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11 *Exempt From Filing Fees Pursuant to Gov't Code § 6103*

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

15 PEGGY HALL and CHILDREN'S
HEALTH DEFENSE, CALIFORNIA
16 CHAPTER,

17 Petitioners,

18 vs.

19 COUNTY OF ORANGE, a governmental
entity, and the ORANGE COUNTY BOARD
20 OF SUPERVISORS,

21 Respondents.
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Case No. 30-2021-01220678-CU-WM-NJC

Assigned for all purposes to Judicial Officer:
Honorable Thomas S. McConville
Department C-28

**RESPONDENTS' SUPPLEMENTAL
POINTS AND AUTHORITIES
DEMONSTRATING THIS CASE IS MOOT
AND MUST BE DISMISSED WITH
PREJUDICE**

[Related to ROA No. 324]

Date: April 3, 2023
Time: 1:30 p.m.
Dept: C-28

Action Filed: September 14, 2021
Trial: TBD

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SUPPLEMENTAL POINTS AND AUTHORITIES**I. INTRODUCTION**

On June 22, 2021, at an open and public meeting, and after taking public comment, the Orange County Board of Supervisors voted to “APPROVE IMMEDIATE TERMINATION OF THE LOCAL HEALTH EMERGENCY AND LOCAL EMERGENCY RELATED TO NOVEL CORONAVIRUS COVID-19 UPON THE GOVERNOR’S TERMINATION OF THE STATE OF EMERGENCY AND WITHOUT FURTHER ACTION OF THE BOARD.”¹ The Board took this action after already voting twenty (20) times at a public Board meeting to renew the County’s Local Emergency and Local Health Emergency regarding COVID-19 (“Local Emergency Orders” aka “LEO’s”).² After again renewing the Local Emergencies³, the Board unanimously voted to approve the automatic termination of the Local Emergency Orders “without further action of the Board”, subject only to the condition subsequent that the Governor end the statewide State of Emergency (“SOE”), an act on the part of the Board that was not arbitrary, capricious, or an abuse of discretion.⁴

Accordingly, on February 28, 2023, at 11:59 p.m., Orange County’s Local Emergency Orders by operation of local law *automatically terminated*. This was confirmed by the Chair of the Board at the Board meeting on February 28, 2023, and through a press release and a public memo issued on the same date. (See Press Release issued February 28, 2023, at **Exhibit A**; see also **Exhibit B**, a memorandum from Leon Page, County Counsel, regarding the termination of the LEO’s.)

¹ ROA No. 220, Exhibit 4.

² This was done after initially declaring the emergency on March 2, 2020, with voting to renew the Local Emergencies done on 3/24/20, Item 23; 4/14/20, Item 8; 5/5/20, Item 28; 6/2/20, Item 53; 6/23/20, Item 48; 7/14/20, Item 17; 8/11/20, Item 10; 9/15/21, Item 8; 10/6/20, Item 12; 11/3/20, Item 20; 11/17/20, Item 16; 12/15/20, Item 13; 1/12/21, Item 25; 2/9/21, Item 10; 3/9/21, Item 13; 3/23/21, Item 28; 4/13/21, Item 28; 5/11/21, Item 10; 5/25/21, Item 38,

³ Even though it was not required to do so in light of the Governor’s executive order suspending the 30 and 60-day renewal requirements. ROA No. 220, Exhibit 3.

⁴ No further meeting or vote was needed to terminate the LEO’s and there is no law to say that the Board could not terminate the Local Emergencies this way. Demonstrably, the Board’s action was not arbitrary, capricious, or an abuse of the Board’s discretion. The notion that public meetings were required on some unsubscribed periodic basis to renew the Local Emergencies while a SOE remains in effect, contradicts even the narrowest reading of the Governor’s executive order.

1 For the duration of this litigation, Petitioners have demanded that the Board vote to
2 terminate the LEO's. Indeed, this is the gravamen relief sought in their suit. (See ROA No. 63
3 – Petitioners' Prayer for Relief at p. 32 ¶¶ 2-3.) However, even now that the Local Emergencies
4 are over, Petitioners want to continue litigating a dead issue. They want this Court to turn back
5 time and opine on what mandatory ministerial duties the Respondents *may have had* when the
6 LEO's were in effect. But Health and Safety Code ("HSC") section § 101080 and Government
7 Code ("GC") section 8630—the essence of Petitioners' claims—only apply when there is an
8 *ongoing* local emergency. HSC § 101080 and GC § 8630 are no longer in effect. Any opinion
9 on what duties *theoretically* might have existed during the now-terminated Local Emergencies,
10 or how those duties *hypothetically* might have applied under the Governor's now-terminated
11 SOE, (see Governor's Proclamation dated February 28, 2023, at **Exhibit C**) is purely
12 retrospective and a prohibited advisory opinion.

13 Accordingly, there remains nothing left to litigate, this Court is deprived of jurisdiction,
14 and the matter must be dismissed with prejudice.

15 **II. BACKGROUND**

16 **A. Facts**

17 On March 4, 2020, Governor Gavin Newsom issued a Proclamation, which, among
18 other things, waived the periodic meeting requirements under Health and Safety Code ("HSC")
19 section 101080 and Government Code ("GC") section 8630. (ROA No. 220, Exhibit 3.)

20 On June 22, 2021, after taking public comment at a properly-noticed public meeting, the
21 Board unanimously voted to "APPROVE IMMEDIATE TERMINATION [OF THE LOCAL
22 EMERGENCY ORDERS] UPON THE GOVERNOR'S TERMINATION OF [THE SOE]
23 AND WITHOUT FURTHER ACTION OF THE BOARD." (*Id.*, Exhibit 4.) The only
24 condition subsequent was the termination of the statewide SOE, which occurred on February
25 28, 2023. (**Exhibits A, B, and C.**) While the Board continued to review COVID-19 conditions
26 both *publicly and privately* during this time (see Declarations attached to Opposition to OSC
27 [ROA No. 218] and Supplemental RJN [ROA No. 246]), the Board did not take action, or find
28 it necessary, to modify its June 22, 2021, order terminating the LEO upon the Governor's

1 termination of the SOE.

2 On February 28, 2023, Governor Newsom issued a proclamation terminating the
3 COVID-19 SOE effective at 11:59 p.m. on February 28. (**Exhibit C.**) Accordingly, pursuant
4 to the Board’s June 22, 2021, vote, and by operation of local law, the County’s Local
5 Emergency Orders automatically terminated on February 28, 2023, at 11:59 p.m. (**Exhibits A**
6 **and B.**)

7 **B. Procedural History**

8 Petitioner Peggy Hall (“Hall”) filed this lawsuit on September 14, 2021, seeking an
9 order that the Board terminate the LEO’s. (ROA No. 1.)⁵ Petitioners sought a writ of mandate
10 commanding Respondents to “[r]eview local COVID-19 conditions during a public hearing . . .
11 and . . . Proclaim the termination of the [Local Emergency Orders] during a public hearing.”
12 (ROA No. 321: Petitioners’ Second Amended Proposed Order; ROA No. 63: Causes of Action
13 1-3; ROA No. 63 at p. 30.) Petitioners also seek declaratory and injunctive relief to prevent
14 “Respondents from violating [HSC] section 101080 and [GC] section 8630, and compelling
15 Respondents to review the conditions in the County” and to “vote whether to end the [LEO’s]
16 pursuant to these statutes.” (*Id.* at pp. 30, 32.) They also sought to bar Respondents from
17 “applying for and/or receiving state and/or federal monies,” or “using or directing state or
18 federal monies” for COVID-19 relief efforts “pending entry of the judgment herein.” (*Id.* at p.
19 32.)

20 On September 22, 2022, the Court heard Respondents’ demurrer and Petitioners
21 application for alternative writ of mandate. (ROA No. 160.) Following this proceeding, the
22 Court issued an *alternative* writ of mandate, setting a first-time hearing *on the merits* and
23 requiring Respondents to “review local conditions to determine whether there remains the need
24 for continuing the [Local Emergency Orders] as required by [HSC] section 101080 and [GC]
25 section 8630(c), . . . *or show cause why Respondents have not done so.*” (ROA No. 222,
26 Exhibits 18 and 19 [emphasis added].) The Court did *not* make a finding that the Respondents
27

28 ⁵ She has since amended her pleading four times, culminating with her joining with Petitioner
Children’s Health Defense, California Chapter (“CHD”) to file the current operative pleading
(ROA No. 63, the “Petition”) on May 4, 2022.

1 violated any statutory obligations, nor did it make any final determination regarding what
2 Respondents' statutory obligations were. As the Court itself noted "The alternative writ does
3 not address the merits of the petition but merely sets the date for the briefing and hearing of the
4 merits, when the court will either grant or deny the peremptory writ." (*Id.* at Exh. 18, p. 159-
5 160 [Tentative Ruling later adopted via ROA No. 160].)⁶ After full briefing, the Order to Show
6 Cause hearing was continued to February 27, 2023. On that date, upon learning that the LEO's
7 were scheduled to automatically terminate the next day upon the Governor's termination of the
8 SOE on February 28, 2023, this Court ordered briefing on whether this matter is now moot
9 (ROA No. 324.).

10 **III. ARGUMENT**

11 **A. The Writ Claims Must Be Dismissed Based upon the Termination of the** 12 **Local Emergency Orders on February 28, 2023**

13 1. A Court Cannot Rule on a Moot Case

14 "[Courts are] bound to 'decide actual controversies by a judgment which can be carried
15 into effect, and not to give opinions upon moot questions or abstract propositions, or to declare
16 principles or rules of law which cannot affect the matter in issue in the case before it.'

17 [Citations.]" (*In re Arroyo* (2019) 37 Cal.App.5th 727, 732-733.) As the California Supreme
18 Court noted, a case is moot when "the question addressed was at one time a live issue in the
19 case," but has been deprived of life "because of events occurring after the judicial process was
20

21 ⁶ See, *Save Oxnard Shores v. California Coastal Com.* (1986) 179 Cal.App.3d 140, 149.)
22 The court further confirmed that this was its intention in issuing an alternative writ during the
23 hearing on September 22, 2022, and explicitly invited the parties to submit legal authorities and
24 evidence in relation to briefing on the OSC. (Attached hereto as **Exhibit D** is a true and correct
25 copy of the transcript from the hearing on September 22, 2022, at 37:6-26 – 38:1-11.) This
26 makes sense given the low threshold required for granting an alternative writ. A court *must* grant
27 an alternative writ if a petition meet the pleading requirement for mandamus. (*Turner v. Hatch*
28 (1971) 14 Cal.3d 759, 765-766.) However, because of its inherently preliminary nature "the fact
that the court grants the [alternative] writ is not [even] a final finding of the petition's
sufficiency." (*McPheeters v. Board of Medical Examiners of State of Cal.* (1947) 82 Cal.App.2d
709, 716.) To argue, as Petitioners repeatedly have, (see Petitioners' most recent ex parte
application filed on March 10, 2023, at 8:9-17) that the issuance of the alternative writ on
September 22, 2022, foreclosed Respondents from addressing the merits of the writ petition and
relegated Respondents to simply showing compliance with Petitioners' demands or risk
sanctions, ignores the *alternative* nature of the writ.

1 initiated.” (*Younger v. Superior Court* (1978) 21 Cal.3d 102, 120, 145.) As described above,
2 on June 21, 2021, the Board publicly voted to end the local emergencies upon the termination
3 of the statewide SOE, which has now occurred, rendering the entire case moot.

4 2. This Court Cannot Grant Effectual Relief

5 When the issue of mootness is raised, the “pivotal question” is “whether the court can
6 grant the plaintiff any effectual relief.” (*Wilson & Wilson v. City Council* (2011) 191
7 Cal.App.4th 1559, 1574.) Moreover, “[w]hen events render a case moot, the court, whether
8 trial or appellate, should generally dismiss it.” (*Id.* at 1574-75 [holding that rendering a
9 decision, after the work has been completed, payments made, and where no relief could be
10 afforded plaintiff, would be purely academic and would serve no useful purpose.]; *Downtown*
11 *Palo Alto Com. for Fair Assessment v. City Council* (1986) 180 Cal.App.3d 384, 391 [holding
12 appeal moot where “[t]he validity of the ordinance is no longer of consequence to the parties
13 before this court”].)

14 3. Cases Litigating Rescinded COVID-19 Regulations Dismissed as Moot

15 This issue of mootness has played out in several other lawsuits challenging rescinded
16 COVID-19 regulations, and which were properly dismissed as moot. (See, *Cerletti v. Newsom*
17 (2021) 71 Cal.App.5th 760, 765-66 (*Cerletti*) [taxpayers challenge to state’s one-time payments
18 to undocumented Californians who had been impacted by COVID-19 was moot because the
19 state fully distributed the payments as planned and rejecting Plaintiff’s argument that an equi-
20 table remedy was still possible.]; *Brach v. Newsom* (9th Cir. June 15, 2022) 2022 WL 2145391,
21 *4, *8 (*Brach*) [challenge to California’s suspension of in-person education moot where remote
22 learning framework ended, schools reopened, and “[t]he actual controversy has evaporated”].)

23 While the petitioners in those matters urged the courts to opine on the lawfulness of the
24 government’s *past* conduct, the courts passing on the issue *consistently* ruled that, in the
25 absence of a current controversy, the court could not offer opinions “advising what the law
26 would be upon a hypothetical state of facts.” (*Martinez v. Newsom* (9th Cir. 2022) 46 F.4th
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1 965, 973-76; *Brach, supra.*)⁷ ***The same is true here.***

2 The County Local Emergency Orders undoubtedly ended on February 28, 2023,
3 resolving any question whether this case is moot. (See **Exhibits A, B, C** and ROA No. 220 at
4 Exh. 4.) HSC § 101080 and GC § 8630 are no longer in effect, as those statutes are only in
5 effect when there is an ***ongoing*** local emergency or local health emergency.⁸ It would be
6 improper for this Court to now look back and opine on what the Board may have been
7 obligated to do or should have done when the Local Emergency Orders were in effect.

8 Where no present mandatory ministerial duty exists, the Court is without authority to
9 issue a writ of mandate. (*People ex rel. Younger v. County of El Dorado* (1971) 5 Cal.3d 480,
10 491 (holding that a finding of a “clear and present” duty is “essential to the issuance of a writ”);
11 *Regents of University of California v. State Bd. Of Equalization* (1977) 73 Cal.App.3d 660, 669
12 (“[m]andate is never granted to compel performance of an act upon a merely anticipated
13 refusal.”) This Petition is moot because the Court can no longer grant Petitioners ***any*** effectual
14 relief. (*Wilson & Wilson*, 191 Cal.App.4th at 1574.)

15 To the extent that Petitioners continue to claim that a writ must issue under their premise
16 that the termination of the Local Emergency Orders must be placed on the agenda of a Board
17 meeting, such a premise is unsupported by the law and reason as there remains nothing in effect
18 for the Board to vote on. Indeed, such vote already occurred on June 22, 2021. (ROA No. 220,
19 Exh. 4.) Petitioners continued attempt to conjure up some residual remedy for “advisory” relief,
20 seeks this Court to do squarely what the law prohibits—provide a gratuitous, retrospective,
21 advisory opinion on a moot question. “[S]peculative contingencies” do not save this case.
22 (*Brach, supra*, at at *7.) Blunt reality shows there is ***zero*** likelihood of the scenario addressed
23 in this Petition recurring. To find a likelihood of recurrence, his Court would need to find that

24 _____
25 ⁷ With *Martinez* and *Brach*, the Ninth Circuit joined numerous other courts in concluding that
26 challenges to expired early COVID-19 restrictions are now moot. (See *Eden, LLC v. Justice* (4th Cir.
27 2022) 36 F.4th 166, 169 [concluding challenge to early pandemic COVID-19 restriction was moot in
28 light of changed circumstances]; *Resurrection Sch. v. Hertel* (6th Cir. 2022) 35 F.4th 524
[same]; *Hawse v. Page* (8th Cir. 2021) 7 F.4th 685, 692-94 [same].)

⁸ HSC § 101080 and provides that “[t]he board of supervisors shall review, at least every 30 days
until the local health emergency is terminated,...” (Emphasis added.) Similarly, GC § 8630(c) states,
“The governing body shall review the need for continuing the local emergency at least once every 60
days ***until the governing body terminates the local emergency.***” (Emphasis added.)

1 there is a probability of: 1) a new virus or a resurgent pandemic necessitating implementation
2 of both statewide and local emergencies, 2) the Governor waiving the 30 and 60 day renewal
3 requirements by issuing a proclamation using the identical language he used in the March 4,
4 2020 Proclamation; and 3) the Board voting that its local emergency would end on the same
5 date as the statewide emergency without further action of the Board. (ROA No. 63 at p. 13.)
6 This would be based on a host of unlikely speculative scenarios & pure speculation.

7 Not only are there no longer any Local Health Emergency Orders to review or vote on,
8 but the Governor's Proclamation has terminated. (**Exhibit B.**) The review period provisions of
9 HSC § 101080 and GC § 8630 are no longer waived. Even if the "once in a century" COVID-
10 19 conditions in Orange County again reached a level necessitating new Local Emergency
11 Orders, the Board would review and renew the Local Emergency Orders at a public meeting
12 every 30 and 60 days pursuant to HSC § 101080 and GC § 8630.

13 As acknowledged by Petitioners (ROA No. 63 at ¶¶ 38-41) and argued by Respondents
14 (See **Exhibit D** at p. 6), the Governor's Proclamation was the *sole reason* Respondents
15 abstained from having the 30 and 60 day renewals of the LEO's (See, *Cerletti, supra*, 71
16 Cal.App.5th at 766 [finding the matter moot and rejecting the notion that the alleged
17 unauthorized COVID-19 payments would reoccur because, given enactment of statutory
18 authorizing language, "Petitioners cannot reasonably argue that further payments will be made
19 in emergency circumstances without express statutory authorization."].) There is no probability
20 of the gravamen issue here recurring, saving this case from mootness.

21 **B. The Declaratory and Injunctive Relief Claims Require Dismissal as Moot**

22 As the United States Supreme Court has routinely held, the "ordinary practice in
23 disposing of a case that has become moot on appeal is to vacate the judgment with directions to
24 dismiss." (See, e.g., *Deakins v. Monaghan* (1988) 484 U.S. 193, 204; *United States v.*
25 *Munsingwear, Inc.* (1950) 340 U.S. 36, 39-40; *New York State Rifle & Pistol Ass'n, Inc. v. City*
26 *of New York, New York* (2020) 140 S. Ct. 1525, 1526 [finding that amendments to city's
27 handgun licensing scheme removing challenged prohibitions mooted plaintiffs' claims for
28 declaratory and injunctive relief.]; see also, *Roger v. County of Riverside* (2020) 44

1 Cal.App.5th 510, 583 [A claim for declaratory relief “becomes moot when some event has
2 occurred which “deprive[s] the controversy of its life.” The policy behind a mootness dismissal
3 is that “courts decide justiciable controversies and will normally not render advisory
4 opinions.”].)

5 1. The Declaratory Relief Claims Are Moot

6 Code of Civil Procedure section 1060 provides for declaratory relief *only* “in cases of
7 actual controversy relating to the legal rights and duties of the respective parties.” (Code Civ.
8 Proc., § 1060; *Selby Realty Co. v. City of San Buenaventura* (1973) 10 Cal.3d 110, 117
9 [“‘actual controversy’ ... is one which admits of definitive and conclusive relief by judgment
10 ..., as distinguished from an advisory opinion upon a particular or hypothetical state of facts”].)

11 “[T]he fact that an issue raised in an action for declaratory relief is of broad
12 general interest is not enough for the courts to grant such relief in the absence of a
true justiciable controversy [citations].”

13 (*People ex rel. Becerra v. Superior Court* (2018) 29 Cal.App.5th 486, 496; *Winter*
14 *v. Gnaizda* (1979) 90 Cal.App.3d 750, 756; *accord, Zetterberg v. State Dept. of*
Public Health (1974) 43 Cal.App.3d 657, 662.)

15 A claim for declaratory relief “becomes moot when some event has occurred which
16 “deprive[s] the controversy of its life.” [Citation.] The policy behind a mootness
17 dismissal is that “courts decide justiciable controversies and will normally not
18 render advisory opinions.” [Citations.] The voluntary cessation of allegedly
wrongful conduct destroys the justiciability of a controversy and renders an action
moot unless there is a reasonable expectation the allegedly wrongful conduct will
be repeated.”

19 (*Center for Local Government Accountability v. City of San Diego* (2016) 247
20 Cal.App.4th 1146, 1157; *Roger v. County of Riverside* (2020) 44 Cal.App.5th 510,
583.)

21 As discussed, *supra*, it is extremely improbable that the circumstances precipitating this
22 lawsuit would reoccur. Any putative declaration would be purely retrospective and advisory,
23 with no practical or tangible effect. Our courts have already addressed the absurdity that would
24 result if a declaratory relief action could survive in the absence of a present controversy, noting
25 that this would allow any “claimed ‘citizen resident’ to, at any time, without limitation” to sue
26 for a declaration of rights. (*Jennings v. Strathmore Public Utility District* (2019) 102
27 Cal.App.2d 548, 551.) All claims in this lawsuit are moot and any decision at this point is
28 purely academic.

1 . The Injunctive Relief Claims Are Likewise Moot

2 The same analysis applies to Petitioners’ claims for injunctive relief. “A change in
3 circumstances, rendering injunctive relief moot or unnecessary, justifies the denial of an
4 injunction.” (*Donald v. Cafe Royale, Inc.* (1990) 218 Cal.App.3d 168, 184.) Moreover, “an
5 injunction should not be granted as punishment for past acts.” (*Id.*) “Injunctive relief will be
6 denied where, at the time of the order or judgment, no reasonable probability exists of the
7 recurrence of the past acts.” (*Ibid.*) “No matter how vehemently the parties continue to dispute
8 the lawfulness of the conduct that precipitated the lawsuit, the case is moot if the dispute ‘is no
9 longer embedded in any actual controversy about the plaintiffs’ particular legal rights” (*Brach,*
10 *supra*, at 11-12, quoting *Alvarez v. Smith* (2009) 558 U.S. 87, 93.)

11 Petitioners ask this Court to presently issue a spectral injunction against something that
12 plainly ***no longer exists***. They want the Board to calendar and vote on a ***non-existent***
13 ***emergency***. “[T]he actual controversy has evaporated,” immediately upon the termination of
14 the Local Emergency Orders. (See *Brach, supra*, at *4 [“Bottom line: there is no longer any . .
15 . order for the court to declare unconstitutional or to enjoin. It could not be clearer that this
16 case is moot.”]. Petitioners’ purported “harm” of living under the LEO’s has vanished com-
17 pletely. (ROA No. 63 at ¶¶ 8, 10.) There is no longer any effective relief that can be granted to
18 Petitioners by this Court. (See, e.g., *Altman v. Cnty. of Santa Clara* (9th Cir. Jan. 4, 2023) 2023
19 WL 33345, at *1 [holding that the Court’s “jurisdiction is limited to live controversies and not
20 speculative contingencies,” and any attempt by petitioner to resurrect claims for injunctive and
21 declaratory relief is foreclosed.]; *Horizon Christian Sch. v. Brown* (9th Cir. Nov. 17, 2022)
22 2022 WL 17038695, at *1–2 [holding that petitioners’ claims for prospective declaratory and
23 injunctive relief are moot as there is no longer any state order for the court to declare unconsti-
24 tutional or to enjoin.”].)⁹ When, as here, the challenged policy or order is terminated after the
25 litigation is filed, the action becomes moot. (*Paul v. Milk Depots, Inc.* (1964) 62 Cal.2d 129,
26

27 ⁹ In *Best Supplement Guide, LLC v. Newsom* (9th Cir. July 12, 2022) 2022 WL 2703404, at *1,
28 the Court similarly found that “[b]ecause Plaintiffs’ request for declaratory and injunctive relief
depends on ‘the mere *possibility* that California might again’ shut down businesses, all claims against
the state defendants are now moot.

1 133 [holding that termination of challenged milk pricing order rendered appeal moot].)

2 **C. Petitioners Cannot Evade Mootness by Simply Refusing to Acknowledge the**
3 **Termination of the Local Emergency Orders**

4 Petitioners oddly argue that the Local Emergency Orders are somehow still in place be-
5 cause no item was placed on the February 28, 2023, or the March 14, 2023, agenda to vote on
6 termination. (Ex Parte App.: ROA No. 347.) Petitioners clearly ignore that the Board already
7 voted at a public meeting to terminate the Local Emergency Orders upon the Governor’s
8 termination of the SEO (ROA No. 220, Exh. 4) in recognition that, as a political subdivision of
9 the state, see GC § 8557(b), the County was statutorily obligated to implement the Governor’s
10 emergency program, per GC § 8568 (“The State Emergency Plan shall be in effect in each
11 political subdivision of the state, *and the governing body of each political subdivision shall take*
12 *such action as may be necessary to carry out the provisions thereof.*”)

13 It is entirely proper and a normal course of action for the Board to sunset their acts with-
14 out further action is both well-established and entirely uncontroversial. (*See People v.*
15 *Medeiros* (2020) 46 Cal.App.5th 1142, 1147 [“That version of the statute also contained a
16 sunset clause, under which the statute would be repealed effective January 1, 2018, unless a
17 later enacted statute extended the date.”]; *People v. Abrahamian* (2020) 45 Cal.App.5th 314,
18 336 [“Pursuant to a sunset clause, section 12022.6 was repealed effective January 1, 2018.”];
19 *People v. Nasalga* (1996) 12 Cal.4th 784, 795 [“To that end, the amendment includes a sunset
20 clause, repealing the statute as of January 1, 1998, unless a new statute repeals or extends that
21 date.”]; *Martin v. Municipal Court* (1983) 148 Cal.App.3d 693, 697, citing *Charrot v.*
22 *Municipal Court* (1968) 260 Cal.App.2d 208 [“a prosecution on a statute which expired under a
23 sunset clause was barred.”].)

24 Petitioners cannot dispute (and they do not, see ROA No. 63) that the Board, on June 22,
25 2021, ***prior to the existence of this litigation***, voted to terminate the Local Emergency Orders
26 immediately upon the termination of the California SOE. And now, that has come to pass.
27 (*See S. California Rental Hous. Ass’n v. Cnty. of San Diego* (9th Cir. Nov. 9, 2022) 2022 WL
28 16832819, at *1 [holding that there is no longer a live controversy, and the panel could not

1 grant any effective relief because the Ordinance expired by its own terms. The voluntary
2 cessation exception therefore did not apply.] Petitioners’ claims are undoubtedly moot and the
3 matter should be dismissed with prejudice.

4 **IV. CONCLUSION**

5 For the reasons stated herein, there is no longer any “actual controversy” before this
6 Court to adjudicate, the Court cannot grant any effectual relief to Petitioners under any cause of
7 action or requested remedy. The case requires immediate dismissal with prejudice.

8 Respectfully submitted,

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13 KAYLA N. WATSON, DEPUTY

14 DATED: March 13, 2023 By: /S/ Kayla N. Watson
15 Kayla N. Watson, Deputy

16 Attorneys for Respondents
17 COUNTY OF ORANGE and ORANGE COUNTY
18 BOARD OF SUPERVISORS
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PROOF OF SERVICE

I do hereby declare that I am a citizen of the United States employed in the County of Orange, over 18 years old and that my business address is 400 West Civic Center Drive, Suite 202, Santa Ana, California 92702-1379. I am not a party to the within action.

On **March 13, 2023**, I served the foregoing **RESPONDENTS' SUPPLEMENTAL POINTS AND AUTHORITIES DEMONSTRATING THIS CASE IS MOOT AND MUST BE DISMISSED WITH PREJUDICE** on all other parties to this action by placing a true copy of said document in a sealed envelope in the following manner:

(BY U.S. MAIL) I placed such envelope(s) addressed as shown below for collection and mailing at Santa Ana, California, following our ordinary business practices. I am readily familiar with this office's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.


(BY OVERNIGHT DELIVERY) I placed such envelope(s) addressed as shown below for collection and delivery with delivery fees paid or provided for in accordance with this office's practice. I am readily familiar with this office's practice for processing correspondence for delivery the following day by overnight delivery.

(BY PERSONAL SERVICE) I caused such envelope(s) to be hand-delivered to the addressee(s) shown below.

(BY ELECTRONIC SERVICE) Pursuant to California Rule of Court 2.251(c)(2), and/or based on an agreement of the parties to accept electronic service, I caused the document to be sent to the persons at the electronic addresses listed below.

(STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: **March 13, 2023**

/s/ 
Simon Perng

NAME AND ADDRESS TO WHOM SERVICE WAS MADE

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