

March 30, 2023

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Ms. Tracy Drager  
County of San Diego  
1600 Pacific Highway,  
Room 166  
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*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**Re: Notice of Complete Test Claim, Schedule for Comments, and Notice of Tentative Hearing Date**

*Resentencing to Remove Sentencing Enhancements*, 22-TC-01  
Statutes 2021, Chapter 728 (SB 483); Penal Code Sections 1171 and 1171.1  
(recodified as Penal Code sections 1172.7 and 1172.75); effective  
January 1, 2022  
County of San Diego, Claimant

Dear Ms. Andrews, Mr. Cook, and Ms. Drager:

On December 28, 2022, the County San Diego (claimant) filed the above-captioned Test Claim. Upon review, Commission on State Mandates (Commission) staff found the Test Claim to be incomplete, and on February 3, 2023, notified the claimants. On March 3, 2023, the claimants filed documents to cure the Test Claim. Upon review, Commission staff finds that this Test Claim is complete and that it retains the original filing date of December 28, 2022, in accordance with section 1183.1(f) of the Commission's regulations (California Code of Regulations, Title 2).

The Commission is now requesting parties, interested parties, and interested persons to comment on the Test Claim as specified below.

**Review of Test Claim**

Parties, interested parties, and interested persons receiving this letter are requested to analyze the merits of the Test Claim and to file written comments not later than **5:00 p.m. on May 1, 2023** in accordance with sections 1183.2 and 1181.3 of the Commission's regulations. Oral or written representations of fact offered by any person shall be under oath or affirmation and signed under penalty of perjury by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge, information or belief. (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.) If representations of fact are made, they must be supported with documentary evidence filed with the comments on the test claim. (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.<sup>1</sup> Hearsay evidence (such as declarations not based on personal

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<sup>1</sup> Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

knowledge but on information and belief alone) may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.<sup>2</sup>

### **Claimants' Rebuttal**

Written rebuttals to written comments concerning this Test Claim may be filed and served in accordance with section 1181.3 of the Commission's regulations not later than 5:00 p.m. 30 days from service of the written comments. (Cal. Code. Regs., tit. 2 § 1183.3.) Oral or written representations of fact offered by any person shall be under oath or affirmation and signed under penalty of perjury by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge, information or belief. (Cal. Code. Regs., tit. 2 §§ 1183.3 and 1187.5.) If new representations of fact are made, they must be supported with documentary evidence filed with the rebuttal. (Cal. Code. Regs., tit. 2 §§ 1183.3 and 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.<sup>3</sup> Hearsay evidence (such as declarations not based on personal knowledge but on information and belief alone) may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.<sup>4</sup>

### **Process for Filing Comments**

The Commission's regulations require that written materials filed with the Commission be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, 1181.3(c)(1).) Refer to <https://www.csm.ca.gov/dropbox.php> on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon prior approval of a written request to the executive director. (Cal. Code Regs., tit. 2, 1181.3(c)(2).)

If you would like to request an extension of time, please refer to section 1187.9(a) of the Commission's regulations.

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<sup>2</sup> Title 2, California Code of Regulations, section 1187.5.

<sup>3</sup> Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

<sup>4</sup> Title 2, California Code of Regulations, section 1187.5.

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### **Tentative Hearing Date**

The public hearing on this claim has been tentatively scheduled for **September 22, 2023**. The Draft Proposed Decision will be issued for comment at least eight weeks prior to the public hearing.

Sincerely,

A handwritten signature in blue ink, appearing to read "Heather Halsey", with a long horizontal flourish extending to the right.

Heather Halsey  
Executive Director

## DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On March 30, 2023, I served the:

- **Notice of Complete Test Claim, Schedule for Comments, and Notice of Tentative Hearing Date issued March 30, 2023**
- **Test Claim filed by the County of San Diego on December 28, 2022**

*Resentencing to Remove Sentencing Enhancements*, 22-TC-01  
Statutes 2021, Chapter 728 (SB 483); Penal Code Sections 1171 and 1171.1  
(now codified at Penal Code sections 1172.7 and 1172.75); effective  
January 1, 2022  
County of San Diego, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 30, 2023 at Sacramento, California.

  
\_\_\_\_\_  
Jill L. Magee  
Commission on State Mandates  
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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 3/30/23

**Claim Number:** 22-TC-02

**Matter:** Resentencing to Remove Sentencing Enhancements

**Claimant:** County of San Diego

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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