

1 Mark Baker
9450 SW Gemini Drive PMB 44671
2 Beaverton, OR 97008
mbaker@softlights.org
3 234-206-1977
Pro Se

4
5 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
6 SAN FRANCISCO COUNTY

7 MARK BAKER,

8 Petitioner,

9 vs.

10 BAY AREA TOLL AUTHORITY,
11 METROPOLITAN TRANSPORTATION
12 COMMISSION, CALIFORNIA DEPARTMENT
13 OF TRANSPORTATION, FEDERAL
14 HIGHWAY ADMINISTRATION, AND DOES
15 1-20

16 Respondents.

17 ILLUMINATE, AND DOES 21-40

18 Real Parties in Interest.

Case No.: CPF-24-518814

PETITIONER'S OPPOSITION TO STATE OF
CALIFORNIA DEPARTMENT OF
TRANSPORTATION'S MOTION TO STRIKE

[Action Under the California Environmental
Quality Act]

DATE: April 21, 2025
TIME: 2:00PM
DEPARTMENT: 606

COMPLAINT FILED: DECEMBER 16, 2024
TRIAL DATE: NOT YET SET

19
20 1. Petitioner Mark Baker ("Mr. Baker), opposes Motion to Strike of Respondent State of
21 California Department of Transportation ("Caltrans"), dated March 3, 2025, as follows:
22

23 **I. RESPONSES**

1 **A. Allegation: The Petition is not verified and, therefore, must be stricken in its**
2 **entirety.**

3 2. The Petitioner filed the Verification with the Court on February 13, 2025, and the
4 filing was accepted. “The court must, in every stage of an action, disregard any error,
5 improper ruling, instruction, or defect, in the pleadings or proceedings which, in the opinion of
6 said court, does not affect the substantial rights of the parties.” [Cal. Code Civ. Proc. § 475]

7 **B. Allegation: In the alternative, the requested relief ordering an “ADA Analysis” must**
8 **be stricken because it has no basis in law.**

9 3. California Code of Civil Procedure Section 1085(a) states, “ A writ of mandate may be
10 issued by any court to any inferior tribunal, corporation, board, or person, to compel the
11 performance of an act which the law specially enjoins, as a duty resulting from an office, trust,
12 or station, or to compel the admission of a party to the use and enjoyment of a right or office
13 to which the party is entitled, and from which the party is unlawfully precluded by such
14 inferior tribunal, corporation, board, or person.”

15 4. As stated in CCCP § 1085(a), the Court may issue a writ of mandate to compel Caltrans
16 to carry out their duty to protect individuals with disabilities. The Americans with Disabilities
17 Act clearly identifies the rights of individuals with disabilities, and Caltrans’ policy of
18 ignoring the impacts of LED lights on individuals with disabilities means that Caltrans
19 unlawfully precludes individuals with disabilities from those rights identified in the ADA.

20 5. 28 C.F.R. 35.151 requires Caltrans to ensure that the alteration of adding 50,000 intense,
21 blue-rich LED lights to the Bay Bridge does not interfere with the usability and accessibility
22 of the bridge and surrounding area by individuals with disabilities. As noted by Caltrans in
23 the demurrer, The ADA Accessibility Guidelines do not contain any guidance on LED lights.
[Demurrer, p. 8, line 18]. Therefore, Caltrans must perform some type of analysis, which is

1 labeled as “ADA Analysis” in the Petition, to ensure that the altered area is readily accessible
2 and usable by individuals with disabilities. In the case of LED lights and the Bay Lights 360
3 project, the altered area is geographically expansive, covering approximately 100 square
4 miles. Caltrans’ decision to simply ignore disability access issues and to ignore Petitioner’s
5 December 31, 2023, request for ADA accommodation is a violation of the rights of Petitioner
6 and all individuals with disabilities.

7 6. Therefore, as per CCCP § 1085(a), the Court is authorized to issue a writ of mandate
8 directing Caltrans to develop an analysis of the impacts of adding 50,000 LED lights to the
9 Bay Bridge on individuals who may be discriminated against due to the use of those LED
10 lights. Contrary to Caltrans’ claim that there is no statutory basis for an “ADA Analysis”, the
11 term “ADA Analysis” does not need to appear in the text of a statute or regulation. The term
12 “ADA Analysis” is simply used by the Petitioner to encompass the actions required of
13 Caltrans to ensure that the addition of the LED lights does not create unlawful discriminatory
14 barriers. The Caltrans policy of ignoring the impacts of LED lights on individuals and
15 ignoring ADA requests for accommodation related to LED lights, is a violation of law, and
16 thus the Court can issue a writ of mandate to correct this violation.

17 **II. CONCLUSION**

18 7. For the reasons stated herein, Mr. Baker respectfully requests that the Motion to Strike
19 be denied.

20 Dated: March 5, 2025

21 Respectfully Submitted,

22 By: /s/ Mark Baker
23 9450 SW Gemini Drive PMB 44671
Beaverton, OR 97008

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