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SAN FRANCISCO LAW LIBRARY

**ENDORSED
FILED**
Superior Court of California
County of San Francisco
MAR 13 2013
CLERK OF THE COURT
BY: ROSSALY DE LA VEGA
Deputy Clerk

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; THE SAN FRANCISCO
WAR MEMORIAL AND PERFORMING ARTS
CENTER; THE SAN FRANCISCO WAR
MEMORIAL AND PERFORMING ARTS
CENTER BOARD OF TRUSTEES AND EACH
INDIVIDUAL TRUSTEE IN HIS OR HER
CAPACITY AS TRUSTEE, NAMELY, THE
HONORABLE EDWIN M. LEE, MAYOR;
MAJOR GENERAL J. MICHAEL MYATT
(RET.); WILKES BASHFORD; NANCY H.
BECHTLE; BELVA DAVIS; THOMAS E. HORN;
CLAUDE M. JARMAN, JR.; MRS. GEORGE R.
MOSCONE; PAUL F. PELOSI; CHARLOTTE
MAILLIARD SHULTZ; JAMES W. STAFFORD;
DIANE B. WILSEY; and DOES 1 THROUGH 15,

Respondents and Defendants.

No. CPF-13-512769

**NOTICE OF MOTION AND MOTION
FOR PRELIMINARY INJUNCTION**

Date: April 5, 2013
Time: 9:30 a.m.
Dep't: 302
Judge: The Honorable Marla Miller

Trial Date: None Set

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on April 5, 2013, at 9:30 a.m., or as soon thereafter as the
3 matter can be heard, in Department 302 of this Court, located at 400 McAllister Street,
4 San Francisco, California 94102, Petitioner, the San Francisco Law Library (the "Library"), will and
5 hereby do, move this Court for a Preliminary Injunction enjoining Respondents, until the end of trial
6 in this action from engaging in, committing, or performing, directly or indirectly, any and all of the
7 following acts:

8 A. Evicting the Library from its current location

- 9 1. unless and until a lease or purchase of complete, adequate, readily accessible
10 and suitable permanent space and facilities for the Library has been finalized
11 and the City and County of San Francisco (together with the City
12 Administrator, the "City") has moved the Library into the new location; or
13 2. unless and until a new temporary location has been found and the City
14 has moved the Library into it;

15 B. Beginning construction that interferes with the Library's operations. Library
16 operations are defined as all current operations of the Library including but not
17 limited to print collection access; online subscriptions; study areas; reference
18 assistance; copy and print facilities; seminars; and paralegals.

19 The Motion is and will be based on this Notice and Motion for Preliminary Injunction, the
20 accompanying Memorandum of Points and Authorities in support thereof; Request For Judicial
21 Notice; Appendix of Declarations and Exhibits in support of the Motion (Volumes I and II), which
22 includes the Declarations of Marcia R. Bell, Allan Besbris, Rommel Bondoc, John Brown, Hilary
23 Burg, Katharine Chao, David Churton, Eric Cohen, D. Inder Comar, Karen Cook, Sara Dudley,
24 Joanne Dumapay, Mark E. Estes, Arlo Garcia Uriarte, Ruth Geos, David K. Ismay, Benjamin Elliott
25 Kaplan, David Korsunsky, William Maguire, Chuck Marcus, Fernando Marinez, Kurt Melchior,
26 John Murray, John E. O'Grady, Amy Orgain, Dmitri Pikman, Julio J. Ramos, Kathleen Skinner,
27 Mary Staats, Michael E. Turner, Jean Wenger, and Doug Zucker, and the Expert Witness
28 Declarations of John W. Adkins, Marcia J. Koslov and Maryruth Storer; the concurrently filed

1 Notice of Motion and Motion for Issuance of Peremptory Writ of Mandate and Memorandum of
2 Points and Authorities in support thereof; the files and records of this Court; and such other
3 pleadings, evidence and argument as may be submitted to the Court before or at the hearing.
4

5 March 13, 2013.

ARNOLD & PORTER LLP

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7 By:  _____
DENIS T. RICE

8 Attorneys for Petitioner and Plaintiff SAN
9 FRANCISCO LAW LIBRARY
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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 CITY AND COUNTY OF SAN FRANCISCO
16 UNLIMITED JURISDICTION

17 THE SAN FRANCISCO LAW LIBRARY,
18
19 Petitioner and Plaintiff,
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21 v.
22
23 CITY AND COUNTY OF SAN FRANCISCO;
24 NAOMI KELLY, IN HER CAPACITY AS CITY
25 ADMINISTRATOR; THE SAN FRANCISCO
26 WAR MEMORIAL AND PERFORMING ARTS
27 CENTER; THE SAN FRANCISCO WAR
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32 HONORABLE EDWIN M. LEE, MAYOR;
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34 (RET.); WILKES BASHFORD; NANCY H.
35 BECHTLE; BELVA DAVIS; THOMAS E. HORN;
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37 MOSCONE; PAUL F. PELOSI; CHARLOTTE
38 MAILLIARD SHULTZ; JAMES W. STAFFORD;
39 DIANE B. WILSEY; and DOES 1 THROUGH 15,
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41 Respondents and Defendants.

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FILED**
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MAR 18 2013
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No. CPF-13-512769
**MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION**
Date: April 5, 2013
Time: 9:30 a.m.
Dep't: 302
Judge: The Honorable Marla Miller
Trial Date: None Set

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1 INTRODUCTION

2 The San Francisco Law Library (the "Library"), which has struggled for the past 18 years in
3 unsuitable space in the War Memorial Veterans Building ("Veterans Building") is filing
4 contemporaneously a Motion for Issuance of a Peremptory Writ of Mandate. The purpose of the
5 Writ is to compel the City and County of San Francisco (the "City") to fulfill its obligation under
6 both State law and the City Charter to provide the Library with adequate and suitable space.

7 But a writ can only go part way to address the crucial problems facing the Library. While
8 such a writ can compel the City to take steps promptly toward providing more than the 20,000 net
9 rentable square foot space the City claims would suffice, an even more immediate and potentially
10 devastating crisis is the threatened eviction of the Library this coming May from its current quarters.
11 The Library's current quarters will not be available when it reopens after seismic upgrades. Unless
12 this Court issues a preliminary injunction to preserve the status quo, the Library will be effectively
13 closed down. Such closure would inflict irreparable harm on the public as well as the Library.

14 STATEMENT OF FACTS

15 The Library is currently housed in the Veterans Building. Petition for Writ of Mandate and
16 Complaint for Injunctive and Declaratory Relief ¶¶13-19. The Veterans Building is scheduled to
17 close for seismic upgrades in May 2013, and the Library's current space will not be available when
18 the building re-opens. Appx. 44 at ¶26.¹ On March 5, 2013, after the Library filed the Writ, the
19 Mayor introduced a resolution to the Board of Supervisors that would authorize the City's Property
20 Administrator to enter into a lease for 20,000 net rentable square feet at 1200 Van Ness. Request for
21 Judicial Notice ("RJN") ¶3 & Ex. 3 (Mayor's Proposed Resolution No. 130227). This does not
22 resolve the issue. Even if a lease were signed tomorrow, it will take months to plan, coordinate and
23 execute the complex relocation of the Library and complete any tenant improvements. Appx. 44 at
24 ¶26; 216 at ¶5. Without a preliminary injunction, the Library will be homeless all during that time.

25
26
27 ¹Citations to "Appx." are citations to the Appendix of Declarations and Exhibits filed
28 concurrently herewith. The materials in the Appendix are consecutively paginated; citations are to
the page number in the Appendix. For ease of use, we have dropped the leading zeros.

1 Contrary to the City's position, 20,000 net rentable square feet is not a "suitable and
2 sufficient" location for a major metropolitan library. RJN ¶3 & Ex. 3; see Memorandum of Points
3 and Authorities In Support of Motion for Issuance of Peremptory Writ of Mandate at 8, 12-15.

4 A broad spectrum of the public use the Library, including members of the public; attorneys
5 (many of whom are solo practitioners or members of small law firms); small business owners;
6 non-profits and legal services organizations; advocacy groups; minority and other bar association
7 members; City and County officials; and non-attorney personnel from law firms and government
8 agencies in the San Francisco area. Appx. 37 at ¶13. Manual counts by Library staff indicate usage
9 of approximately 30,000 patrons per year. *Id.*

10 The Library has an extensive collection of primary and secondary sources. Appx. 230 at ¶2;
11 262 at ¶5. It also has a significant collection of historical materials, such as prior versions of code,
12 administrative materials and treatises. *Id.* The Library currently holds 263,480 volumes in its print
13 collection, including those in storage. *Id.*, 242 at ¶3. Approximately 78,480 volumes are currently
14 accessible with approximately 185,000 in storage. *Id.* In addition to its print collection, the Library
15 provides free access to online and electronic materials that complement its print collections. *Id.*, 262
16 at ¶4.

17 The Library is one of the only resources available to non-attorneys who need legal assistance
18 but cannot afford representation or wish to represent themselves. Appx. 261-62 at ¶3; 297 at ¶6.
19 Many non-attorney patrons are self-represented litigants using the Library for civil litigation matters,
20 but a significant number of them use the Library for other purposes, such as drafting their own
21 contracts and wills, organizing businesses, managing rental property and even completing academic
22 assignments. *Id.*, 39-40 at ¶18. The Library provides a special collection geared to those without
23 legal background or knowledge of legal vocabulary or procedures. *Id.*, 238 at ¶9. Part of this
24 collection includes an extensive Nolo Press collection of materials written by lawyers for non-
25 lawyers on recurrent topics of everyday living, such as establishing a conservatorship for an elderly
26 parent, drafting a simple will or parenting agreement or domestic partnership agreement, writing to a
27 landlord or a tenant, or defending or bringing an eviction action or habitability issue, helping to start

1 a nonprofit with a civic organization, or bringing a small claims action or disputing a parking ticket.
2 *Id.*

3 Reference staff librarians provide many different types of reference services. They help
4 attorneys and non-attorneys alike find relevant and current legal materials. Appx. 39-40 at ¶18.
5 They provide orientation or overview of relevant sources, assist in helping patrons start or frame
6 research parameters and furnish information on the various kinds of resources that may best inform
7 an issue, including print and electronic sources. *Id.*, 239-40 at ¶15. Reference staff also helps in
8 locating materials outside of the Library collection and arranging for access, loans, or copies from
9 other libraries and collections. *Id.* These services are provided to patrons in person in the Library
10 and by phone and email. *Id.*

11 The Library also offers seminars on a variety of legal topics that are free and open to the
12 public. Appx. 212 at ¶3. These seminars are often aimed at lay people or young attorneys. *Id.*; 251-
13 52 at ¶9. Examples of programs at the Library include: *The America Invents Act: What Does It*
14 *Mean for Inventors, Applicants and Patentees?*; *Effective Written and Oral Advocacy: Dos and*
15 *Don'ts in Briefs and at Hearings*; *Branding Your Business: The Basics of Trademark Law Explained*
16 *in Plain English*; *Everything You Wanted to Know about Renting in San Francisco but Were Afraid*
17 *to Ask*; *Employment Discrimination Law 101: Understanding Your Rights in the Workplace*; *What*
18 *Are Judges Thinking?: Procedural Fairness and Getting to the Right Result*; as well as immigration
19 and estate planning seminars. *Id.*, 40 at ¶19.

20 Without this Court's intervention, these critical resources will disappear before litigation can
21 be resolved. For these reasons, the Library seeks a preliminary injunction to retain the status quo
22 pending outcome of this litigation *as well as* the actual signing of a new lease and completion of the
23 tenant improvements needed for the Library's operation.

24 ARGUMENT

25 Section 527 of the Code of Civil Procedure authorizes a court to issue an injunction before
26 trial. Sufficient grounds exist where a party may suffer great or irreparable injury or where it would
27 be extremely difficult to ascertain the amount of compensation that would afford a party adequate
28 relief. Code Civ. Proc. §526(a)(3). In deciding to issue an injunction, the Court must evaluate two

1 interrelated factors: (1) whether it is reasonably probable that the plaintiff will prevail on the merits
2 at trial, and (2) the interim harm that the plaintiff is likely to sustain if the injunction is denied as
3 compared to the harm that the defendant is likely to suffer if the preliminary injunction is issued.
4 *Robbins v. Superior Court*, 38 Cal. 3d 199, 205-06 (1985).

5 The Court must exercise its discretion "in favor of the party most likely to be injured If
6 the denial of an injunction would result in great harm to the plaintiff, and the defendants would
7 suffer little harm if it were granted, then it is an abuse of discretion to fail to grant the preliminary
8 injunction." *Id.* (internal quotes and citation omitted).

9 The greater the likelihood of success, the less potential harm must be demonstrated. *Butt v.*
10 *State of California*, 4 Cal. 4th 668, 677-78 (1992). Thus, "[i]f the party seeking the injunction can
11 make a sufficiently strong showing of likelihood of success on the merits, the trial court has
12 discretion to issue the injunction notwithstanding that party's inability to show that the balance of
13 harm tips in his favor." *Pleasant Hill Bayshore Disposal, Inc. v. Chip-It Recycling, Inc.*, 91 Cal.
14 App. 4th 678, 696 (2001) (quoting *Common Cause v. Bd. of Supervisors*, 49 Cal. 3d 432, 447
15 (1989)).

16 Here, the evidence is overwhelming that the Library is likely to succeed at trial on the merits.
17 In addition, as shown below, the balance of hardships weighs sharply in the Library's favor and any
18 prejudice to the Respondents is purely a result of their own inaction for over 18 years.

19 **A. The Library Has A Strong Likelihood Of Success On The Merits.**

20 The City and County of San Francisco has a statutory duty under the City Charter and State
21 Law to provide and furnish adequate and suitable quarters for the Library in an accessible location.
22 The specific duties of the City and County of San Francisco were first set forth in Section 8 of the
23 1869-70 Cal. Stat. 235 (the "1870 Act"), which reads:

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

1 The California legislature later repealed the 1870 Act, but that repeal was prospective only;
2 therefore, the 1870 Act is still effective and remains good law as to the Library. *See* Cal. Bus. &
3 Prof. Code §6363 (West Supp. 2001). Subsequent City Charters, including the present Charter, have
4 recognized the continuing effect of the 1870 Act and incorporated its requirements. The basic duty
5 articulated by the 1870 Act was explicitly incorporated into Section 8.103 of the present Charter,
6 which states in relevant part:

7 The City and County *shall provide suitable and sufficient quarters* for
8 the Law Library, *fix up and furnish* the same and provide for the
9 supply of necessary light, heat, stationery and other conveniences.
10 The library shall be so located as to be *readily accessible* to the judges
and officers of the courts. (Charter, art. VII, § 8.103 (emphasis
added))

11 More recently, as set forth in more detail in the Motion for Peremptory Writ, the Board of
12 Supervisors acknowledged in 2004 that “[a] full-service law library and justice center facility would
13 promote access to justice by bringing together in one facility the legal resources and services needed
14 by the people of San Francisco to enable them to preserve their rights and adjudicate their claims.”
15 RJN ¶2 & Ex. 2 (San Francisco Board of Supervisors Resolution No. 09-04, File No. 031929). The
16 Board admitted that “[t]he San Francisco Law Library is necessary to serve the people of San
17 Francisco by providing access to local, state and federal legal information resources and services in
18 order that they may preserve their rights and conduct their legal affairs.” *Id.* The Board also
19 admitted that “[t]he legal needs and skills of the people of San Francisco vary and many residents
20 cannot determine and advocate their legal rights based on legal texts alone,” and as a result, “San
21 Francisco is devoted to establishing a law library justice center. *Id.* Yet now the City threatens to
22 bring an abrupt halt to the availability of such resources and services.

23 The City’s recognition of its responsibility and duty to furnish the Library with sufficient
24 space and adequate resources establishes the strength of the Library’s likelihood of success on the
25 merits.² The City must provide the Library with suitable and sufficient space, and a fortiori, the City

26 _____
27 ²Because it will take months to plan, coordinate and execute the complex relocation of the
28 Library and complete any tenant improvements, the resolution, even if passed, comes too late to
prevent the closure of the Library. Appx. 44 at ¶26; 216 at ¶5.

1 cannot be allowed to render the Library homeless with literally no space at all, even temporarily.
2 The Library is therefore entitled to a preliminary injunction to ensure that it stays open during the
3 pendency of this litigation and the planned construction on the Veterans Building, or until the City
4 provide alternative adequate space, temporary or otherwise.

5 **B. The Balance Of Hardships Tips Sharply In The Library's Favor.**

6 The Library's strong showing of likelihood of success on the merits allows the Court to issue
7 an injunction regardless of the balance of the harm. *Pleasant Hill*, 91 Cal. App. 4th at 696. But
8 even if the Court undertook to balance the hardships, the Library would still prevail. The provision
9 of legal information is fundamental to a democratic society and essential for its people to protect
10 their rights and handle their legal affairs. Appx. 8 at ¶15; 19-20 at ¶17; 30 at ¶16. The Library's
11 vast array of resources, primary and secondary, current and historical, print and online, seminars and
12 staff are relied on for critical legal research by a wide variety of people, including members of the
13 public; attorneys, many of whom are solo practitioners or members of small law firms; small
14 business owners; non-profits and legal services organizations; advocacy groups; minority and other
15 bar association members; City and County officials; and non-attorney personnel from law firms and
16 government agencies in the San Francisco area. *Id.* 37-38 at ¶13. The City acknowledges that the
17 Library provides "access to *the full panoply of legal information resources and services*, as well as
18 legal intake, self-help, and translation services, research training programs, alternative dispute
19 facilities, conference, meeting and interview rooms, exhibit space, and other legal support services
20 for individuals, the poor, and the community. RJN ¶2 & Ex. 2. These resources are invaluable. For
21 many, the Library is their sole source of legal information and resources. Appx. 235 at ¶3. Abrupt
22 closure, for any period of time, would irreparably harm those who rely on the Library for their legal
23 research needs. *Id.*, 6-7 at ¶11; 20-21 at ¶19; 28-29 at ¶12.

24 For the solo and small firm practitioner the Library is critical because it allows them to
25 broaden their legal research and analysis providing essential access to reference materials on
26 applicable case law, procedural rules, and relevant legal background information.³ The internet

27 ³Appx. 200 at ¶2; 203 at ¶2; 206 at ¶2; 212 at ¶2; 221 at ¶2; 250 at ¶3; 255 at ¶2; 258 at ¶2;
28 274 at ¶2; 276 at ¶2; 284 at ¶2; 296 at ¶3.

1 alone is insufficient to meet the needs of both attorneys and lay people. Appx. 262 at ¶4. Libraries
2 are repositories of authoritative sources of knowledge, and authority is the mainstay of the legal
3 profession. *Id.* Access to authority is absolutely critical to navigating any litigation or transaction
4 successfully. *Id.*

5 Without the Library's print and digital resources, attorneys would face daunting obstacles to
6 providing services to clients. Those who rely primarily on the Library would suffer immensely if it
7 were to close: as an attorney cannot stop researching just because he or she is left without ready
8 access to legal resources. *See Janik v. Rudy, Exelrod & Zieff*, 119 Cal. App. 4th 930, 937 (2004)
9 (describing attorney's duty to undertake reasonable research for his or her client).

10 Lawyers sometimes face urgent and compelling need for materials in the Library's unique
11 historical collections. Appx. 224 at ¶2; 247 at ¶4. Such historical references can be critical to the
12 outcome of a case. *Id.* If the Library were to close, those needing this type of unique information
13 would be forced to go without it, much to their detriment, or attempt to obtain it through some other
14 costly means.

15 Small and solo practices are hard pressed to provide the breadth of resources available at the
16 Library. Appx. 206 at ¶3; 221 at ¶3; 261-62 at ¶3. For many small practitioners, it is essential to
17 keep costs—especially research costs—low. *Id.*, 255 at ¶3; 297 at ¶7. Some practitioners cater to
18 lower income clients who cannot afford the services of expensive law firms. *Id.* The Library's
19 closure would be devastating to them and for those who might be forced to represent themselves.

20 The patrons of the Library not only rely on the resource collections, but also use patron work
21 spaces. *See e.g.*, Appx. 201 at ¶7; 212-13 at ¶4; 252 at ¶10; 255-56 at ¶4; 276-77 at ¶4. Solo or
22 small firm practitioners who do not have any office space in San Francisco are sometimes referred to
23 the Library for meetings with clients and witnesses. *Id.*, 279 at ¶2; 281-82 at ¶2. The availability of
24 private rooms in a professional location helps clients feel comfortable and enables them to be candid
25 with their attorneys. *Id.* Losing these rooms and study space would be a significant blow for those
26 who rely on it.

27 Even law firms or organizations that have access to private libraries would be negatively
28 impacted by the Library's closure. Appx. 224 at ¶2; 230 at ¶4; 265 at ¶2; 287 at ¶2; 290 at ¶2.

1 Many firms and organizations maintain a collection of legal materials that fits their main practice
2 areas, but these collections are not comprehensive and do not always meet the needs of the
3 attorneys. *Id.* The Library is essential to fill the gaps.

4 Another category of people who stand to suffer immensely if the Library were to close are
5 non-lawyers. Non-lawyers are wholly dependent on the Library, not only to access primary sources
6 of substantive law, but to understand legal procedure through use of secondary sources such as Nolo
7 Press books, treatises, practice guides and form books. Appx. 261-62 at ¶3; 274 at ¶2; 282 at ¶4.
8 The Library's closure would effectively deprive these people of access to justice. *Id.*, 297 at ¶6.

9 It is not simply of the collections, online and print, that serve the community; it is also the
10 Library's reference staff, which is a critical resource for lay people in particular. Appx. 263 at ¶7.
11 Unlike attorneys, who generally comprehend understand the interplay between different resources
12 available, lay people lack an understanding of the multilayered resources that are essential to
13 adequate legal research. *Id.* Without the staff, the Library's resources would be incomprehensible
14 to many lay people, and underutilized by the professionals the staff assists in research and obtaining
15 materials. *Id.*

16 The Library's public seminar program has proved essential to further the goal of
17 empowering ordinary San Francisco citizens in the name of justice and in the delivery of justice.
18 Appx. 7 at ¶12; 18 at ¶14; 29 at ¶13; 212 at ¶3; 251-52 at ¶9. Without the seminars, many people
19 would be unable to access the information. *Id.*, 263 at ¶6. An example is a recent seminar on the
20 San Francisco Rent Ordinance. *Id.* The ordinance is extremely complicated and there is no book or
21 online resource that adequately explains it. *Id.* For those unable to afford experienced counsel, the
22 Library's seminar was their only opportunity to understand and ask questions about the ordinance.
23 *Id.*

24 Without the Library, lawyers, librarians, and non-attorneys would not have access to critical
25 materials that are difficult if not impossible to find elsewhere. Those unable to afford attorneys
26 would be left particularly injured, with their claims, defenses, or rights remaining unaddressed,
27 suffering impacts that could affect the rest of their lives.

1 Closure of the Library would be in effect the closure of justice. Any promise that the closure
2 will be only temporary does not remedy the harm, because “justice delayed is justice denied.” See
3 *Grewal v. Jammu*, 191 Cal. App. 4th 977, 999 (2011) (attributing the well-known saying to William
4 Gladstone). No money damages or other legal remedy could adequately remedy the harm to the
5 Library and the public for the hardship caused by the Library’s closure, even temporarily. See e.g.,
6 Appx. 6-7 at ¶11; 20-21 at ¶19; 28-29 at ¶12. Absent intervention by the Court, the public will not
7 have ready access to adequate library resources as required by the Charter and State law.⁴

8 In stark contrast, Respondents do not stand to suffer any hardship, aside from delaying a
9 proposed construction project or locating a new suitable location for the Library, as the law requires.
10 The Court can consider that any hardship the City might assert is strictly a result of its own failure to
11 fulfill its duty to provide the Library with a suitable permanent location. For 18 years the Library
12 has engaged the City in protracted negotiations, without resolution. Now, on the eve of impending
13 construction, it becomes apparent that the City was merely going through the motions, without an
14 intent to fulfill its legal duties to provide suitable and sufficient permanent space to the Library. A
15 party cannot claim any hardship based on its own disregard of legal duties.

16 The Library’s high likelihood of success on the merits and the balance of hardships weighing
17 heavily in its favor more than amply justify a preliminary injunction.

18 **CONCLUSION**

19 For all of the reasons stated above, Petitioner respectfully requests that the Court enter an
20 order as follows:

21 A. Preliminarily enjoining Respondents from evicting the Library from its current
22 location in the Veterans Building

- 23 1. unless and until a lease or purchase of complete, adequate, readily accessible
24 and suitable permanent space and facilities for the Library has been finalized and the City

25 ⁴The Mayor’s proposed resolution to provide the Library 20,000 net rentable square feet,
26 offered mere months before the Veterans Building is set to close, highlights the City’s ongoing
27 blatant disregard for the documented needs of the Library. The resolution has not yet been enacted
28 by the Board of Supervisors, and it will take several months to adequately prepare the 1200 Van
Ness building. In the interim the Library will be forced to shut its doors, a result not allowed under
the law.

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and County of San Francisco (together with the City Administrator, the "City") has moved the Library into the new location; or


2. unless and until a new temporary location has been found and the City has moved the Library into it;

B. Preliminarily enjoining Respondents' construction from interfering with Library operations. Library operations are defined as all current operations of the Library including but not limited to print collection access; online subscriptions; study areas; reference assistance; copy and print facilities; seminars; and paralegals.

DATED: March 13, 2013.

Respectfully,

ARNOLD & PORTER LLP

By: 
DENIS T. RICE

Attorneys for Petitioner and Plaintiff SAN FRANCISCO LAW LIBRARY