

No. S174507

IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA

ESTUARDO ARDON, on behalf of himself
and all others similarly situated,

Plaintiff and Appellant,

vs.

CITY OF LOS ANGELES,

Defendant and Respondent.

After a Decision by the Court Of Appeal
Second Appellate District, Division Three
Case No. B201035

Superior Court for the County of Los Angeles
Hon. Anthony J. Mohr, Judge
Trial Court Case No.: BC363959

**AMICUS CURIAE BRIEF IN SUPPORT OF
PLAINTIFF/APPELLANT**

Edward M. Teyssier, Esq.
California State Bar No. 234872
3200 Highland Avenue #300
National City, California 91950
Telephone: (619) 474-7500, Ext. 202
Fax: (619) 474-7003

Attorney for *Amicus Curiae* Tax Foundation

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	ii
INTEREST OF THE AMICUS CURIAE	1
SUMMARY OF ARGUMENT	3
ARGUMENT	6
I. CONSTITUTIONAL PROVISIONS DO NOT SUPPORT THE CONCLUSION OF THE COURT BELOW THAT LOCAL GOVERNMENT REVENUE CONTROL TRUMPS TAXPAYERS’ INTEREST IN A MEANINGFUL REMEDY	6
A. Proposition 13 and Proposition 218 Favor Taxpayer Control and Consent over Local Taxation, Limiting the Scope of Local Government’s Revenue Collection.....	7
B. Denying Taxpayers a Meaningful Remedy Under Gov. Code § 910 Contradicts Constitutional Policy Intended to “Limit Local Government Revenue and Enhance Taxpayer Consent”	8
C. The Court of Appeal’s Construction of Gov. Code § 910 to Prohibit Class Claims Runs Counter to this Court’s Construction of § 910 to Permit Class Claims.....	12
II. THE COURT OF APPEAL ERRONEOUSLY EXTENDED SECTION 32 “PAY BEFORE LITIGATE” POLICY TO REFUND CLAIMS.	15
III. CLASS REFUND CLAIMS FURTHER TAXPAYER PROTECTION AGAINST ILLEGAL TAXES AND PROVIDE EFFICIENCY TO ADMINISTRATIVE AND JUDICIAL CLAIM RESOLUTION.	16
CONCLUSION	20
CERTIFICATE OF WORD COUNT	21
PROOF OF SERVICE	23

TABLE OF AUTHORITIES

CASES

<i>Ardon v. City of Los Angeles</i> (2009) 174 Cal.App.4 th 369	5, 11, 12, 15
<i>Christensen v. Harris County</i> (2000) 529 U.S. 576	12
<i>City of San Jose v. Superior Court</i> (1974) 12 Cal.3d 447.....	11, 12
<i>Herman & MacLean v. Huddleston</i> (1983) 459 U.S. 375	12
<i>Howard Jarvis Taxpayer Ass’n v. City of Riverside</i> (1999) 73 Cal.App.4 th 679.....	6
<i>Macy's Dept. Stores, Inc. v. City and County of San Francisco</i> (2006) 143 Cal.App.4 th 1444.....	16
<i>Pacific Gas & Electric Co. v. State Bd. of Equalization</i> (1980) 27 Cal.3d 277	15
<i>Robinson v. Shell Oil Co.</i> (1997) 519 U.S. 337	12
<i>Silicon Valley Taxpayers Ass’n v. Santa Clara County Open Space Authority</i> (2008) 44 Cal.4 th 431	passim
<i>Westcon Const. Corp. v. County of Sacramento</i> (2007) 152 Cal.App.4 th 183	18
<i>Woosley v. State of California</i> (1992) 3 Cal. 4 th 758	16

CONSTITUTIONAL PROVISIONS

Cal. Const., art. XIII, § 32	passim
Cal. Const., art. XIII	8, 10

STATE STATUTES

Gov. Code § 905, subd. (a)	13
Gov. Code § 910	passim
Gov. Code § 945	18
Pub. Util. Code § 799	17

OTHER AUTHORITIES

Ballot Pamp., Gen. Elec. (Nov. 5, 1996) Analysis of Prop. 218 by the Legis. Analyst	8
Ballot Pamp., Gen. Elec. (Nov. 5, 1996) Text of Prop. 218	3, 5, 8

[THIS PAGE INTENTIONALLY LEFT BLANK]

INTEREST OF THE AMICUS CURIAE

The Tax Foundation is a non-partisan, non-profit research organization formed in 1937 to educate taxpayers on tax policy. Based in Washington, D.C., the Tax Foundation seeks to make information about government finance more understandable, accessible, and relevant to the general public, and its economic and policy analysis is guided by principles of sound tax policy: simplicity, neutrality, transparency, and stability. The Tax Foundation's Center for Legal Reform furthers this goal by educating the legal community about economics and principled tax policy.

The Tax Foundation has an institutional interest in this Court's ruling on whether class action suits by taxpayers for tax refunds against local government entities are permitted. This Court's decision may be cited as authority by other states confronting similar questions of preserving taxpayer remedies through legislative and judicial processes. In particular, the Tax Foundation concerns itself with the implications of this Court's decision on taxpayers' ability to seek meaningful remedy for illegal tax collection.

Edward Teyssier, attorney for *amicus curiae*, is an attorney practicing Proposition 218 law in San Diego, and is presently

representing the plaintiffs in *Swift Frame, et. al., v. City of San Diego, et. al.* (San Diego Superior Court Case No. 37-2009-00104602-CU-MC-CTL, filed 12/24/2009), a class action tax refund case.

SUMMARY OF ARGUMENT

In passing Proposition 13 and Proposition 218, voters effectuated their intent to constrain and reduce local government revenue powers even though public services would be affected. These express constitutional limitations indicate that public policy since 1978 is to favor the taxpayers' interest in limiting local government's power to tax and its retention of illegally collected taxes.

The court below erroneously concluded that under article XIII section 32, Respondent City's interest in revenue collection trumps taxpayers' interest in a class claim remedy. This Court has never given article XIII, section 32 such a broad reading as to preclude taxpayer refund remedies for the benefit of protecting local government's retention of illegally collected revenues. Rather, this Court has interpreted Government Code section 910 as authorizing class action lawsuits, thereby furthering the Constitution's protections for taxpayers.¹

¹ As this Court stated in *City of San Jose v. Superior Court*, 12 Cal. 3d 447: "We conclude "claimant," as used in Section 910, must be equated with the class itself and therefore reject the suggested necessity for filing an individual claim for each member of the purported class. * * * It is therefore clear a class claim may satisfy the claims statutes requirements." (12 Cal.4th at 457.)

The class claim mechanism facilitates efficient claim resolution for administrative and judicial entities. Class action procedure under Government Code section 910 provides the government with ample information to settle claims, proper notice to calculate its potential liability, and limits or precludes further individual claims on the same issue. Respondent City's contentions that class refunds in claims proceedings are "new" and possibility "devastating" are unfounded -- as long as the City refrains from abusing its power to tax.

Additionally, due process requires that taxpayers be allowed to prosecute tax refund cases as a class, because it is often the only available meaningful remedy. In this case, through its enactment of Public Utility Code section 799, the Legislature has already denied taxpayers the opportunity to contest collection of the illegal tax through their telephone service providers, and the legal hurdles and transaction costs associated with individual refund claims will have the practical effect of permitting the government to retain illegally collected revenues.

Holding that class refund claims are permitted under Government Code section 910 is consistent with the Constitution, this Court's previous rulings, and voters' public policy goals of limiting

local government revenue and enhancing taxpayer consent. Finally, such a result properly deters local government from continuing to collect illegal taxes and enhances fairness to taxpayers.

ARGUMENT

I. CONSTITUTIONAL PROVISIONS DO NOT SUPPORT THE CONCLUSION OF THE COURT BELOW THAT LOCAL GOVERNMENT REVENUE CONTROL TRUMPS TAXPAYERS' INTEREST IN A MEANINGFUL REMEDY.

Propositions 13 and 218 amended our Constitution to limit “the methods by which local governments exact revenue from taxpayers without their consent.” (*Silicon Valley Taxpayers Ass’n v. Santa Clara County Open Space Authority* (“*Silicon Valley*”) (2008) 44 Cal.4th 431, 438.) The court below disregarded this constitutional mandate and instead conducted an “underlying policy” analysis of art. XIII, section 32, concluding that the Respondent’s interests in revenue collection and retention merits special protection against the consequences of successful class refund petitions. (*Ardon v. City of Los Angeles* (“*Ardon*”) (2009) 174 Cal.App.4th 369, 380-381.) This conclusion is in error because, as discussed below, this Court has observed that local government’s need for revenue is constrained by taxpayers’ control and consent, not the other way around.

A. **Proposition 13 and Proposition 218 Favor Taxpayer Control and Consent over Local Taxation, Limiting the Scope of Local Government’s Revenue Collection.**

Propositions 13 and 218 amended our Constitution to limit “the methods by which local governments exact revenue from taxpayers without their consent.” (*Silicon Valley*, 44 Cal.4th at 438.) This Court noted in *Silicon Valley* that courts have an obligation to construe constitutional amendments in a manner that effectuates voters’ intentions: “[W]e are obligated to construe constitutional amendments in a manner that effectuates the voters' purpose in adopting the law. (*Howard Jarvis Taxpayers Assn. v. City of Salinas* (2002) 98 Cal.App.4th 1351, 1355).”

California voters have repeatedly amended the Constitution to constrain local government taxing power. Proposition 13’s passage in 1978 prohibited counties, cities, and special districts from enacting special taxes without voters’ consent (two-thirds of the electorate). (*Howard Jarvis Taxpayer Ass’n v. Riverside* (“*HJTA v. Riverside*”) (1999) 73 Cal.App.4th 679, 683.) Proposition 218 expands and enforces the voter consent framework initiated through Proposition 13: “[Proposition 218] buttresses Proposition 13’s limitations on ad valorem property taxes and special taxes by placing analogous

restrictions on assessments, fees, and charges.” (*HJTA v. Riverside*,
supra, 73 Cal.App.4th at 682.) This Court observed in *Silicon Valley*
that California voters intended Proposition 218 to:

[C]onstrain local governments’ ability to impose assessments;
place extensive requirements on local governments charging
assessments; shift the burden of demonstrating assessments’
legality to local government; make it easier for taxpayers to win
lawsuits; and limit the methods by which local governments
exact revenue from taxpayers without their consent. (*Silicon*
Valley, supra, 448 Cal.4th at 448.)

The operative public policy therefore favors taxpayer
challenges seeking the return of illegally collected revenue.

**B. Denying Taxpayers a Meaningful Remedy Under
Government Code section 910 Contradicts
Constitutional Policy Intended to “Limit Local
Government Revenue and Enhance Taxpayer
Consent.”**

By denying taxpayers a meaningful refund remedy, the decision
of the court below misstates constitutional provisions intended to
restrict local governments’ revenue collection power, enhance
taxpayer consent over local government’s tax collection practices, and
make it easier for taxpayers to win lawsuits for illegally imposed taxes
and fees. These constitutional provisions, and the established public
policy underlying them, directly contradict the lower court’s
conclusion that an underlying policy of government revenue control

justifies the deprivation of taxpayers' ability to meaningfully contest illegal local taxes.

Proposition 218 eliminated the traditional broad deference to local government's taxation prerogative by making it significantly easier for voters to contest and repeal taxes (even those within city charters) and by reversing the burden of proof of demonstrating a tax's validity to local government. As stated in the Proposition 218 ballot materials relied on by this Court in *Silicon Valley*: "This measure shifts the burden of proof in these lawsuits to local government. As a result, it would be easier for taxpayers to win lawsuits, resulting in reduced or repealed fees and assessments. (Ballot Pamp., Gen. Elec., (Nov. 5, 1996) argument in favor of Prop. 218, p. 76.) Or stated another way, Proposition 218 was intended to make it more difficult for an assessment to be validated in a court proceeding." (*Silicon Valley, supra*, 44 Cal.4th at 445.) (*See also* Cal. Const., art. XIID § 6, subd. (5) ("In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article."))

Respondent argues that recent vote results are evidence of the "underlying" policy identified by the court below. Respondent argues:

“Although the voters had the opportunity to reject the tax, they did not do so. . . . The adoption of the CUT ordinance thus mooted all of [Appellant’s] claims for prospective relief and confirmed the voters’ desire to continue to tax their consumption . . . to fund critical public services.” (Resp. Br. at 7)

This argument is inaccurate and a similar one was rejected by this Court’s decision in *Silicon Valley*. It is inaccurate because Proposition S, the tax measure that Respondent put before the voters, was a new tax to replace the previously invalidated tax, not a retroactive validation of the existing tax. Respondent’s ballot materials deceptively told voters that they were voting on a tax reduction, not on a measure to confirm the maintenance of an existing tax.² This suggests a public policy for tax reductions, not for preserving government revenue.

² Respondent’s City Council gave the measure the title “Reduction of Tax Rate and Modernization of Communications Users Tax,” and the City’s ballot statements indicated that Proposition S “updates, modernizes and reduces the current telephone tax in Los Angeles.” *See* City’s Request for Judicial Notice, Exhibit B, (Title and Arguments in Favor of Proposition S, respectively (City’s Ballot Statements on Prop. S). This tax reduction theme consistently appears in the ballot materials, including the “Impartial Summary” written by Respondent’s Chief Legislative Analyst, and the “Financial Impact Statement” authored by Respondent’s City Administrative Officer who wrote, inaccurately, “If this measure is not approved, the tax rate

Like the Respondent in this case, Santa Clara County in *Silicon Valley* argued that because a “weighted majority of property owners approved the [contested] assessment, it furthers Proposition 218’s emphasis on voter consent, and [the Court] should accord deference to those voting owners’ wishes.” (*Silicon Valley, supra*, 44 Cal.4th at 449.) In rejecting that argument, this Court emphasized that “voter consent cannot convert an unconstitutional legislative assessment into a constitutional one” and that “courts should exercise their independent judgment in reviewing whether [challenged] assessments that local agencies impose violate article XIID.” (*Id.*)

Public policy on taxation is reflected in the ballot language approved by the voters when they approved Propositions 13 and 218, which supports the limitation of government revenue collection. No express or implied language supports the lower court’s conclusion that public policy is in fact the opposite.

would remain at ten percent...” (City’s Ballot Statements on Prop. S, attached as Exhibit B to City’s Request for Judicial Notice.)

C. The Court of Appeal’s Construction of Government Code section 910 to Prohibit Class Claims Runs Counter to this Court’s Construction of section 910 to Permit Class Claims.

The court below determined that Government Code section 910 prohibits class claims by employing a disfavored interpretive approach, *expressio unius est exclusion alterius* (the inclusion of one thing implies the exclusion of the other). (*Ardon*, 174 Cal.App.4th at 381.) The court’s determination is the opposite of that reached by this Court in *City of San Jose v. Superior Court* (“*City of San Jose*”) (1974) 12 Cal.3d 447, 457.

Courts have increasingly rejected the view that the presence of particular language in similar statutes suggests intent to exclude the language from a statute. (*See, e.g., Christensen v. Harris County* (2000) 529 U.S. 576, 583-84 (rejecting petitioners’ reliance on *expressio unius est exclusion alterius* to interpret a statute in the context of the overall statutory scheme); *Robinson v. Shell Oil Co.* (1997) 519 U.S. 337, 346 (upholding inclusive language in a Title VII provision because it was more consistent with the statute’s primary purpose); *Herman & MacLean v. Huddleston* (1983) 459 U.S. 375, 387 n.23) (rejecting use of *expressio unius est exclusion alterius*, in particular “where the remedial purposes of the Acts would be

undermined by a presumption of exclusivity.”) It is this disfavored canon that is at the heart of the lower court’s analysis.

The court below correctly identified examples of the Legislature enacting specific statutes with express language indicating a class action remedy. (*See Ardon*, 174 Cal.App.4th at 381.) However, the court then concluded that the “absence of express language in section 910 regarding claims on behalf of a class indicates that the Legislature did not intend to allow such claims for tax refunds.” (*Id.*)

This Court has come to the opposite conclusion when it has applied Government Code section 910, noting that the term “claimant” in section 910 “must be equated with the class itself,” and recognizing that a different reading of section 910 would undermine the statute’s purpose and would lead to a perverse and unduly burdensome effect on taxpayers. As this Court stated in *City of San Jose*: “To require such detailed information in advance of the complaint would severely restrict the maintenance of appropriate class actions – contrary to recognized policy favoring them.” (*City of San Jose, supra*, 12 Cal.3d at 457.) The lower court’s reading of Government Code section 910 as inherently prohibiting class claims does exactly that: it denies taxpayers the ability to effectively contest

a local government tax for which the Legislature has not enacted specific refund procedures.

This approach is misguided because Government Code section 910 is properly understood as the default rule that other tax-specific statutes supplement or modify. The Government Claims Act is not merely a “similar statute concerning a related subject”— it is a uniform statute in which section 910 controls where specific claim refund statutes have not been enacted under section 905(a). (*See, e.g.*, Government Code section 905, subdivision (a), which provides that the general claim presentment requirements of section 910 are not applicable where more narrow refund procedures have been created in “the Revenue and Taxation Code or other statute.” (Govt. Code § 905, subd. (a).)

This Court must not repeat the lower court’s mistake of comparing express exceptions to the general rule under the same interpretive standard as a comparison of functionally similar statutes. Exceptions to a general rule cannot be used to redefine the rule itself without compromising the entire legislative enactment structure of Government Code sections 910 and 905.

II. THE COURT OF APPEAL ERRONEOUSLY EXTENDED THE ARTICLE XIII, SECTION 32 “PAY BEFORE LITIGATE” POLICY TO INCLUDE REFUND CLAIMS.

As this Court has observed, art. XIII, section 32 imposes a “pay before litigate” policy that discourages taxpayers from seeking to enjoin tax collection before payment. As stated in *Pacific Gas & Electric v. State Board of Equalization*, (1980) 27 Cal. 3d 277, 283 “[t]he policy behind section 32 is to allow revenue collection to continue during litigation so that essential public services dependent on the funds are not unnecessarily interrupted.” (27 Cal.3d at 283). But the court below improperly extends this policy to bar refund claims as well. (See *Ardon*, 174 Cal. App. 4th at 384 (“Local public entities have an overriding interest in fiscal planning based on expected tax revenues. We therefore join a line of Court of Appeal cases which have applied the policy underlying article XIII Section 32 to local taxes.”))

The lower court’s conclusion, that refund actions should be constrained by government fiscal planning needs, has no basis in Section 32. The case law on which the lower court relies only discusses Section 32 policy as preventing revenue disruption before disputed taxes are paid — not *after* the taxes are paid. In fact, these

cases note that once taxes are paid, section 32 recognizes taxpayers' right to demand refunds. (*See, e.g., Macy Dep't Stores, Inc. v. City and County of San Francisco*, (2006) 143 Cal. App. 4th 1444 at 1453 (“Article XIII, section 32 recognizes the taxpayer's right to refund of an illegal tax, as a corollary to the prohibition against enjoining the collection of any tax.”))

This Court found in *Woosley* that art. XIII, section 32 confers “strict legislative control over tax refunds...so that governmental entities can engage in fiscal planning.” (*Woosley v. State of California* (“*Woosley*”) (1992) 174 Cal. App. 4th at 384.) However, this control cannot override taxpayer remedies to the point of shielding local government from taxpayers' due process rights to challenge illegal taxes.

III. CLASS REFUND CLAIMS FURTHER TAXPAYER PROTECTION AGAINST ILLEGAL TAXES AND PROVIDE EFFICIENCY TO ADMINISTRATIVE AND JUDICIAL CLAIM RESOLUTION.

The California Constitution favors due procedures that invalidate illegal taxes and efficiently disgorge improperly collected funds. (*See, e.g., Cal. Const. art. XIII, section 32* (authorizing refund actions to recover tax paid plus interest). In doing so, voters have codified their purpose of invalidating illegally imposed taxes and

disgorging the revenue even where there is a strong revenue collection interest.

When a tax or fee is found to be illegal, therefore, part of the judicial resolution must include effective and efficient refund procedures. To be effective and efficient, such procedures should provide taxpayers with meaningful process, be judicially and administratively manageable, and provide notice to local governments of the outer limits of their liability to taxpayers.³

A class claim refund procedure preserves procedural justice and uniformity of law, ensuring that one legal decision governs all similar claims. Such a rule does not inure merely to taxpayers' interests, but also benefits the interests of administrative entities processing refunds and judicial resolution of refund actions. The Government Claims Act provides just such a default rule: "(1) provid[ing] the public entity with sufficient information to allow it to make a thorough

³ Further, where the Legislature has barred taxpayers from pursuing class refunds from entities collecting the tax, due process requires an alternative remedy. Here, the legislature has eliminated taxpayers' ability to file any claim, including class claims, against service providers. (*See* Pub. Util. Code § 799.) This change (in 1996) permitted the Respondent to continue to collect the challenged taxes while eliminating taxpayers' opportunity to challenge the tax through their service provider. This deprivation of a remedy underscores the importance of the class action as the only remaining effective remedy that will result in disgorgement of improperly collected revenue.

investigation of the matter; (2) facilitat[ing] settlement of meritorious claims; (3) enabl[ing] the public entity to engage in fiscal planning; and (4) avoid[ing] similar liability in the future.” (*Westcon Const. Corp. v. County of Sacramento* (2007) 152 Cal. App. 4th 183, 200 (citing Gov’t. Code sec. 945.4).)

Class refund filings further the interests of both taxpayers and government by (1) providing the public entity with a thorough amount of information through one claim so that it can more readily investigate the merits of the claim, (2) facilitating settlement of a meritorious refund claim by uniformly deciding to accept or deny multiple refunds through one claim, (3) providing the public entity with immediate notice that the tax is being challenged by a large group of persons, and (4) limiting the government’s liability by ensuring that its final decisions preclude further individual claims on the same issue.

Judicial resolution is similarly rendered efficient and cost-friendly through singular resolution of multiple claims, particularly in consumer claim proceedings where the claim amount for each claimant is very low. Respondent’s assertion that class refund filings would be “potentially devastating” simply does not square with

procedural benefits gained on all sides through a class refund process. Where the government owes refunds, it must draw down its coffers to pay all such refunds anyway; where it does not owe refunds, singular resolution of multiple claims is to the government's advantage.

A decision by this Court to uphold Appellant's claim has special significance in California taxpayers' ongoing efforts to deter illegal tax collection and over-taxation by local government. Unless class actions are permitted in refund cases, transaction costs and the hurdles of legal process may deter taxpayers from pursuing refund claims, permitting governments to keep the proceeds of illegally collected taxes.

CONCLUSION

For the foregoing reasons, *Amicus* respectfully requests that this court reverse the decision below.

Date: March 10, 2010

Respectfully submitted,

Edward M. Teyssier, Esq.
California State Bar No. 234872
3200 Highland Avenue #300
National City, California 91950
Telephone: (619) 474-7500, Ext. 202
Fax: (619) 474-7003
*Attorney for Amicus Curiae Tax
Foundation*

CERTIFICATE OF WORD COUNT
(Cal. Rules of Court, rule 8.204(c)(1))

The text of this brief consists of 3,021 words, including footnotes and excluding tables and certificates, as counted by the Microsoft Word 2003 word-processing program used to generate the brief.

DATED: March 10, 2010

Edward M. Teyssier, Esq.
California State Bar No. 234872
3200 Highland Avenue #300
National City, California 91950
Telephone: (619) 474-7500,
Extension 202
Fax: (619) 474-7003

*Attorney for Amicus Curiae Tax
Foundation*

[THIS PAGE LEFT INTENTIONALLY BLANK]

PROOF OF SERVICE

Case: *Ardon v. City of Los Angeles*

Supreme Court of California No. S174507

I, Joseph D. Henschman, am over the age of eighteen years, a resident of the District of Columbia, and not a party to the within action. My business address is the Tax Foundation, 529 14th Street, N.W., Suite 420, Washington, DC 20045. I served the within documents:

TAX FOUNDATION'S APPLICATION FOR LEAVE TO
FILE BRIEF *AMICUS CURIAE*

AMICUS CURIAE BRIEF IN SUPPORT OF
PLAINTIFF/APPELLANT

by depositing a true copy thereof, enclosed in a sealed envelope with postage fully pre-paid, in a mailbox regularly maintained by the Government of the United States at Washington, District of Columbia, to each person listed below, addressed as follows:

Clerk of the Court
California Court of Appeal, Second Appellate District
300 So. Spring St. 2nd Floor
Los Angeles, CA 90013

Clerk of the Court
Los Angeles Superior Court
600 S. Commonwealth Ave., Room 314
Los Angeles, CA 90005

Francis M. Gregorek
Rachele R. Rickert
Wolf Haldenstein Adler Freeman & Herz LLP
Symphony Towers
750 B Street, Suite 2770
San Diego, CA 92101
Counsel for Plaintiff/Appellant

Nicholas E. Chimickles
Timothy N. Mathews
Chimicles & Tikellis LLP
One Haverford Centre
361 West Lancaster Avenue
Haverford, PA 19041
Counsel for Plaintiff/Appellant

Jonathan W. Cuneo
William Anderson
Cuneo Gilbert & Laduca, LLP
507 C Street, NE
Washington, DC 20002
Counsel for Plaintiff/Appellant

Jon Tostrud
Cuneo Gilbert & Laduca, LLP
1801 Century Park East, Suite 2400
Los Angeles, CA 90067
Counsel for Plaintiff/Appellant

Carmen Trutanich
Noreen Vincent
Michael Nagle
Office of the City Attorney
200 North Main Street, Suite 920
Los Angeles, CA 90012
Counsel for Defendant/Respondent

William Molinski
Valerie M. Goo
Frank D. Rorie
Orrick, Herrington & Sutcliffe LLP
777 South Figueroa Street, Suite 3200
Los Angeles, CA 90017
Counsel for Defendant/Respondent

Michael G. Colantuono
Sandra J. Levin
Colantuono & Levin, P.C.
555 West Fifth Street, 31st Floor
Los Angeles, CA 90013-1018
Counsel for Defendant/Respondent

Paul E. Heidenreich
Huskinson and Brown, LLP
865 Manhattan Beach Blvd., Suite 200
Manhattan Beach, CA 90266-5119

Howard Jarvis Taxpayers Association
621 South Westmoreland Avenue
Suite 202
Los Angeles, CA 90005

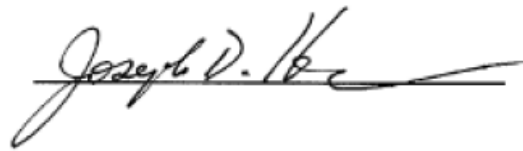
Patrick Whitnell, General Counsel
League of California Cities
1400 K Street
Sacramento, CA 95814

Jennifer Henning, Litigation Counsel
California State Association of Counties
1100 K Street, Suite 101
Sacramento, CA 95814

David McMurchie, General Counsel
California Special Districts Association
2130 East Bidwell Street, Suite 2
Folsom, CA 95630

California Taxpayers' Association
c/o Karl Hirai
1215 K Street, Suite 1250
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 10th day of March, 2010.

A handwritten signature in black ink, appearing to read "Joseph D. Henchman", written over a horizontal line.

Joseph D. Henchman.
Tax Counsel, Tax Foundation
529 14th Street, N.W.,
Suite 420
Washington, DC 20045
Telephone: (202) 464-6200
henchman@taxfoundation.org