



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Case Number: CPF-13-512769

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PETITION FOR WRIT OF MANDATE/ PROHIBITION/
CERTIFICATION

THE SAN FRANCISCO LAW LIBRARY VS. CITY AND COUNTY OF SAN
FRANCISCO et al

001C03934766

Instructions:

Please place this sheet on top of the document to be scanned.

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FILED
San Francisco County Superior Court

FEB - 6 2013

CLERK OF THE COURT
BY: DENNIS TOYAMA
Deputy Clerk

ORIGINAL

ATTORNEY FOR (Name): San Francisco Law Library

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco

STREET ADDRESS: 400 McAllister Street

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CITY AND ZIP CODE: San Francisco, 94102

BRANCH NAME: Civic Center Courthouse

CASE NAME: San Francisco Law Library v. City and County of San Francisco, Naomi Kelly, In Her Capacity as City Administrator, and DOES 1 through 15

CIVIL CASE COVER SHEET
Unlimited (Amount demanded exceeds \$25,000)
Limited (Amount demanded is \$25,000 or less)
Complex Case Designation
Counter
Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
CASE NUMBER: CPF-13-512769
JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

- Auto (22)
Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
Product liability (24)
Medical malpractice (45)
Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- Business tort/unfair business practice (07)
Civil rights (08)
Defamation (13)
Fraud (16)
Intellectual property (19)
Professional negligence (25)
Other non-PI/PD/WD tort (35)

Employment

- Wrongful termination (36)
Other employment (15)

Contract

- Breach of contract/warranty (06)
Rule 3.740 collections (09)
Other collections (09)
Insurance coverage (18)
Other contract (37)

Real Property

- Eminent domain/Inverse condemnation (14)
Wrongful eviction (33)
Other real property (26)

Unlawful Detainer

- Commercial (31)
Residential (32)
Drugs (38)

Judicial Review

- Asset forfeiture (05)
Petition re: arbitration award (11)
Writ of mandate (02)
Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

- Antitrust/Trade regulation (03)
Construction defect (10)
Mass tort (40)
Securities litigation (28)
Environmental/Toxic tort (30)
Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- Enforcement of judgment (20)

Miscellaneous Civil Complaint

- RICO (27)
Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- Partnership and corporate governance (21)
Other petition (not specified above) (43)

2. This case is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. Large number of separately represented parties
b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. Substantial amount of documentary evidence
d. Large number of witnesses
e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 3

5. This case is a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: February 6, 2013

Denis T. Rice

(TYPE OR PRINT NAME)

[Signature]

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
File this cover sheet in addition to any cover sheet required by local court rule.
If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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SAN FRANCISCO LAW LIBRARY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

THE SAN FRANCISCO LAW LIBRARY,

Petitioner and Plaintiff,

v.

CITY AND COUNTY OF SAN FRANCISCO;
NAOMI KELLY, IN HER CAPACITY AS CITY
ADMINISTRATOR; and DOES 1 THROUGH 15,

Respondents and Defendants.

FILED
San. Francisco County Superior Court

FEB - 6 2013

CLERK OF THE COURT
BY: DENNIS TOYAMA
Deputy Clerk

No. **CPF - 13 - 512769**

**PETITION FOR WRIT OF MANDATE
AND COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

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14 art. IV, §4.129 3, 5, 13, 14, 15, 16, 17
15 art. VIII, §8.103

16 **Other Authorities**

17 American Association of Law Libraries, *County Public Law Library Standards*
18 (July 2008), <http://www.aallnet.org/main-menu/Leadership-Governance/policies/PublicPolicies/policy-county-standards.html> 11
19 The State Bar of California, *Member Demographics, Membership Populations*
20 *County and Status*, [http://members.calbar.ca.gov/search/demographics_](http://members.calbar.ca.gov/search/demographics_counties.aspx)
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INTRODUCTION

1
2 1. Petitioner and Plaintiff San Francisco Law Library (the "Library"), seeks a writ of
3 mandate commanding Respondents to provide complete, adequate, readily accessible and suitable
4 space and facilities for the Library, as required by the San Francisco City Charter. For close to two
5 decades, Respondents have failed to provide these facilities while purportedly negotiating various
6 solutions, all of which were ultimately unsuitable or not feasible. The imminent closure of the
7 Library's current location in the War Memorial Veterans Building ("Veterans Building") in May
8 2013, and Respondents' refusal to provide suitable new quarters threaten to render the Library
9 literally homeless. The relief sought in this Petition is proper and necessary because Petitioner has
10 no other adequate legal remedy and Respondents have failed to provide such space and facilities as
11 they are specifically required by law to do.

12 2. The Library is a non-profit public corporation which has served San Francisco's legal
13 community and inhabitants, including those less advantaged, for more than 140 years. Until City
14 Hall closed in 1995 as a result of the extensive damage caused by the 1989 Loma Prieta earthquake,
15 the Library shared part of the fourth floor of City Hall with the Superior Courts, and also had
16 additional space in the building. In January 1994, the City Architect, on behalf of the City and
17 County of San Francisco (the "City"), advised the Library's Board of Trustees (the "Board") that the
18 Library would be moved out of City Hall into the Veterans Building for two or three years while
19 City Hall was closed for seismic repairs, after which time the Library would return to its quarters in
20 a restored City Hall. The City Architect further advised the Board that upon the Library's return, it
21 might obtain, in addition to its previous space, some of the City Hall space that was being vacated
22 by the courts. The City, however, did not fulfill its 1994 commitments and to this day the Library
23 remains without a permanent home, with much of its material in storage.

24 3. The Library has located what may be the only currently available suitable space at 1200
25 Van Ness and while 35,000 gross square feet is available at that location, the Library has drastically
26 reduced the size of its collection in an effort to reach a compromise with the City and fit into 30,000
27 gross square feet. Thirty thousand gross square feet, which is significantly less than professional
28 space planners previously projected, is consistent with the City's 2010 assessment that the Library

1 will need approximately 35,000 gross square feet. It is also consistent with the space accorded to
2 county law libraries in other major metropolitan areas in California. *See* Paragraph 23, *infra*. The
3 City, however, has refused to fund even this bare minimum amount of space, and instead has
4 insisted that the Library needs no more than 22,000 gross square feet—a woefully inadequate
5 amount of space for a full service law library in a populous commercial and legal center like San
6 Francisco. With any less than 30,000 gross square feet, the Library will be unable to provide
7 essential services and will be forced to discard a large portion of its collection.

8 4. Although City officials have recognized the inadequacy of the Library’s current quarters
9 and have been aware of the impending closure for some time, they nonetheless have failed and
10 refused to take steps to remedy the situation. Despite the urgency of the May 2013 deadline, the
11 City has refused to fund adequate space in the new location and also refused to pay for the cost of
12 necessary furniture, fixtures and equipment, moving expenses and the like. In doing so, the City has
13 violated the City Charter and State law, and breached its obligations to the Library, the legal
14 community and the general public.

16 THE PARTIES

17 5. Petitioner is the San Francisco Law Library, a California public non-profit corporation
18 located in San Francisco. The Library is a creature of both statute and charter. Although it has a
19 role within the City and County government, the Library is a separate legal entity organized under
20 special State legislation adopted on March 10, 1870, which established it as a public corporation.
21 *See* 1869-70 Cal. Stat. 235 (the “1870 Act”). The California legislature later repealed the 1870 Act,
22 but that repeal was prospective only; therefore, the 1870 Act is still effective and remains good law
23 as to the Library. Subsequent City Charters, including the present Charter, have recognized the
24 continuing effect of the 1870 Act and incorporated its requirements. The present Charter provides
25 that “[t]he San Francisco Law Library shall be under the management and control of the Board of
26 Trustees, as established by act of Legislature approved March 9, 1870,” and that the City and
27 County of San Francisco must “provide suitable and sufficient quarters for the Law Library, fix up
28 and furnish the same and provide for the supply of necessary light, heat, stationery and other

1 conveniences. The library shall be so located as to be readily accessible to the judges and officers of
2 the courts.” Charter of the City and County of San Francisco (“Charter”) art. VIII, §8.103 (1996)
3 (“Section 8.103”). As a public corporation distinct from the City government, the Library has
4 standing to sue the City.

5 6. Respondents are the City and the City Administrator, Naomi Kelly, in her official
6 capacity. Under the Charter, the City Administrator, as the director of the Department of
7 Administrative Services, “shall manage all public buildings, facilities and real estate of the City and
8 County [of San Francisco].” Charter art. IV, §4.129. The San Francisco Administrative Code
9 further states that the City Administrator, as the Director of Administrative Services, “shall have
10 charge of all public buildings . . . of the City and County . . . including the allocation of office space
11 therein . . .” San Francisco Admin. Code §4.1. As a result, Ms. Kelly is the officer primarily
12 responsible for the allocation of public office space, and owes a duty to the Library and the public to
13 provide the Library accommodations suitable under the Charter and statutory provisions.

14 7. The real names and capacities of Does 1 through 15 are unknown to Petitioner at this
15 time, and for that reason they are sued here under fictitious names. Petitioner will ask leave of this
16 Court to amend this Petition and Complaint to add such names and capacities, along with
17 appropriate charging allegations, when the same are ascertained.

18
19 **ROLE OF THE LIBRARY AND ITS BOARD OF TRUSTEES**

20 8. The history of the San Francisco Law Library traces back to 1865, when leading
21 members of the San Francisco bar formed the San Francisco Law Library Association, a
22 subscription membership organization. By 1869, when the Library could no longer meet the
23 demands of the City’s rapidly expanding legal community, leaders of the local bar and judiciary
24 petitioned the State Legislature for a law establishing the San Francisco Law Library as a public law
25 library, amending the 1863 legislation under which the Law Library Association was formed. The
26 ensuing 1870 Act was very specific about the Library’s role, stating:

27 Whereas, In the great and rapidly increasing City of San Francisco, a large and more
28 complete law library, which shall be conveniently located, and at all appropriate times
 be readily accessible to the various Courts, the bar, the municipal officers, and litigants,

1 is essential to the orderly, speedy and correct administration . . . of justice therein; and
2 whereas, in view of such want it is deemed important for the complete and perfect
3 accomplishment of the public purposes for which the municipal government of the City
4 and County of San Francisco is organized and maintained, that a complete public law
5 library should be established, and its use secured to the various Courts, the bar, the
6 municipal authorities, and the citizens of San Francisco. (1869-70 Cal. Stat. 235-36)

7 9. The Charter grants the San Francisco Law Library Board of Trustees "complete
8 authority to manage its affairs consistent with this Charter and state law." Section 8.103. The
9 Charter also provides that "[t]he judiciary, City, County and state officials, members of the Bar, and
10 all inhabitants of the City and County shall have free access, use and enjoyment of the Law Library,
11 subject to the rules and regulations of the Trustees." *Id.*; see also 1869-70 Cal. Stat. 236 (granting
12 citizens of San Francisco and members of the California bar "free access to and the full and entire
13 use and enjoyment of said law library"). Thus, under both the Charter and California State law, the
14 Board of Trustees has a duty to the legal community, the judiciary, City, County and State officials,
15 and all residents of San Francisco to provide access to the Library's collection and adequate
16 facilities for its operations.

17 10. The Library shared the fourth floor of City Hall with the Superior Courts from the day
18 City Hall opened in 1914 until it closed for seismic repairs in 1995. The Library's location, flanked
19 on both sides by trial courtrooms, prevented it from expanding as its collection grew. But the use of
20 exceptionally tall bookshelves, the basement, and attic space beneath the dome of City Hall enabled
21 the Library to accommodate 250,000 volumes as of 1995.

22 11. The City's failure to provide adequate space since 1995 has prevented the Board of
23 Trustees from performing its duty to the legal community, the judiciary, the municipal authorities
24 and the public. As a public non-profit corporation, the Board of Trustees must perform its duties in
25 good faith, in a manner each Trustee believes is in the best interests of the Library, and with such
26 care as an ordinarily prudent person in a like position would use under similar circumstances. As
27 such, under the rules applicable to non-profit corporations, the Board must act regarding the
28 Library's needs for adequate, accessible and suitable space. More specifically, the Board must
exercise reasonable efforts to ensure that the City meets its responsibilities and obligations under the
Charter and State law. The Board's duty includes seeking judicial relief to remedy the City's

1 ongoing failure and refusal to provide adequate, accessible and suitable space. That situation is now
2 critical, because the Veterans Building is scheduled to close for seismic upgrades in May 2013, and
3 the Library's current inadequate space will not even be available when the Veterans Building
4 reopens.

6 **ROLE OF THE CITY**

7 12. The specific duties of the City and County of San Francisco regarding the Library were
8 first articulated in Section 8 of the 1870 Act, which reads:

9 The City and County of San Francisco is hereby authorized and required to provide, fit
10 up and furnish, and provide with fuel, lights, stationery and all necessary conveniences
11 and care, rooms convenient and accessible to the Courts, sufficient for the use and
12 accommodation of said law library and those who have occasion for its use. And the
13 Board of Supervisors of the City and County of San Francisco are hereby authorized,
14 empowered and required to appropriate, allow and order paid out of the General Fund
15 such sums as may be necessary for the purposes aforesaid (1869-70 Cal. Stat. at
16 238)

17 The basic duty articulated by the 1870 Act was later explicitly incorporated in Section 8.103 of the
18 City Charter, which now states in relevant part:

19 The City and County shall provide suitable and sufficient quarters for the Law Library,
20 fix up and furnish the same and provide for the supply of necessary light, heat,
21 stationery and other conveniences. The library shall be so located as to be readily
22 accessible to the judges and officers of the courts. (Section 8.103)

23 **ONGOING FAILURE OF THE CITY TO PROVIDE ADEQUATE SPACE**

24 13. In October 1995, while the Library was "temporarily" located in the Veterans Building,
25 the City informed the Library that if the Library returned to City Hall, it would not be allocated any
26 additional space and would in fact be allocated even less space than it had occupied prior to the
27 retrofit. More importantly, the City told the Library that the tall shelf units it had been using could
28 no longer be permitted under more recent safety and seismic regulations, and that it could no longer
use any part of the attic. The City's position meant that substantial shelf space would also be lost.
The Library objected to these arrangements as grossly inadequate.

14. On March 13, 1996, the Library's director, Marcia Bell, sent a memorandum to the
City's Department of Real Estate stating the Library's space requirements and noting the City's

1 failure to provide adequate space at City Hall. The letter specifically outlined the City's duties
2 under the Charter, enclosing the relevant Charter provisions. On March 25, 1996 (after the City
3 failed to make any commitment regarding the Library's location), the Board sent a letter to the
4 City's Chief Administrative Officer advising him of the Library's space requirements and requesting
5 that the City locate the Library in the Civic Center. In April 1996, the Mayor of San Francisco
6 informed the Library and former City Hall departments that the Library would return to City Hall.
7 But in July 1997, the City determined that space would not be made available in the new City Hall
8 and instead the Library would be housed in a new building, to be constructed at 525 Golden Gate
9 Avenue. The Department of Administrative Services told the Board that it would recommend that
10 the Library be provided the full amount of space needed, which at that time was approximately
11 35,865 net square feet. The projected opening date was Spring 2000.

12 15. Despite these representations, development was repeatedly postponed over the course of
13 almost four years, during which City officials continued to assure the Library that it would be
14 moved into the new building. In May 2001, the Board learned inadvertently that the Library was no
15 longer on the prospective tenant list for the new building. Following discussions with then-Director
16 of Administrative Services Ryan Brooks and the acting City Architect, the City reinstated the
17 Library on the prospective tenant list and asked the Library to supply data regarding its space needs.
18 But shortly thereafter the project manager for 525 Golden Gate Avenue informed the Library that
19 there would be no room for the Library in the new building.

20 16. The City ultimately abandoned its plans to tear down and rebuild the 525 Golden Gate
21 Avenue building. Subsequently, the Library, representatives from the Bar Association of San
22 Francisco and others concerned about the Library's space crisis brought their concerns to the Mayor,
23 who led a collaborative effort to obtain a suitable space sufficient to meet the Library's present and
24 future needs. The Mayor's task force determined that it was economically and structurally feasible
25 to renovate the 525 Golden Gate Avenue building to house the Library, a "Justice Center" and other
26 uses. In 2004, the Board of Supervisors passed an unanimous resolution in support of the project,
27 and the City obtained an amended environmental impact review and permits. Once again, however,
28 the City failed to take the project forward. (The City eventually sold the property, so it is no longer

1 an option for the Library.)

2 17. The Library explored and proposed other prospective properties in addition to 525
3 Golden Gate Avenue, including the Culinary Academy at 625 Polk Street, 690 Van Ness Avenue,
4 the Merchandise Mart at 1355 Market Street, Van Ness at Grove, the basement of Brooks Hall, and
5 several other Civic Center properties, all without success. For several years in the mid-2000's, the
6 AAA building at 150 Van Ness Avenue was a potential location, but ultimately the City decided not
7 to acquire the property.

8 18. In Fall 2011, the City recommended leasing 155 Hayes Street for the Library, but by
9 early 2012 the property had been sold and was no longer an option. In March 2012, the City's
10 Department of Real Estate proposed the Bank of America Data Center at 1455 Market Street as a
11 strong prospect, but by June 2012 the City had abandoned that option. In July 2012, City officials
12 informed the Library that the City would not approve the expenditure of funds for a commercial
13 lease and that there were no public buildings available, effectively leaving the Library with no viable
14 options. The City also informed the Library that it had unilaterally contacted the Ninth Circuit
15 Court of Appeals Law Library, the San Francisco Public Library and the University of California,
16 Hastings School of Law, with a proposal that one of these libraries absorb the Library, such that the
17 Library would cease to exist as an independent organization. Upon information and belief, these
18 organizations informed the City that they were unable to do so.

19 19. During 2010, 2011 and 2012, the Library worked continuously and diligently without
20 success to initiate collaborative efforts with the City to assess the Library's space needs and identify
21 suitable properties for the Library's permanent home. As a result of the City's lack of support, the
22 Library was unable to make any substantive progress toward securing a viable site. The City not
23 only showed a lack of support and interest, but City officials made erroneous assessments of the
24 space analyses that the Library provided in 2010, 2011 and 2012. In sum, for nearly 18 years, the
25 Library Board of Trustees has attempted to work with the City to obtain suitable quarters for the
26 Library, and for nearly 18 years the Board has seen the City fail time and time again to provide
27 appropriate quarters. Indeed, even now, when the Library has succeeded in identifying a suitable
28 location, and only a few months from the impending closure of the Veterans Building, the City still

1 refuses to fund even the most minimally sufficient amount of space.

2 20. The Library's "temporary" quarters in the Veterans Building cannot be used as a
3 baseline standard because they are, and always have been, insufficient and inadequate in multiple
4 ways, including but not limited to the following:

5 (a) Constructed in the early 1930's, the building is seismically unsafe, which puts
6 staff and patrons at high risk if and when there is an earthquake. In the event of an earthquake, the
7 walls and stairwells are likely to fail, and there are no alternate means of exit from the building.
8 Substantial property loss could also occur. "The risk of structural and non-structural building
9 component collapse and loss of life are possible even in a moderate earthquake."¹

10 (b) The amount of shelf space is grossly inadequate.

11 (c) The conditions are poor. The area of the stacks and the patron reading room has
12 little or no air circulation. They are subject to extreme glare, which is exacerbated by unfiltered
13 skylights in the ceiling. Even on moderately sunny days, the temperature can reach or exceed 85
14 degrees Fahrenheit. In the winter, lack of direct heat circulation and unprotected skylights often
15 result in room temperatures in the low 60s. Such unpleasant environmental conditions have resulted
16 in early closure of the Library, patron complaints and even health problems.

17 (d) The poor conditions damage the books.

18 (e) Lighting throughout the Library is indirect and poor, making it difficult for
19 patrons to read. Staff workspace lighting is inadequate. Since most of the present lighting is
20 provided by skylights rather than electrical lighting, there is very low lighting during the darkest part
21 of year.

22 (f) Numerous ceiling leaks exist.

23 (g) There is inadequate workspace for the technical services staff and some
24 workspaces have to be shared.

25 (h) Seating is inadequate. At City Hall, the Library had seating for 87 users, in
26

27 ¹Tom Eliot Fisch, Inc., *Executive Summary, War Memorial Veterans Building Life Safety*
28 *Study* at 3 (Nov. 1, 2004).

1 contrast to only 32 seats in the current space, limited primarily to five tables. Reference interviews
2 are conducted in the lobby, because there are no private areas for patrons to meet with the librarians.

3 (i) Space and wiring constraints permit only nine public access computer terminals
4 for use of the catalog, internet and electronic resources. This is entirely inadequate to serve the
5 Library's user population.

6 (j) Much of the Library's material—about two-thirds of its collection—is in closed
7 storage and hence completely inaccessible to staff and patrons. The materials in storage include
8 archival materials that are largely unavailable to patrons anywhere else in the Bay Area and which
9 are regularly requested by patrons. In addition to being inaccessible, the storage conditions are poor,
10 and the Library's collection is suffering permanent damage due to rats, dust and insect infestation.
11 The books are packed in boxes that are deteriorating and improperly stacked, which results in the
12 boxes collapsing and crushing the books. (In an earlier storage location, a portion of the collection
13 was destroyed by water leaks.)

14 (k) The Library owns an extraordinary and very valuable rare law book collection
15 dating back to the 15th century, which includes the first compilation of English law (dated 1490),
16 16th and 17th century legal texts, of which only a few copies exist in the world, as well as early
17 American reports, and a unique collection of Canon law. This collection, which totals
18 approximately 11,000 volumes, must be preserved in environmentally safe conditions. After City
19 Hall closed, it initially was stored in preservation conditions at the University of California book
20 storage facility, but this arrangement was meant to be temporary. When the City announced that the
21 Library could not return to City Hall, the collection had to be moved out of the University of
22 California facility. It is now stored in non-archival cardboard boxes in a crate in a warehouse in
23 South San Francisco. Needless to say, these conditions fail to meet rare book preservation standards
24 and the collection's very existence is in jeopardy.

25 (l) The current space does not have room for the normal growth of legal materials,
26 despite extensive weeding, conversions from print to electronic formats, cancellations and discards
27 of hundreds of law reviews, reporters, and other sets and subscriptions. The shelf space at the
28 Veterans Building was intended to accommodate the Library's needs only for a brief two- or three-

1 year retrofit period in the 1990's. The Library has long since run out of shelf space, forcing it to
2 discard materials that normally would have been archived, and to store other materials on carts, in
3 boxes or on shelves in various offices at City Hall.

4 (m) The Veterans Building lacks adequate security to protect the Library's collection.

5 21. The Library requires sufficient space to accommodate its full scope of services and its
6 print and electronic collections. Both as a practical matter and as a matter of law, the Library's
7 mission and the important role it serves in providing access to legal resources cannot be reduced to a
8 handful of computer terminals. Digital media is an important resource that saves space, and the
9 Library has significantly reduced its space needs by replacing print collections with digital
10 collections. But digital resources do not eliminate the need for print legal materials—there are large
11 gaps in online sources of essential legal information that must be provided in print. Many archival
12 materials are not available electronically and will not be retrospectively digitized. The Library
13 provides free access to essential legal databases and print materials that a majority of individuals, lay
14 or professional, cannot obtain on their own. Legal publishers do not provide free access to their
15 databases, and both print and electronic subscriptions and licenses are extremely costly and beyond
16 the ability of many lawyers and the public to afford. Electronic publishers also have stringent
17 licensing restrictions and do not permit Library patrons to access the databases off-site; they must
18 use them within the Library. Print collections also are necessary to ensure equal access for all, not
19 just those who are able to use electronic resources and can afford the cost of printing research
20 results, but also those who cannot.

21 22. To function properly and to meet the needs of the San Francisco community, the Library
22 must maintain a comprehensive print and digital collection that includes state, local and federal
23 laws, ordinances, regulations and cases; legal forms; self-help materials; legal treatises, texts and
24 practice manuals; legal periodicals; legal finding aids and reference tools; and legal databases. The
25 Library also must archive and retain precedential material, and continually add materials as the law
26 changes and new resources are developed. The Library's collection conforms to the County Public
27
28

1 Law Library Standards issued by the American Association of Law Libraries in July 2008,² but
2 also—and perhaps more importantly—meets the needs of the community it serves. San Francisco is
3 a national and international commercial and legal center. As such, it requires and deserves a
4 comprehensive, full-service public law library.

5 23. Reasonably comfortable facilities and adequate workspaces are necessary to productive
6 legal research. The 22,000 gross square feet proposed by the City would render the Library a
7 grossly substandard public law library, particularly in comparison to other large metropolitan areas
8 and to county law libraries of similar and even smaller print collection sizes and attorney
9 populations, such as Alameda, Orange and San Diego Counties. The Library serves 19,555
10 attorneys and has approximately 263,480 volumes in its collection, but currently has only 14,310
11 gross square feet of accessible space and the City proposes increasing that to only 22,000 gross
12 square feet. The main branch of the Alameda County Law Library serves 8,660 attorneys and has
13 only 100,267 volumes located in 30,000 square feet of accessible space. The Orange County Law
14 Library occupies a comfortable 47,454 square feet to house a collection of only 162,784 volumes,
15 and serves 18,432 attorneys. The San Diego County Public Law Library is housed in 35,000 square
16 feet with a collection of 120,265 volumes and serves 17,927 attorneys.³

17 24. To provide a full service library, the Library needs, *at a minimum*, 30,000 gross square
18 feet. Less than 30,000 gross square feet would infringe on the core functions of the Library and
19 compromise its mission. This space requirement takes into account the size of the Library's current
20 collection, ongoing weeding, discards, cancellations and reductions in print subscriptions,
21 conversions from print to electronic resources as they become available, the standards of the
22 American Association of Law Libraries for a public county law library, the Library's retention and
23 weeding policy, weeding of the collections currently held in storage, reductions in linear shelf
24

25 ²American Association of Law Libraries, *County Public Law Library Standards* (July 2008),
26 <http://www.aallnet.org/main-menu/Leadership-Governance/policies/PublicPolicies/policy-county-standards.html>.

27 ³Attorney populations provided by the State Bar of California, http://members.calbar.ca.gov/search/demographics_counties.aspx (last visited January 25, 2013). Volume counts and square
28 footage assessments provided by the county law libraries.

1 growth rates and shelving needs over time, the proliferation of digitalized content, and space
2 requirement data from comparable California county law libraries.

3 25. Library patrons include members of the public; attorneys, many of whom are solo
4 practitioners or members of small law firms; small business owners; non-profits and legal services
5 organizations, advocacy groups, minority and other bar association members, City and County
6 officials; and non-attorney personnel from law firms and government agencies in the San Francisco
7 area. Many of these patrons rely on the Library as their sole source of legal information and
8 resources; the majority of the materials and services provided by the Library are not available to the
9 public, at the San Francisco Public Library or otherwise.

10 26. As related in Paragraph 3, the Library has located property at 1200 Van Ness Avenue
11 that may well be the only even marginally suitable property to house the Library after the Veterans
12 Building closes this coming May 2013. The landlord is willing to lease 30,000 gross square feet—
13 and possibly as much as 35,000 gross square feet—of space to the City for use by the Library, and
14 the Library has succeeded in having the City participate in negotiations about acquiring that space
15 under a lease. However, the City has been unwilling to pay rent for more than 22,000 gross square
16 feet. The Library has carefully considered whether it can accommodate itself and perform its
17 services to the public within that space limitation and has concluded that it cannot do so. *See*
18 Paragraphs 21-24, *supra*. It has communicated that conclusion to the City, but the City refuses to
19 move from its position. The City's failure to fund even a minimum of 30,000 gross square feet at
20 1200 Van Ness Avenue violates its duty under the Charter and State law. *See* Section 8.03; 1869-70
21 Cal. Stat. at 238. This impasse between the City and the Library may cause the negotiations for the
22 leasehold at 1200 Van Ness to fail, unless this Court orders the City to rent between 30,000 and
23 35,000 gross square feet of space (depending on the landlord's and architects' designs for the
24 property) for the Library's use at that location.

25 27. The Library lacks sufficient funds to arrange for its own occupancy needs. Instead, it is
26 wholly dependent on the City, which is charged under the Charter with providing for these needs.

27 28. The Charter does not permit the City or the City Administrator to provide the Library
28 with such inadequate, unsuitable and inaccessible quarters. By failing to act to cure the problem, the

1 City and Ms. Kelly have abused their discretion and failed to meet their mandatory duty to provide
2 suitable, sufficient and readily accessible space for the Library.

3 29. Most importantly, the Veterans Building is scheduled to close for seismic upgrades in
4 May 2013, and the Library's current space will not be available when the building re-opens. It will
5 take months to plan, coordinate and execute the complex relocation of the Library and complete any
6 tenant improvements. Moving a library is no easy task and typically requires two to three years of
7 advance planning. Here, less than four months before the impending closure of the Veterans
8 Building, the City has not even agreed to a new location. Pursuant to the City Charter and State law,
9 the City must locate, "fix up" and furnish suitable, accessible quarters for the Library; yet another
10 inadequate "temporary" solution will not suffice. The City's failure to meet its obligations under the
11 Charter and State law, together with the imminent closure of the Veterans Building and
12 Respondents' misguided efforts to force the Library into unsuitable facilities and an inadequate
13 amount of space, have caused an immediate crisis and threatened the future of the Library.

14 15 **REMEDIES**

16 30. Mandate will lie to correct an abuse of discretion by a government or an official thereof.
17 Section 1085(a) of the California Code of Civil Procedure provides for review of governmental acts
18 through mandate or mandamus. That section provides that a writ of mandate will issue "to any
19 inferior tribunal, corporation, board, or person, to compel the performance of an act which the law
20 specifically enjoins" Code Civ. Proc. §1085(a). In this case, the City is required by the Charter
21 and statute to provide "suitable," "complete," "sufficient" and "readily accessible" quarters for the
22 Library, and the City Administrator, as the Director of Administrative Services, is charged under the
23 Charter and the City's Administrative Code with allocating office space to City agencies and
24 departments. See Charter art. VIII, §8.103, art. IV, §4.129; San Francisco Admin. Code §4.1.
25 Accordingly, the City and Ms. Kelly are both proper respondents in an application for a writ of
26 mandate by the Library seeking to compel them to provide the Library with "suitable," "complete,"
27 "sufficient" and "readily accessible" quarters, and to "fix up and furnish the same." In failing to
28 provide such quarters for the Library, the City and Ms. Kelly have abused their discretion and are in

1 violation of the Charter and State law.

2 31. The Court should find that (a) the 22,000 gross square feet proffered by the City at 1200
3 Van Ness is wholly inadequate as to the amount of square footage and the amount of shelf space,
4 contrary to the needs of the bar, the judiciary, the public and City, County and State officials;
5 (b) less than a bare minimum of 30,000 gross square feet would prevent the Library from fulfilling
6 its purpose and obligations under the Charter and State law; (c) the impending closure of the
7 Veterans Building and Respondents' failure to provide adequate housing for the Library in
8 conformity with the City Charter and State law has created a crisis that requires the immediate
9 assistance of this Court; and (d) in order to meet their duties under the Charter and State law,
10 Respondents must promptly provide to the Library complete, adequate, accessible and suitable
11 space, such as the 30,000-35,000 gross square feet available at 1200 Van Ness.

12 **FIRST CAUSE OF ACTION**
13 **(Writ Of Mandate, Code of Civil Procedure Section 1085)**

14 32. Petitioner re-alleges and incorporates by reference each and every allegation contained
15 in the foregoing paragraphs.

16 33. Respondents have a clear and present duty under statute and Charter to provide and
17 furnish adequate and suitable quarters for the Library in a location readily accessible to the judges
18 and officers of the San Francisco courts. Respondents' failure to carry out this duty and to provide
19 suitable quarters for the Library violates Section 8.103 of the City Charter and the 1870 Act.

20 34. Petitioner is directly and beneficially interested in Respondents' performance of their
21 duties. Petitioner is entitled to a writ of mandate under Code of Civil Procedure Section 1085
22 enjoining Respondents' failure and refusal to reestablish the Library in an adequate, readily
23 accessible and suitable location in accordance with the mandates of the law. At all times relevant to
24 this action, Respondents have had the ability to fulfill their duties under the law.

25 35. Over the course of the past 18 years, written demand has been repeatedly made upon
26 Respondents to perform their duties. In direct contravention of the law and Petitioner's demands,
27 Respondents have failed and refused to perform duties expressly mandated by law, despite their
28 ability to carry out those duties and despite repeated and unfulfilled promises to do so from many

1 and various officials up to and including the Mayor then in office. As a result of Respondents'
2 inaction, the Library now faces a crisis that threatens its existence as an independent entity and as a
3 valuable resource for the public. If the City continues to refuse to provide suitable housing for the
4 Library, then as of May 2013, the Library will literally be homeless.

5 36. Petitioner has no plain, speedy and adequate remedy in the ordinary course of law.
6 Unless this Court grants the relief requested, Respondents will continue to fail and refuse to perform
7 their legal duties. No money damages or other legal remedy could adequately compensate
8 Petitioner, the members of the Bar or the public for the hardship caused by Respondents' failure to
9 perform their legal duties.

10 **SECOND CAUSE OF ACTION**
11 **(Injunctive Relief For Violation of Charter Section 8.103 and the 1870**
12 **Act)**

13 37. Petitioner realleges and incorporates by reference each and every allegation contained in
14 the foregoing paragraphs.

15 38. Petitioner has no plain, speedy and adequate remedy in the ordinary course of law.
16 Monetary damages cannot adequately compensate for the irreparable injuries caused by
17 Respondents' actions in violation of Section 8.103 of the City Charter and the 1870 Act.

18 39. Unless enjoined by this Court, Respondents will continue to violate Section 8.103 and
19 the 1870 Act by failing to house and maintain the Library in adequate, accessible and suitable space.

20 40. Petitioner is entitled to preliminary and permanent injunctive relief in the form of an
21 order enjoining Respondents from continuing to fail and refuse to provide adequate, readily
22 accessible and suitable facilities for the Library in accordance with the mandates of the law. At least
23 30,000 gross square feet is required for any space to be at least minimally adequate. Absent
24 intervention by the Court, Petitioner, the members of the legal profession, the judiciary, municipal
25 officials and the members of the public will continue to suffer irreparable harm in that they will not
26 have ready access to adequate library resources as required by the Charter and State law, and the
27 Library's staff and patrons will remain at great risk in the event of an earthquake.

28 41. Petitioner is also entitled to preliminary and permanent injunctive relief in the form of
an order enjoining the City from evicting the Library from its current location in the Veterans