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MICHAEL D. PLANET
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BY: LESLIE PARAMO, Deputy

1 Steven T. Mattas (SBN: 154247)
smattas@meyersnave.com
2 Jenny L. Riggs (SBN: 204417)
jriggs@meyersnave.com
3 MEYERS, NAVE, RIBACK, SILVER & WILSON
4 707 Wilshire Blvd., 24th Floor
Los Angeles, California 90017
5 Telephone: (213) 626-2906
Facsimile: (213) 626-0215

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6 Attorneys for Plaintiff
7 VENTURA COUNTY TRANSPORTATION COMMISSION

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF VENTURA**

10
11 VENTURA COUNTY TRANSPORTATION
COMMISSION,

Case No. 56-2014-00449769-CL-UD-VTA
Assigned to Hon. Roger Picquet

12 Plaintiff,

[Related to Case No. 56-2014-00450239-CU-
BC-VTA]

13 v.

14 **FILLMORE & WESTERN RAILWAY, INC.,**
15 a California Corporation; and DOES 1-10,
Inclusive,

**FIRST AMENDED COMPLAINT FOR
(1) SPECIFIC PERFORMANCE;
(2) BREACH OF CONTRACT; AND
(3) INJUNCTIVE RELIEF**

16 Defendants.

Dated Filed: March 6, 2014
Trial Date: None

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1 COMES NOW Plaintiff Ventura County Transportation Commission (hereinafter,
2 “VCTC”), and hereby alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff VCTC owns a rail line, the Santa Paula Branch Line, that begins in the
5 west in the Montalvo section of Ventura, running east through the City of Santa Paula, continuing
6 on to the City of Fillmore, and terminating in Rancho Camulos. Defendant Fillmore & Western
7 Railway operates tourist and excursion trains on the eastern part of the rail line, between Fillmore
8 and Santa Paula.

9 2. With regard to that rail line, VCTC has entered into various leases,¹ each permitting
10 specific uses on specific portions of the line. At issue here, VCTC entered into a lease that
11 permitted tourist and excursion trains to run on the eastern portion of the rail line. Now that lease
12 has terminated, but Defendant Fillmore & Western Railway – the sublessee – has refused to
13 vacate, and instead continues to operate tourist and excursion trains in violation of VCTC’s rights.
14 VCTC therefore seeks to regain its possessory rights with regard to the right to operate tourist and
15 excursion trains on the eastern segment of the Santa Paula Branch Line.

16 **THE PARTIES**

17 3. Plaintiff Ventura County Transportation Commission (hereinafter, “VCTC”) is a
18 County Transportation Commission established pursuant to the California Public Utilities Code
19 § 130050.1, with its principal place of business in Ventura, California.

20 4. Plaintiff is informed and believes and thereupon alleges that Defendant Fillmore &
21 Western Railway, Inc., is a California corporation with its principal place of business in Fillmore,
22 California.

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25 _____
26 ¹ By its Opinion dated September 18, 2015, the Appellate Division of the Ventura County
27 Superior Court found that unlawful detainer was not the proper remedy under the contracts here.
28 Because the documents are titled leases and the parties have referred to them in that manner in the
two years this action already has been litigated, VCTC will continue to use those terms for clarity.

GENERAL ALLEGATIONS

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2 5. On June 6, 2001, VCTC and the City of Fillmore Redevelopment Agency entered
3 into a lease for the eastern “Fillmore Segment” of the rail line, running “between milepost 414.45
4 at or near Santa Paula to milepost 435.07 at Rancho Camulos.” Attached hereto as Exhibit 1 is a
5 true and correct copy of that Fillmore Lease. (Ex. 1 (Fillmore Lease), § 1, p. 2.) Among other
6 things, the lease “permit[ted] Fillmore and/or its sublessees to use the Lease Property for
7 Public/Tourist Excursion purposes.” (*Id.*, § 2, p. 3.) This Fillmore Lease could be terminated by
8 either party, *without cause*, effective upon six months’ notice to the other party. (*Id.*, § 15(b),
9 p. 14.)

10 6. The Fillmore Lease also provided that, upon termination or expiration of the
11 Fillmore Lease, VCTC shall have the right to “re-enter the Lease Property and remove Fillmore
12 and any person or entity claiming through Fillmore from the Lease Property.” (*Id.*, § 15(a), p. 14.)
13 It further provided that, “[i]n the event of such failure or refusal of Fillmore to surrender
14 possession of the Lease Property, VCTC shall have the right to re-enter upon the Lease Property
15 and remove Fillmore, or any person, firm or corporation claiming by, through or under Fillmore,
16 therefrom.” (*Id.*, § 15(c), pp. 14-15.) These contractual requirements were intended by the parties
17 to survive termination of the Fillmore Lease, because they contemplated action by the parties after
18 termination.

19 7. The Fillmore Lease was “intended ...[to] be binding upon the parties hereto, and
20 their successors and assigns.” (*Id.*, § 23, p. 17.) Following the abolition of California’s
21 redevelopment agencies, the City of Fillmore as Successor Agency of the Fillmore Redevelopment
22 Agency succeeded to Fillmore’s obligations under the Fillmore Lease.

23 8. On July 1, 2001, Defendant Fillmore & Western Railway entered into a sublease
24 agreement with the City of Fillmore Redevelopment Agency. Attached hereto as Exhibit 2 is a
25 true and correct copy of that Fillmore Sublease. The Fillmore Sublease addressed “the use of a
26 portion of a line of railroad owned by VCTC ... from milepost 414.45 at or near 8th Street in
27 Santa Paula, California, to milepost 435.07 at or near Rancho Camulos (“Fillmore Segment).”
28 (Ex. 2 at B, p. 1.) The use of the Fillmore Segment was limited to “Public/Tourist Train

1 Excursion purposes.” (*Id.*, § 3, 6(a), 10(a).) The Fillmore Sublease provided that it could be
2 terminated “without cause, upon six (6) month written notice of termination.” (*Id.*, § 19(b).)

3 9. The Fillmore Sublease also required Fillmore & Western to “remove at Fillmore &
4 Western Railway Co.’s sole expense, all of its property from the Lease Property” within 180 days
5 of termination of the Fillmore Sublease. (*Id.*, § 7(d).) This contractual requirement was intended
6 by the parties to survive termination of the Fillmore Lease, because it imposed a duty on Fillmore
7 & Western to vacate the premises after termination.

8 10. On May 14, 2013, VCTC provided the City Manager of the City of Fillmore (as
9 Successor Agency of the Fillmore Redevelopment Agency) with a six month notice of termination
10 “without cause” of the Fillmore Lease, effective December 1, 2013.

11 11. On or about May 31, 2013, the City of Fillmore provided Defendant Fillmore &
12 Western Railway with a six month notice of termination “without cause” of the Fillmore Sublease,
13 with such termination effective December 1, 2013, the same date given by VCTC in its
14 termination of the Fillmore Lease.

15 12. As a result, the Fillmore Sublease was terminated as of December 1, 2013, and
16 Defendant Fillmore & Western Railway has no contractual right to operate tourist or excursion
17 trains between Fillmore and the City of Santa Paula. Fillmore & Western’s failure to vacate the
18 premises following termination of the Fillmore Sublease constitutes a breach of its contractual
19 obligations.

20 **FIRST CAUSE OF ACTION FOR SPECIFIC PERFORMANCE**

21 [Code of Civil Procedure § 3384 *et seq.*]

22 13. Plaintiff incorporates by reference as though fully set forth herein the preceding
23 paragraphs of this Complaint.

24 14. Fillmore & Western has failed to vacate the premises following termination of the
25 Fillmore Sublease.

26 15. VCTC has performed all conditions precedent to Fillmore & Western’s contractual
27 promise to vacate the premises; namely, VCTC has terminated the Fillmore Lease and Fillmore
28 Sublease.

1 16. As the owner of the line, VCTC has the right to lease out portions of the line for
2 specific purposes. Following the termination of the Fillmore Lease and Sublease, the right to
3 permit or deny permission to operate tourist and excursion trains on the eastern segment of the line
4 reverted to VCTC. Defendant Fillmore & Western Railway's unauthorized operation of tourist
5 and excursion trains on that segment of the line interferes with VCTC's rights as owner.

6 17. VCTC has no plain, speedy and adequate remedy at law to regain possession of its
7 property.

8 18. VCTC therefore requests a permanent prohibitory injunction issue that restrains
9 Fillmore & Western, its agents, employees, officers and representatives from operating tourist or
10 excursion trains on the eastern segment of the Santa Paula Branch Line, between Fillmore and
11 Santa Paula.

12 **SECOND CAUSE OF ACTION FOR BREACH OF CONTRACT**

13 **[Code of Civil Procedure § 526]**

14 19. Plaintiff incorporates by reference as though fully set forth herein the preceding
15 paragraphs of this Complaint.

16 20. The Fillmore Sublease requires Fillmore & Western to vacate the premises within
17 180 days following termination of the Fillmore Sublease. It has not done so.

18 21. VCTC has no plain, speedy and adequate remedy at law to regain possession of its
19 real property. Pecuniary compensation would not afford VCTC adequate relief.

20 22. VCTC therefore requests a permanent prohibitory injunction issue that restrains
21 Fillmore & Western, its agents, employees, officers and representatives from operating tourist or
22 excursion trains on the eastern segment of the Santa Paula Branch Line, between Fillmore and
23 Santa Paula.

24 **PRAYER FOR RELIEF**

25 **WHEREFORE**, Plaintiff prays judgment against Defendant as follows:

26 1. For a permanent prohibitory injunction restraining and enjoining Defendant
27 Fillmore & Western Railway, Inc. from operating tourist and excursion trains on the Santa Paula
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