15 22. On information and belief, there currently are 583 judges in the Los Angeles County
16 Superior Court system.

17 23. Since July 1, 1998, the judges of the Los Angeles County Superior Courts have been paid
18 salary and benefits from the State of California.

19 24. Despite the provisions of Cal. Const., Art. VI, §§ 19-20, Cal. Const., Art. XVI, § 6, and
20 Cal. Gov. Code § 77000, *et seq.*, and other relevant statutes and provisions of law, since July 1, 1998,
21 Los Angeles County has paid and continues to pay compensation to judges of the Los Angeles County
22 Superior Court in the form of "local judicial benefits."

23 25. The "local judicial benefits" paid by the county to the judges of the Los Angeles County
24 Superior Court include monthly cash allowances made pursuant to the county's "MegaFlex" cafeteria
25 benefits plan. The judges may use this cash allowance to purchase, on a pre-tax basis, additional health,
26 life insurance, disability, or other benefits above and beyond those already provided by the State of
27 California, or they may retain the cash allowance as taxable income. On information and belief, in 2004,
28 the MegaFlex cash allowance paid by the county to each judge was approximately \$2,277 per month.

1 26. The "local judicial benefits" paid by the county to the judges of the Los Angeles County
2 Superior Court also include "professional development allowances" which, on information and belief,
3 are paid to the judges in cash on a bi-weekly basis. On information and belief, the county does not
4 impose any limitations or restrictions on how the allowance can be used and does not require judges to
5 account for how the allowance is spent. On information and belief, in 2004, the "professional
6 development allowance" paid by the county to each judge was approximately \$350 per month.

7 27. On information and belief, the "local judicial benefits" paid by the county to the judges of
8 the Los Angeles Superior Court also include an additional retirement benefit above and beyond the
9 retirement benefit the judges already receive from the State of California.

10 28. On information and belief, in 2004, the judges of the Los Angeles County Superior Court
11 received approximately \$38,165 each in "local judicial benefits" from the county, increasing by nearly
12 twenty-six percent (26%) the \$143,838 annual salary the judges received from the State of California.

13 29. On information and belief, the "local judicial benefits" paid by Los Angeles County to the
14 judges of the Los Angeles County Superior Court are not benefits at all, but, rather, are a means to
15 supplement the compensation paid to the judges by the State of California, in violation of Cal. Const.,
16 Art. VI, §§ 19-20, Cal. Const., Art. XVI, § 6, and Cal. Gov. Code § 77000, *et seq.*, among other relevant
17 statutes and provisions of law.

18 30. On information and belief, payment of "local judicial benefits" cost the taxpayers of Los
19 Angeles County in excess of \$20 million dollars in 2004 and has cost the taxpayers of Los Angeles
20 County at least \$100 million since 1998.

21 31. On information and belief, the payment of "local judicial benefits" by the county serves
22 no useful, lawful purpose, provides no additional public benefit, and otherwise constitutes an
23 unconscionable waste of taxpayer funds.

24 32. On information and belief, Los Angeles County will continue to pay "local judicial
25 benefits" unless Defendants are restrained and prevented from doing so by this Court.

26 33. Because of the nature of this lawsuit, it would not be appropriate for any judge of the Los
27 Angeles County Superior Court system to hear this matter, and, therefore, the matter should be
28 transferred to an appropriate county for adjudication.

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FIRST CAUSE OF ACTION FOR DECLARATORY RELIEF

(Cal. Code Civ. Proc. § 1060)

34. Plaintiff incorporates paragraphs 1 to 33, and each of them as if they were set forth in full.

35. An actual controversy has arisen between Plaintiff and Defendants. Plaintiff contends that the payment of "local judicial benefits" is unlawful under Cal. Const., Art. VI, §§ 19-20, Cal. Const., Art. XVI, § 6, and Cal. Gov. Code § 77000, *et seq.*, among other relevant statutes and provisions of law, and constitutes an unconstitutional gift and waste of public funds under Cal. Const., Art. XVI, § 6.

36. Plaintiff seeks a judicial determination and declaration that the payment of "local judicial benefits" is unlawful under Cal. Const., Art. VI, §§ 19-20, Cal. Const., Art. XVI, § 6, and Cal. Gov. Code § 77000, *et seq.*, among other relevant statutes and provisions of law, and constitutes an unconstitutional gift of public funds under Cal. Const., Art. XVI, § 6.

SECOND CAUSE OF ACTION FOR INJUNCTIVE RELIEF

(Cal. Code Civ. Proc. § 526)

37. Plaintiff incorporates paragraphs 1 to 36, and each of them as if they were set forth in full.

38. Plaintiff seeks injunctive relief restraining, preventing, and otherwise enjoining Defendants from expending county funds to pay "local judicial benefits."

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays as follows:

FIRST CAUSE OF ACTION FOR DECLARATORY RELIEF

1. A declaration that payment of "local judicial benefits" is unlawful under Cal. Const., Art. VI, §§ 19-20, Cal. Const., Art. XVI, § 6, and Cal. Gov. Code § 77000, *et seq.*, among other relevant statutes and provisions of law, and constitutes an unconstitutional gift and waste of public funds under Cal. Const., Art. XVI, § 6.

SECOND CAUSE OF ACTION FOR INJUNCTIVE RELIEF

2. The Court issue permanent injunctive relief restraining and preventing Defendants from expending any further county funds to pay "local judicial benefits;"

3. Costs of suit herein;

4. Reasonable attorney's fees under the Private Attorney General Statute, Code of Civil Procedure § 1021.5, the Common Fund Doctrine, and the Substantial Benefit Doctrine; and

5. Such other relief as the Court deems just and proper.

DATED: April 21, 2006

By:

[Handwritten Signature]

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