

1 California, County of Los Angeles ("the Superior Court").

2 Plaintiff also seeks a judgment declaring Defendants' payment of
3 these benefits to be unlawful.

4
5 **JURISDICTION AND VENUE**

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

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

18 3. In *Blair v. Pitchess*, 5 Cal.3d 258, 267-68, 96 Cal. Rptr.
19 42, 48-49 (1971), the Supreme Court of California stated that
20 "[t]he primary purpose of this statute [Section 526a], originally
21 enacted in 1909, is to 'enable a large body of the citizenry to
22 challenge governmental action which would otherwise go unchallenged
23 in the courts because of the standing requirement' [citations
24 omitted]."

25 4. In *Blair*, 5 Cal.3d at 268, 96 Cal. Rptr. at 49, the Court
26 noted that "the mere expending [of] the time" of paid public
27 officials "performing illegal and unauthorized acts constitute[s]
28 an unlawful use of funds which could be enjoined under section
526a." The Court also declared that "it is immaterial that the

1 amount of the illegal expenditures is small or that the illegal
2 procedures actually permit a savings of tax funds." *Id.*

3
4 **PARTIES**

5 5. Plaintiff Harold P. Sturgeon is a resident and taxpayer
6 of the County of Los Angeles. Plaintiff has paid taxes to the
7 County of Los Angeles, including property taxes, in the one-year
8 period prior to commencement of this action.

9 6. Defendant County of Los Angeles is a legal subdivision of
10 the State of California under Article 11, Section 1 of the
11 California Constitution. Defendant County of Los Angeles pays the
12 "supplemental judicial benefits" challenged by Plaintiff in this
13 action.
14

15 7. Defendant Gloria Molina is a member of the Los Angeles
16 County Board of Supervisors. As a member of the Los Angeles County
17 Board of Supervisors, Defendant Molina authorized and approved
18 Defendant County of Los Angeles' payment of the "supplemental
19 judicial benefits" challenged by Plaintiff in this action and has
20 the authority to terminate payment of these unlawful benefits.
21 Defendant Molina is being sued in her official capacity.
22

23 8. Defendant Mark Ridley-Thomas is a member of the Los
24 Angeles County Board of Supervisors. As a member of the Los
25 Angeles County Board of Supervisors, Defendant Ridley-Thomas
26 authorized and approved Defendant County of Los Angeles' payment of
27 the "supplemental judicial benefits" challenged by Plaintiff in
28

1 this action and has the authority to terminate payment of these
2 unlawful benefits. Defendant Ridley-Thomas is being sued in his
3 official capacity.

4
5 9. Defendant Zev Yaroslavsky is a member of the Los Angeles
6 County Board of Supervisors. As a member of the Los Angeles County
7 Board of Supervisors, Defendant Yaroslavsky authorized and approved
8 Defendant County of Los Angeles' payment of the "supplemental
9 judicial benefits" challenged by Plaintiff in this action and has
10 the authority to terminate payment of these unlawful benefits.
11 Defendant Yaroslavsky is being sued in his official capacity.

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13 10. Defendant Don Knabe is a member of the Los Angeles County
14 Board of Supervisors. As a member of the Los Angeles County Board
15 of Supervisors, Defendant Knabe authorized and approved Defendant
16 County of Los Angeles' payment of the "supplemental judicial
17 benefits" challenged by Plaintiff in this action and has the
18 authority to terminate payment of these unlawful benefits.
19 Defendant Knabe is being sued in his official capacity.

20
21 11. Defendant Michael D. Antonovich is a member of the Los
22 Angeles County Board of Supervisors. As a member of the Los
23 Angeles County Board of Supervisors, Defendant Antonovich
24 authorized and approved Defendant County of Los Angeles' payment of
25 the "supplemental judicial benefits" challenged by Plaintiff in
26 this action and has the authority to terminate payment of these
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28

1 unlawful benefits. Defendant Antonovich is being sued in his
2 official capacity.

3 12. Defendant William T. Fujioka is the Chief Executive
4 Officer of Defendant County of Los Angeles. As Chief Executive
5 Officer, Defendant Fujioka is responsible for implementing the
6 lawful policy decisions of the Los Angeles County Board of
7 Supervisors, including the decision to pay the "supplemental
8 judicial benefits" challenged by Plaintiff in this action. On
9 information and belief, Defendant Fujioka has the authority to
10 terminate payment of these unlawful benefits. Defendant Fujioka is
11 being sued in his official capacity.
12

13 14. Defendant John Naimo is the Auditor-Controller of
14 Defendant County of Los Angeles. As Auditor-Controller, Defendant
15 Naimo is responsible for administering Defendant County of Los
16 Angeles' payment of the "supplemental judicial benefits" challenged
17 by Plaintiff in this action. On information and belief, Defendant
18 Naimo has the authority to terminate payment of these unlawful
19 benefits. Defendant Naimo is being sued in his official capacity.
20

21 14. Defendant Gregg G. Iverson is the Chief of the Countywide
22 Payroll Division of the Auditor-Controller Department of Defendant
23 County of Los Angeles. As Chief of the Countywide Payroll
24 Division, Defendant Iverson is directly responsible for Defendant
25 County of Los Angeles' payment of the "supplemental judicial
26 benefits" challenged by Plaintiff in this action. On information
27
28

1 and belief, Defendant Iverson has the authority to terminate
2 payment of these unlawful benefits. Defendant Iverson is being
3 sued in her official capacity.

4 **STATEMENT OF FACTS**

5
6 15. The California Constitution vests the judicial power of
7 the State of California in the judges of the superior courts in
8 each of the 58 counties, the Courts of Appeal, and the Supreme
9 Court. All judges are state officers even though, as in the case
10 of most superior court judges, they preside over cases in a single
11 county and are subject to election in only one county.

12
13 16. All California judges receive compensation from the
14 state in the form of salary and a full complement of both
15 retirement and non-retirement benefits.

16
17 17. In addition, some superior court judges receive
18 "supplemental judicial benefits" from the counties in which they
19 serve. Others receive "supplemental judicial benefits" from the
20 courts in which they serve.

21
22 18. According to a 2009 study by the Judicial Council of
23 California ("Judicial Council"), "significant discrepancies and
24 inconsistencies exist throughout the state" with regard to the
25 payment of "supplemental judicial benefits." These discrepancies
26 and inconsistencies are "the result of the individual history of
27 each court and county and [are] not based on any rational
28 consistent statewide plan or formula."

1 19. The Judicial Council study also found that superior court
2 judges in 23 of California's 58 counties receive no "supplemental
3 judicial benefits" at all. Nor do appellate court judges.

4 20. The Judicial Council study also found that, in 2008,
5 "[j]udges in some courts receive[d] benefits that cost as little as
6 \$102 per year per judge, while judges in the Superior Court of Los
7 Angeles County receive[d] benefits of approximately \$50,000." The
8 result is what the study called a "hodgepodge" or "patchwork quilt"
9 of varying benefits and compensation that disrupts the judicial
10 compensation scheme created by the Legislature:
11

12 The variation in supplemental benefits and their non-
13 existence at many courts, including appellate courts,
14 results in other significant compensation differences.
15 By way of example, the Legislature has specified a
16 uniform salary for all superior court judges statewide
17 and a salary for justices of the Courts of Appeals that
18 is higher for judges of the superior courts. Yet if the
19 full value of the supplemental benefits is included in
20 the overall compensation paid to judges, there are
21 counties in which superior court judges receive more
22 valuable compensation packages than a justice of the
23 Court of Appeals who serves the same county.

24 21. In 2006, Plaintiff brought suit against Defendants,
25 alleging that Defendant County of Los Angeles' payment of
26 "supplemental judicial benefits" to the judges of the Superior
27 Court violated the California Constitution and was otherwise
28 unlawful.

29 22. On October 10, 2008, the Court of Appeal, Fourth
30 Appellate District, found that Defendants' payment of "supplemental

1 judicial benefits" to the judges of the Superior Court violated
2 Article VI, Section 19 of the California Constitution. *Sturgeon v.*
3 *County of Los Angeles*, 167 Cal. App. 4th 630 (2008) ("*Sturgeon I*").
4 More specifically, the Court of Appeals found in *Sturgeon I* that
5 the benefits paid by Defendants to the judges of the Superior Court
6 were compensation within the meaning of the constitution, but had
7 not been "prescribed" by the Legislature, as required by Article
8 VI, Section 19. The California Supreme Court denied review on
9 December 23, 2008.
10

11 23. On February 14, 2009, the Legislature enacted Senate Bill
12 No. 11 (2009-2010 2d Ex. Sess.) ("Senate Bill X2 11") in response to
13 the Court of Appeal's ruling in *Sturgeon I*. No public hearings
14 were held on the bill. It was inserted into the Budget Act of 2008
15 at the last minute and passed the same day. It was signed by
16 Governor Arnold Schwarzenegger on February 20, 2009.
17

18 24. Enacted as an interim measure, Senate Bill X2 11
19 purported to authorize counties' payment of "supplemental judicial
20 benefits" for purposes of Article VI, Section 19 until such time as
21 the Legislature could adopt a comprehensive response to *Sturgeon I*.
22

23 25. Section 1 of Senate Bill X2 11 states:
24

25 (a) It is the intent of the Legislature to address the
26 decision of the Court of Appeal in *Sturgeon v. County of*
27 *Los Angeles* (2008) 167 Cal.App.4th 630 [84 Cal. Rptr. 3d
28 242], regarding county-provided benefits for judges.

1 (b) These county-provided benefits were considered by
2 the Legislature in enacting the Lockyer-Isenberg Trial
3 Court Funding Act of 1997, in which counties could
4 receive a reduction in the county's maintenance of effort
5 obligations if counties elected to provide benefits
6 pursuant to paragraph (1) of subdivision (c) of Section
7 77201 of the Government Code for trial court judges of
8 that county.

6 (c) Numerous counties and courts established local or
7 court supplemental benefits to retain qualified
8 applicants for judicial office, and trial court judges
9 relied upon the existence of these longstanding
10 supplemental benefits provided by the counties or the
11 court.

12 26. Section 2 of Senate Bill X2 11 added section 68220 to the
13 Government Code. Section 68220 provides:

13 (a) Judges of a court whose judges received supplemental
14 judicial benefits provided by the county or court, or
15 both, as of July 1, 2008, shall continue to receive
16 supplemental benefits from the county or court then
17 paying the benefits on the same terms and conditions as
18 were in effect on that date.

17 (b) A county may terminate its obligation to provide
18 benefits under this section upon providing the
19 Administrative Director of the Courts and the impacted
20 judges with 180 days' written notice. The termination
21 shall not be effective as to any judge during his or her
22 current term while that judge continues to serve as a
23 judge in that court or, at the election of the county,
24 when that judge leaves office. The county is also
25 authorized to elect to provide benefits for all judges in
26 the county.

23 27. Section 5 of Senate Bill X2 11 purported to immunize all
24 state judges who had received unauthorized "supplemental judicial
25 benefits," a provision that the Commission on Judicial Performance
26 subsequently determined was "invalid and unconstitutional" on
27 separation of powers grounds because, under Article VI, Section 18
28

1 of the Constitution, "the [C]ommission and the California Supreme
2 Court have exclusive authority over judicial discipline."

3 28. Section 6 of Senate Bill X2 11 required that the Judicial
4 Council analyze and report to the Legislature on statewide benefits
5 inconsistencies on or before December 31, 2009. The study
6 referenced in paragraphs 18-20 herein was prepared by the Judicial
7 Council pursuant to Section 6 of Senate Bill X2 11.

9 29. Plaintiff subsequently challenged whether Senate Bill X2
10 11 sufficiently "prescribed" Defendant County of Los Angeles'
11 payment of "supplemental judicial benefits" to the judges of the
12 superior court for purposes of Article VI, Section 19. *Sturgeon v.*
13 *County of Los Angeles*, 191 Cal. App. 4th 344 (2010) ("*Sturgeon*
14 *II*"). A ruling by the Court of Appeals upheld Senate Bill X2 11,
15 but only as a temporary measure that preserved the status quo until
16 a permanent, comprehensive judicial compensation scheme could be
17 enacted:
18

19
20 As the parties have recognized, Senate Bill X2 11 both
21 preserved the status quo ante *Sturgeon I* and commenced a
22 process by which the Legislature looks to adoption of a
23 comprehensive judicial compensation scheme. As we have
24 explained, this response to *Sturgeon I* meets the
25 requirements of the Constitution and is wholly sensible
26 under the circumstances. . . .

27 However, on its face Senate Bill X2 11 is not a permanent
28 response to either the constitutional issues we
identified in *Sturgeon I* or the difficult problems of
adopting a compensation scheme that deals with varying
economic circumstances in an equitable and efficient
manner. Thus, we would be remiss in discharging our
duties if we did not state that the Legislature's *interim*

1 response to *Sturgeon I* defeats the particular challenges
2 asserted by *Sturgeon* in this litigation, that interim
3 remedy, if not supplanted by the more comprehensive
4 response Senate Bill X2 11 plainly contemplates, most
5 likely will give rise to further challenges by taxpayers
6 or members of the bench themselves. As we noted at the
7 outset, the issue of judicial compensation is a state,
8 not a county, responsibility. We are confident that the
9 Legislature within a reasonable period of time will act
10 to adopt a uniform statewide system of judicial
11 compensation.

12 *Sturgeon II*, 191 Cal. App. 4th at 355-56.

13 30. Although more than 5 years have passed since Senate Bill
14 X2 11 was enacted in February 2009, the Legislature has failed to
15 establish the permanent, comprehensive judicial compensation scheme
16 contemplated by Senate Bill X2 11.

17 31. Despite the Legislature's failure to enact the permanent,
18 comprehensive judicial compensation scheme contemplated by Senate
19 Bill X2 11, Defendant County of Los Angeles has continued to pay
20 "supplemental judicial benefits" to the judges of the Superior
21 Court since 2009, and both the dollar value of these benefits and
22 the cost of the benefits to County of Los Angeles taxpayers have
23 increased.

24 32. In 2013, Defendants paid approximately \$57,487 in
25 "supplemental judicial benefits" to each of the approximately 429
26 judges of the Superior Court. This included approximately \$33,970
27 in "cafeteria plan" benefits, approximately \$15,600 in retirement
28 benefits, and a \$7,917 "professional development allowance." These
"supplemental judicial benefits" were in addition to the \$181,292

1 salary and the full complement of benefits paid to each superior
2 court judge by the state. In 2013 alone, the cost of these
3 benefits to County of Los Angeles taxpayers was at least
4 approximately \$24,661,923.
5

6 **FIRST CAUSE OF ACTION FOR DECLARATORY RELIEF**

7 33. Plaintiff incorporates paragraphs 1 to 32 by reference as
8 if fully set forth herein and further alleges as follows:

9 34. An actual and justiciable controversy has arisen and now
10 exists between Plaintiff, on the one hand, and Defendants, on the
11 other hand, as to whether Defendant County of Los Angeles'
12 continued payment of "supplemental judicial benefits" to the judges
13 of the Superior Court is lawful in the absence of the adoption, by
14 the Legislature, of a permanent, statewide, comprehensive judicial
15 compensation scheme as contemplated by Senate Bill X2 11.
16 Plaintiff contends that the continued payment of these benefits
17 violates Article VI, Section 19 of the California Constitution and
18 is otherwise unlawful. On information and belief, Defendants
19 contend that the continued payment of the benefits does not violate
20 Article VI, Section 19 of the California Constitution and is not
21 otherwise unlawful.
22
23

24 35. Pursuant to California Code of Civil Procedure § 1060,
25 Plaintiff seeks a judicial determination as to whether the
26 continued payment of "supplemental judicial benefits" to the judges
27
28

1 of the Superior Court violates Article VI, Section 19 of the
2 California Constitution or is otherwise unlawful.

3 36. Such a judicial determination is necessary and
4 appropriate so that the parties may ascertain their respective
5 legal rights and duties as Defendants have continued to expend
6 substantial taxpayer funds and taxpayer-financed resources paying
7 "supplemental judicial benefits" to the judges of the Superior
8 Court, and will continue to expend substantial taxpayer funds and
9 taxpayer-financed resources on the payment of these benefits.
10

11 37. There are no effective administrative remedies available
12 to Plaintiff to compel the relief sought herein.
13

14 **SECOND CAUSE OF ACTION FOR INJUNCTIVE RELIEF**

15 38. Plaintiff incorporates paragraphs 1 to 37 by reference as
16 if fully set forth herein and further alleges as follows:

17 39. Defendant County of Los Angeles' continued payment of
18 "supplemental judicial benefits" to the judges of the Superior
19 Court in the absence of the adoption, by the Legislature, of a
20 permanent, statewide, comprehensive judicial compensation scheme as
21 contemplated by Senate Bill X2 11 violates Article VI, Section 19
22 of the California Constitution and is otherwise unlawful.
23

24 40. Plaintiff is being irreparably harmed by Defendants'
25 continued expenditure of substantial taxpayer funds and taxpayer-
26 financed resources on the unlawful payment of "supplemental
27 judicial benefits" to the judges of the Superior Court.
28

1 41. Unless and until enjoined by this Court, Defendants will
2 continue to expend substantial taxpayer funds and taxpayer-financed
3 resources on the unlawful payment of "supplemental judicial
4 benefits" to the judges of the Superior Court.

5 42. Plaintiff has no adequate remedy at law.

6
7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays as follows:

9 **FIRST CAUSE OF ACTION FOR DECLARATORY RELIEF**

10 1. A declaration that Defendant County of Los Angeles'
11 continued payment of "supplemental judicial benefits" to the judges
12 of the Superior Court violates Article VI, Section 19 of the
13 California Constitution and is otherwise unlawful;

14
15 2. Costs of suit herein;

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

19
20 4. Such other relief as the Court deems just and proper.

21 **SECOND CAUSE OF ACTION FOR INJUNCTIVE RELIEF**

22 1. The Court issue permanent injunctive relief prohibiting
23 Defendants from expending additional taxpayer funds or taxpayer-
24 financed resources on the payment of "supplemental judicial
25 benefits" to the judges of the Superior Court or authorizing,
26 approving, implementing, or administering any such expenditures;

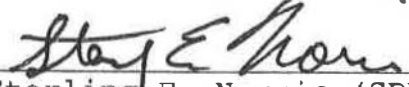
27
28 2. Costs of suit herein;

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

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

6 DATED: April 1, 2014

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