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NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

14 SONOMA COUNTY ASSOCIATION OF
15 RETIRED EMPLOYEES,
16 Plaintiff,
17 v.
18 SONOMA COUNTY
19 Defendant.

CV 09

4432

Case No. _____

COMPLAINT

INTRODUCTION

22 1. For over four decades, Sonoma County (the "County") promised its employees (the
23 "Retirees" or "County Retirees") that, in exchange for their dedicated service to the County, they
24 would receive retiree health care benefits for themselves and their dependents, funded in whole or
25 substantially by the County. Relying on the County's promises, the Retirees gave up various
26 wage increases and pension cost of living adjustments, and dedicated their working years to the
27 County.

28 2. Despite the Retirees' loyalty and full performance of their employment obligations,

1 the County has now changed its system of providing retiree health care benefits and implemented
2 drastic cuts in those benefits. These changes forced, and will continue to force, County Retirees
3 to pay much higher, and increasing, amounts for their health care benefits. County Retirees, most
4 of whom live on fixed incomes, will be unable to pay these costs, or may be able to pay them
5 only by forgoing other essential expenses.

6 3. The County Retirees now face higher, and increasing, health care benefit costs at a
7 time in their lives when they have neither the flexibility nor the capacity to earn wages to offset
8 the increasing costs. Approximately 30% of the Sonoma County retirees receive County pensions
9 of \$1,000 or less per month, and 60% receive pensions of \$2,000 or less per month.

10 4. On behalf of the County Retirees, the Sonoma County Association of Retired
11 Employees ("SCARE") now seeks injunctive and declaratory relief which would require the
12 County to restore and honor its commitment to pay all or substantially all of the cost of health
13 care benefits for Retirees and their dependents.

14 5. SCARE's membership includes retirees who were, as active employees, represented
15 by unions, as well as retirees who were unrepresented as active employees. This action seeks
16 declaratory and injunctive relief for the minimum benefits owed to all County Retirees. Whether
17 some SCARE members have greater rights arising out of memoranda of understanding between
18 the County and their unions is not alleged or at issue, here.

19 6. Plaintiff filed a Government Code Claim, pursuant to California Govt. Code § 910 et
20 seq., with the County on February 23, 2009. The Government Code Claim raised the issues
21 asserted in this complaint on behalf of the County Retirees. Plaintiff's Government Code Claim
22 was deemed denied by operation of law when the County did not respond during the statutorily-
23 allotted time.

24 JURISDICTION AND VENUE

25 7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§
26 1331 and 1343, and pursuant to its supplemental jurisdiction over Plaintiff's claims brought under
27 the laws of the State of California. The Court has personal jurisdiction over the County because
28 the County is located and conducts business in this judicial district and this action arises from the

1 County's conduct occurring here.

2 8. The Court may grant declaratory and other relief pursuant to 28 U.S.C. §§ 2201 and
3 2202. Money damages alone are inadequate, and Plaintiff's members suffer and will continue to
4 suffer irreparable injury absent injunctive relief.

5 9. Venue is proper within this District pursuant to 28 U.S.C. § 1391(b) because the
6 County is located in this District.

7 **INTRADISTRICT ASSIGNMENT**

8 10. This action arises in Sonoma County and thus should be assigned to the San Francisco
9 Division.

10 **PARTIES**

11 11. Plaintiff SCARE is an unincorporated non-profit membership organization that
12 promotes and protects the welfare and interests of the retired employees of Sonoma County.
13 Regular membership is open to retirees of the County of Sonoma, Sonoma County Water
14 Agency, Sonoma County Fairgrounds, Economic Development Board, Community Development
15 Department, and the Open Space District. Associate membership is open to the spouse, domestic
16 partner, widow, or widower of any person eligible for regular membership.

17 12. SCARE has 1474 total members, consisting of 1279 regular members and 195
18 associate members.

19 13. Defendant Sonoma County is a political subdivision of the State of California, duly
20 authorized and existing under the laws of, and by virtue of, the Constitution and laws of the State
21 of California. The County maintains a health care benefits system for current and retired Sonoma
22 County employees, through both a self-funded plan and contracts with third parties.

23 **GENERAL ALLEGATIONS**

24 14. The County has provided retiree medical benefits for retirees since at least 1964.

25 15. The County promised to continue to pay all or substantially all of the cost of post-
26 retirement health care benefits for its employees and their dependents and to do so pursuant to a
27 system that pooled the Retirees and their dependents with the active employees. Since 1990, the
28 County's promise of employee health care benefits during retirement has been conditioned on ten

1 years of County service, or, for employee and dependent health care benefits during retirement,
2 twenty years of service. The pooling aspect of the retiree benefit payment system combined the
3 more expensive Retirees with the less expensive active employees and created an “implicit
4 subsidy” that kept Retiree health care benefits at a less costly level than if the Retirees were
5 treated as a separate group. This arrangement also created one uniform cost for both Retirees
6 under age 65 and active employees. Further, the pooling arrangement meant that the active
7 employees were subsidizing the cost of the Retiree health care benefits. Consequently, the
8 Retirees, while they were active employees, subsidized earlier generations of retirees in the
9 expectation that they would receive that same subsidy when they retired in the future.

10 16. The promises described in paragraph 15 did not contain any limitation on the duration
11 of such benefits. To the contrary, the County promised that the benefits would continue for the
12 Retirees and their dependents for their lifetimes. The Retirees accepted these benefits in lieu of
13 other benefits, such as a cost of living adjustment in their pensions.

14 17. The County’s promises described in paragraphs 15-16 were written, implied, and
15 conveyed orally in the following ways:

- 16 a. The Board of Supervisors orally conveyed the County’s promises to the
17 County administrators, who in turn orally conveyed the County’s promises to
18 employees. Many of the County administrators responsible for receiving and
19 conveying these promises are members of SCARE and will testify to the oral
20 promises they personally received from the Board of Supervisors and relayed
21 to employees on behalf of the County.
- 22 b. The County conveyed its promises in writing in numerous Board of
23 Supervisors’ resolutions, ordinances, salary resolutions, job announcements,
24 job offers, retirement-related documents, and other County-issued documents.
- 25 c. The County’s promises were implied by the decades of County conduct in
26 conformance with these promises.
- 27 d. The County’s promises were implied by the County’s provision of the same
28 health care coverage, at the same cost, to Retirees as it provided to active

1 management employees, who generally received the best coverage of the
2 County's employees.

3 18. In 1985, the County, in exchange for amending the County Health Plan to include co-
4 pays and deductibles for the first time, to the detriment of the Retirees, began to pay 100% of the
5 premium cost of the County Health Plan premium for Retirees and active management employees
6 and promised that, going forward, in perpetuity, Retirees and their dependents would receive the
7 same health benefits, and the County would pay the same amount, as provided to and paid for the
8 active management employees and their dependents, pursuant to a system that pooled the Retirees
9 and their dependents with the active employees. This agreement was known as the "tie"
10 agreement. Since 1990, the County's promise of employee health care benefits during retirement
11 has been conditioned on ten years of County service, or, for employee and dependent health care
12 benefits during retirement, twenty years of service. The pooling aspect of the tie agreement
13 combined the more expensive Retirees with the less expensive active employees and created an
14 "implicit subsidy" that kept Retiree health care benefits at a less costly level than if the Retirees
15 were treated as a separate group. This arrangement also created one uniform cost for both
16 Retirees under age 65 and active employees. Further, the pooling arrangement meant that the
17 active employees' were subsidizing the cost of the Retiree health care benefits. Consequently, the
18 Retirees, while they were active employees, subsidized earlier generations of retirees in the
19 expectation that they would receive that same subsidy when they retired in the future.

20 19. The tie agreement described in paragraph 18, above, also included an implied promise
21 that the County would not, by subterfuge, seek to avoid its obligations made under that
22 agreement.

23 20. The promises described in paragraphs 18 and 19 did not contain any limitation on the
24 duration of such benefits. To the contrary, the County promised that the benefits would continue
25 for the Retirees and their dependents for their lifetimes. The Retirees accepted these benefits in
26 lieu of other benefits, such as a cost of living adjustment in their pensions.

27 21. The tie agreement described in paragraphs 18-20 was written, implied, and conveyed
28 orally in the following ways:

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- a. The Board of Supervisors orally conveyed the County's tie arrangement to the County administrators, who in turn orally conveyed the promise of the tie agreement to employees and Retirees. Many of the County administrators responsible for receiving and conveying the tie agreement are members of SCARE and will testify to the oral promises they personally received from the Board of Supervisors and relayed to employees on behalf of the County.
- b. The County conveyed the tie agreement in writing in Board of Supervisors' resolutions, newsletters sent by the County, and other written communications, including letters written by County officials, County correspondence regarding labor negotiations, and testimony in proceedings.
- c. The County's tie agreement was implied by the decades of County conduct in conformance with this promise.

22. The County's promise, as described in paragraphs 15-16, to pay all or substantially all of the cost of health care benefits for its employees and their dependents after its employees retired, and the employees' performance of services in exchange for this promise, created one or more legally binding contracts.

23. For decades the County performed on its promise described in paragraphs 15-16, and, until June 2009, the County continued to pay all or substantially all of the cost of health care benefits for Retirees and their dependents. Specifically, the County paid the following:

- a. From at least 1964, perhaps earlier, until 1981, the County paid 100% of the cost of the health care benefit plan selected by each Retiree.
- b. From 1981 until 2008, the County paid all of the cost of the health care benefit plan selected by each Retiree, minus a small flat dollar amount or a small percentage (16% or less) of the premium cost.
- c. From July 2008 to June 2009, the County paid an amount equal to the greater of the pre-July 2008 premium for the health care benefit plan selected by each Retiree and 85% of the premium cost of the lowest cost plan offered by the County.

1 24. The County's promise, as described in paragraphs 18-20, to uphold the tie agreement
2 and the employees' performance of services in exchange for this promise, created one or more
3 legally binding contracts.

4 25. For decades the County performed on its promises described in paragraphs 18-20, and
5 from at least 1964, perhaps earlier, until June 2009, the County paid the cost of health care
6 benefits for Retirees and their dependents at least at the same level as it did for active
7 management employees.

8 26. On August 19, 2008, the County Board of Supervisors voted to change its contribution
9 for health care benefits to a flat monthly contribution of up to \$500 per month for unrepresented
10 active employees, administrative management, the Board of Supervisors, and all retirees ("500
11 flat contribution"). This change was effective June 2, 2009, with a five year phase-in period for
12 retirees.

13 27. On September 16, 2008, the County Board of Supervisors passed what it called a
14 concurrent resolution that awarded a cash allowance of \$3.45 per pay status hour (approximately
15 \$600/month) for all individuals affected by the \$500 flat medical coverage *except* the County
16 Retirees ("600 monthly benefit").

17 28. On information and belief, the \$600 monthly benefit was created to offset the
18 increased cost of health care benefits for employees due to the \$500 flat contribution. The \$600
19 monthly benefit was voted on shortly after the \$500 flat contribution, and was implemented just
20 prior to the date that the \$500 flat contribution went into effect, allowing the two measures to
21 impact employees' paychecks simultaneously. The \$600 monthly benefit has been described by
22 the County to County employees as extra compensation to cover their health care benefit costs.
23 However, each employee, regardless of salary level, receives the same amount. In addition, it
24 will not be subject to future increases in the County salary schedule. The \$600 monthly benefit
25 is, therefore, the County's attempt, by subterfuge, to avoid its obligations under the tie agreement.

26 29. After a five year phase-in period, Retirees will receive a flat amount of \$500 a month
27 toward their health care benefit costs. Active employees will, and already do, receive \$1100 a
28 month.

1 30. The County's wholesale changes to its retiree health care benefits system will have a
2 devastating impact on the County Retirees, many of whom are elderly individuals who live on
3 fixed incomes and will be required to pay many hundreds of additional dollars a month toward
4 their medical premiums. Many will have to spend large portions of their monthly income on
5 medical premiums and others will have to choose between medical care and other necessities. On
6 information and belief, approximately 30% of the Sonoma County retirees receive County
7 pensions of \$1,000 or less per month, and 60% receive pensions of \$2,000 or less per month.

8 31. In reliance on the County's promises, County Retirees made numerous life decisions
9 regarding, among other things, whether and for how long to work for the County, how much to
10 save for retirement, and which health care benefits to select for themselves and their families.
11 Many Retirees chose to continue working for the County rather than moving to other, higher
12 paying employment at least in part because of the promise of retiree health care benefits.

13 32. Some County Retirees also chose their places of residence in reliance on the County's
14 promises. The most expensive health care benefit plan offered by the County, the County Health
15 Plan, is the only health plan available in many geographical areas. Until June 2009, when the
16 County paid all, or substantially all, of the premium cost, many retirees moved to locations where
17 only the County Health Plan was available, on the belief that they would have access to health
18 care benefits that were all, or substantially all, paid for by the County. With the change to the
19 \$500 flat health care contribution, at least some of those retirees who live in areas that are only
20 serviced by the County Health Plan will be forced to give up their health care insurance or pay
21 many hundreds of additional dollars monthly out of pocket.

22 33. The County Retirees have fully performed their duties under their contracts with the
23 County and are entitled to their vested benefits and the benefits of their bargains.

24 **FIRST CLAIM FOR RELIEF**
25 (Breach of Contract under California law)

26 34. Plaintiff incorporates by reference paragraphs 1-17, 22-23, 26, and 30-33 set forth
27 above as though fully set forth herein.

28 35. Retiree health care benefits were an integral part of the total compensation received by

1 County Retirees, including members of SCARE, in exchange for the performance of their
2 services as active employees of the County. County Retirees have performed their duties under
3 their contracts with the County.

4 36. The County is legally bound to continue its system of providing health care benefits to
5 its Retirees, which includes the obligation to pay all, or substantially all, of the cost of health care
6 benefits for Retirees and their dependents.

7 37. By passing and implementing the \$500 flat contribution for Retirees, the County has
8 breached its contracts with the Retirees.

9 38. County Retirees have been, and will increasingly continue to be, damaged monetarily
10 by the County's breaches. The Retirees also risk losing their health care benefits and/or forgoing
11 making other necessary payments in order to pay for their health care benefits.

12 **SECOND CLAIM FOR RELIEF**
13 *(Alternative Breach of Contract Claim under California law)*

14 39. Plaintiff incorporates by reference paragraphs 1-14, 18-21, and 24-33 set forth above
15 as though fully set forth herein.

16 40. Retiree health care benefits were an integral part of the total compensation received by
17 County Retirees, including members of SCARE, in exchange for the performance of their
18 services as active employees of the County. County Retirees have performed their duties under
19 their contracts with the County.

20 41. By passing and implementing the \$500 flat contribution for retirees *and* employees,
21 and the \$600 monthly benefit for employees *only*, the County has breached its obligations to the
22 County Retirees under the "tie agreement."

23 42. In the alternative to the First Claim for Relief, if the County is not legally bound to
24 pay all or substantially all of the cost of Retirees' health care benefits, then the County is legally
25 bound, pursuant to the tie agreement, to pay \$1100/month per Retiree, which is the same amount
26 the County pays to each active management employee.

27 43. County Retirees have been, and will increasingly continue to be, damaged monetarily
28 by the County's breaches. They also risk losing their health care benefits and/or forgoing making

1 other necessary payments in order to pay for their health care benefits.

2 **THIRD CLAIM FOR RELIEF**

3 *(Alternative Claim to the First and Second Claims for Relief: Breach of the Covenant of Good*
4 *Faith and Fair Dealing under California law)*

4 44. Plaintiff incorporates by reference paragraphs 1-14, 18-21, and 24-33 set forth above
5 as though fully set forth herein.

6 45. Under the law of the State of California, a covenant of good faith and fair dealing is
7 implied by law in all contracts to ensure that neither party will do anything that hinders the right
8 of the other party to receive the benefits of the agreement. The covenant is designed to effectuate
9 the intentions and reasonable expectations of the parties reflected by the promises in the contract.
10 The essence of the covenant is that the parties must conduct themselves in an objectively
11 reasonable manner. In the employment context, the implied covenant prevents the employer from
12 frustrating the employee's enjoyment of any rights provided in the contract.

13 46. By virtue of its existence, the contract between the County and the County Retirees
14 contains a covenant of good faith and fair dealing. The covenant imposes on the County a duty to
15 refrain from taking any action that would frustrate the County Retirees' rights to, at a minimum,
16 the same benefits and premium payments as the County provides for its active management
17 employees.

18 47. By passing and implementing the \$500 flat contribution for retirees *and* employees,
19 and the \$600 monthly benefit for employees *only*, the County has breached its obligations to the
20 County Retirees under the "tie agreement" and has frustrated the County Retirees' rights. The
21 County's actions break the tie agreement and deny the Retirees the same medical benefits that are
22 provided to active management employees.

23 48. The County's actions were not objectively reasonable in light of the contract it had
24 with the Retirees. In addition, the County's attempts to cast the \$600 monthly contribution as
25 unrelated to the \$500 flat contribution, and thus further cover up and frustrate the Retirees' rights,
26 were also objectively unreasonable. The County has, therefore, breached the covenant of good
27 faith and fair dealing.

28 49. As a direct and proximate result of the County's breach of the covenant of good faith

1 and fair dealing, the County Retirees have been, and will increasingly continue to be, damaged
2 monetarily. The County Retirees also risk losing their health care benefits and/or forgoing other
3 necessary payments in order to pay for their health care benefits.

4 **FOURTH CLAIM FOR RELIEF**
5 (Impairment of Contract – California Constitution)

6 50. Plaintiff incorporates by reference paragraphs 1-17, 22-23, 26, and 30-33 set forth
7 above as though fully set forth herein.

8 51. Retiree health care benefits were an integral part of the total compensation received by
9 County Retirees, including members of SCARE, in exchange for the performance of their
10 services as active employees of the County. County Retirees have performed their duties under
11 their contracts with the County.

12 52. Public employment which provides for post-employment benefits gives rise to certain
13 legal obligations on the part of the public employer, which are subject to the Contract Clause of
14 the California Constitution. The promised post-employment benefits are an integral part of the
15 compensation of the County's public employees, and constitute vested benefits that are earned
16 compensation.

17 53. The County is legally bound to continue to provide health care benefits to its Retirees
18 and their dependents, and to pay all, or substantially all, of the premium cost.

19 54. By passing and implementing the \$500 flat contribution for Retirees, the County has
20 breached its contracts with the Retirees.

21 55. The County Retirees, including members of SCARE, have been, and will increasingly
22 continue to be, damaged monetarily. They also risk losing their health care benefits and/or
23 forgoing making other necessary payments in order to pay for their health care benefits.

24 56. The County's actions were neither reasonable nor necessary to fulfilling an important
25 public purpose and were not, therefore, justifiable. The County's actions unlawfully impair a
26 contractual obligation, in violation of Article I, § 9 of the California Constitution.

27 **FIFTH CLAIM FOR RELIEF**
28 (*Alternative* Impairment of Contract – California Constitution)

1 57. Plaintiff incorporates by reference paragraphs 1-14, 18-21, and 24-33 set forth above
2 as though fully set forth herein.

3 58. Retiree health care benefits were an integral part of the total compensation received by
4 County Retirees, including members of SCARE, in exchange for the performance of their
5 services as active employees of the County. County Retirees have performed their duties under
6 their contracts with the County.

7 59. Public employment which provides for post-employment benefits gives rise to certain
8 legal obligations on the part of the public employer, which are subject to the Contract Clause of
9 the California Constitution. The promised post-employment benefits are an integral part of the
10 compensation of the County's public employees, and constitute vested benefits that are earned
11 compensation.

12 60. In the alternative to the Fourth Claim for Relief, the County is legally bound, under the
13 tie agreement, to continue to provide health care benefits to its Retirees and their dependents, and
14 to pay \$1100/month per Retiree, which is the same amount the County pays to each active
15 management employee.

16 61. By passing and implementing the \$500 flat contribution for retirees *and* employees,
17 and the \$600 monthly benefit for employees *only*, the County has breached its obligations to the
18 County Retirees under the "tie agreement."

19 62. County Retirees, including members of SCARE, have been, and will increasingly
20 continue to be, damaged monetarily. They also risk losing their health care benefits and/or
21 forgoing other necessary payments in order to pay for their health care benefits.

22 63. The County's actions were neither reasonable nor necessary to fulfilling an important
23 public purpose and were not, therefore, justifiable. The County's actions unlawfully impair a
24 contractual obligation, in violation of Article I, § 9 of the California Constitution.

25 **SIXTH CLAIM FOR RELIEF**
26 (Impairment of Contract – U.S. Constitution)

27 64. Plaintiff incorporates by reference paragraphs 1-17, 22-23, 26, and 30-33 set forth
28 above as though fully set forth herein.

1 65. Retiree health care benefits were an integral part of the total compensation received by
2 County Retirees, including members of SCARE, in exchange for the performance of their
3 services as active employees of the County. County Retirees have performed their duties under
4 their contracts with the County.

5 66. Public employment which provides for post-employment benefits gives rise to certain
6 legal obligations on the part of the public employer, which are subject to the Contract Clause of
7 the United States Constitution. The promised post-employment benefits are an integral part of the
8 compensation of the County's public employees, and constitute vested benefits that are earned
9 compensation.

10 67. The County is legally bound to continue to provide health care benefits to its Retirees
11 and their dependents, and to pay all, or substantially all, of the premium cost.

12 68. By passing and implementing the \$500 flat contribution for Retirees, the County has
13 breached its contracts with the Retirees.

14 69. County Retirees, including members of SCARE, have been, and will increasingly
15 continue to be, damaged monetarily. They also risk losing their health care benefits and/or
16 forgoing making other necessary payments in order to pay for their health care benefits.

17 70. The County's actions were neither reasonable nor necessary to fulfilling an important
18 public purpose and were not, therefore, justifiable. The County's actions unlawfully impair a
19 contractual obligation, in violation of Article I, § 10 of the United States Constitution.

20 **SEVENTH CLAIM FOR RELIEF**
21 *(Alternative Impairment of Contract – U.S. Constitution)*

22 71. Plaintiff incorporates by reference paragraphs 1-14, 18-21, and 24-33 set forth above
23 as though fully set forth herein.

24 72. Retiree health care benefits were an integral part of the total compensation received by
25 County Retirees, including members of SCARE, in exchange for the performance of their
26 services as active employees of the County. County Retirees have performed their duties under
27 their contracts with the County.

28 73. Public employment which provides for post-employment benefits gives rise to certain

1 legal obligations on the part of the public employer, which are subject to the Contract Clause of
2 the United States Constitution. The promised post-employment benefits are an integral part of the
3 compensation of the County's public employees, and constitute vested benefits that are earned
4 compensation.

5 74. In the alternative to the Sixth Claim for Relief, the County is legally bound, pursuant
6 to the tie agreement, to continue to provide health care benefits to its Retirees and their
7 dependents, and to pay \$1100/month per Retiree, which is the same amount the County pays to
8 each active management employee.

9 75. By passing and implementing the \$500 flat contribution for retirees *and* employees,
10 and the \$600 monthly benefit for employees *only*, the County has breached its obligations to the
11 County Retirees under the "tie agreement."

12 76. County Retirees, including members of SCARE, have been, and will increasingly
13 continue to be, damaged monetarily. They also risk losing their health care benefits and/or
14 forgoing other necessary payments in order to pay for their health care benefits.

15 77. The County's actions were neither reasonable nor necessary to fulfilling an important
16 public purpose and were not, therefore, justifiable. The County's actions unlawfully impair a
17 contractual obligation, in violation of Article I, § 10 of the United States Constitution.

18 **EIGHTH CLAIM FOR RELIEF**
19 (Promissory Estoppel under California law)

20 78. Plaintiff incorporates by reference paragraphs 1-17, 22-23, 26, and 30-33 set forth
21 above as though fully set forth herein.

22 79. Retiree health care benefits were an integral part of the promises of total compensation
23 made by the County to the County Retirees. The County promised the Retirees that it would pay
24 all, or substantially all, of their, and their dependents', health care benefit costs during retirement.

25 80. County Retirees reasonably and detrimentally relied on the County's promises in that:

- 26 a. Retirees were induced to accept employment with the County;
27 b. Retirees were induced to remain employed with the County;
28 c. Retirees were induced to continue receiving the County's health care benefits,

- 1 rather than those available to them through their spouses' employers;
2 d. Retirees were induced to forego other benefits, while employed, in lieu of
3 retiree health care benefits; and
4 e. Retirees were induced to move to geographical locations that had access only
5 to the County Health Care Plan.

6 81. The County knew or should have known that County Retirees would rely on the
7 County's promises and that the County's promises would induce the Retirees to perform the acts
8 listed in paragraph 80.

9 82. As a result of the acts that the County Retirees were induced to perform, as listed in
10 paragraph 80, and the County's nonperformance of its promises to pay all or substantially of the
11 cost of the health care benefits for Retirees and their dependents, the County Retirees have been,
12 and will increasingly continue to be, damaged monetarily. They also risk losing their health care
13 benefits and/or forgoing making other necessary payments in order to pay for their health care
14 benefits.

15 **NINTH CLAIM FOR RELIEF**
16 *(Alternative Promissory Estoppel under California law)*

17 83. Plaintiff incorporates by reference paragraphs 1-14, 18-21, and 24-33 set forth above
18 as though fully set forth herein.

19 84. Retiree health care benefits were an integral part of the promises of total compensation
20 made by the County to the County Retirees. In the alternative to the Eighth Claim for Relief, the
21 County promised the Retirees as part of the tie agreement that it would provide the same benefits,
22 and pay the same portion of the costs, for them and their dependents as it does for its active
23 management employees.

24 85. County Retirees reasonably and detrimentally relied on the County's promises in that:
25 a. Retirees were induced to accept employment with the County;
26 b. Retirees were induced to remain employed with the County;
27 c. Retirees were induced to continue receiving the County's health care benefits,
28 rather than those available to them through their spouses' employers;

- 1 d. Retirees were induced to forego other benefits, while employed, in lieu of
- 2 retiree health care benefits; and
- 3 e. Retirees were induced to move to geographical locations that had access only
- 4 to the County Health Care Plan.

5 86. The County knew or should have known that County Retirees would rely on the
6 County's promises and that the County's promises would induce the Retirees to perform the acts
7 listed in paragraph 85.

8 87. As a result of the acts that the County Retirees were induced to perform, as listed in
9 paragraph 85, and the County's nonperformance of its promises under this agreement, the County
10 Retirees have been, and will increasingly continue to be, damaged monetarily. They also risk
11 losing their health care benefits and/or forgoing making other necessary payments in order to pay
12 for their health care benefit premiums.

13 **TENTH CLAIM FOR RELIEF**
14 (Due Process – California Constitution)

15 88. Plaintiff incorporates by reference paragraphs 1-17, 22-23, 26, and 30-33 set forth
16 above as though fully set forth herein.

17 89. Retiree health care benefits were an integral part of the total compensation received by
18 County Retirees, including members of SCARE, in exchange for the performance of their
19 services as active employees of the County. County Retirees have performed their duties under
20 their contracts with the County.

21 90. County Retirees have a vested property right in the County's payment of all, or
22 substantially all, of the cost of health care benefits for them and their dependents because, inter
23 alia:

- 24 a. the County promised to provide those benefits after retirement in exchange for
- 25 services the County Retirees rendered during their active employment;
- 26 b. the County Retirees reasonably, detrimentally relied on the County's promise
- 27 to pay their full health care premiums as part of their total compensation;
- 28 c. the County Retirees decided to forego other benefits, while employed, in lieu

1 of retiree health care; and

2 d. the County Retirees have performed their duties under these contracts.

3 91. By passing and implementing the \$500 flat contribution for Retirees, the County has
4 breached its contracts with the Retirees.

5 92. County Retirees have been, and will increasingly continue to be, damaged monetarily.
6 They also risk losing their health care benefits and/or forgoing making other necessary payments
7 in order to pay for their health care benefits.

8 93. The County's actions were neither reasonable nor necessary to fulfilling an important
9 public purpose and were not, therefore, justifiable.

10 94. Under Article I, 7 of the California Constitution, the County may not take away this
11 vested property right without compensating County retirees for the value that it represents.

12 **ELEVENTH CLAIM FOR RELIEF**
13 *(Alternative Due Process – California Constitution)*

14 95. Plaintiff incorporates by reference paragraphs 1-14, 18-21, and 24-33 set forth above
15 as though fully set forth herein.

16 96. Retiree health care benefits were an integral part of the total compensation received by
17 County Retirees, including members of SCARE, in exchange for the performance of their
18 services as active employees of the County. County Retirees have performed their duties under
19 their contracts with the County.

20 97. In the alternative to the Tenth Claim for Relief, County Retirees have a vested
21 property right pursuant to the tie arrangement in the County's provision of the same health care
22 benefits, and payment of the same portion of the cost, as the County provides to active
23 management employees, because, inter alia:

- 24 a. the County promised to provide those benefits after retirement in exchange for
25 services the County Retirees rendered during their active employment;
- 26 b. the County Retirees reasonably, detrimentally relied on the County's promise
27 to pay the full cost of their health care benefits as part of their total
28 compensation;

- 1 c. the County Retirees decided to forego other benefits, while employed, in lieu
- 2 of retiree health care; and
- 3 d. the County Retirees have performed their duties under these contracts.

4 98. By passing and implementing the \$500 flat contribution for retirees *and* employees,
5 and the \$600 monthly benefit for employees *only*, the County has breached its obligations to the
6 County Retirees under the “tie agreement.”

7 99. County Retirees have been, and will increasingly continue to be, damaged monetarily.
8 They also risk losing their health care benefits and/or forgoing making other necessary payments
9 in order to pay for their health care benefits.

10 100. The County’s actions were neither reasonable nor necessary to fulfilling an important
11 public purpose and were not, therefore, justifiable.

12 101. Under Article I, 7 of the California Constitution, the County may not take away this
13 vested property right without compensating County retirees for the value that it represents.

14 **TWELFTH CLAIM FOR RELIEF**
15 (Due Process – U.S. Constitution & 42 U.S.C. § 1983)

16 102. Plaintiff incorporates by reference paragraphs 1-17, 22-23, 26, and 30-33 set forth
17 above as though fully set forth herein.

18 103. Retiree health care benefits were an integral part of the total compensation received by
19 County Retirees, including members of SCARE, in exchange for the performance of their
20 services as active employees of the County. County Retirees have performed their duties under
21 their contracts with the County.

22 104. County Retirees have a vested property right in the County’s payment of all, or
23 substantially all, of the cost of the health care benefits for them and their dependents, because,
24 inter alia:

- 25 a. the County promised to provide those benefits after retirement in exchange for
- 26 services the County Retirees rendered during their active employment;
- 27 b. the County Retirees reasonably, detrimentally relied on the County’s promise
- 28 to pay the full cost of their health care benefits as part of their total

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compensation;

c. the County Retirees decided to forego other benefits, while employed, in lieu of retiree health care benefits; and

d. the County Retirees have performed their duties under these contracts.

105. By passing and implementing the \$500 flat contribution for Retirees, the County has breached its contracts with the Retirees.

106. County Retirees have been, and will increasingly continue to be, damaged monetarily. They also risk losing their health care benefits and/or forgoing making other necessary payments in order to pay for their health care benefits.

107. The County's actions were neither reasonable nor necessary to fulfilling an important public purpose and were not, therefore, justifiable.

108. Under the Fifth and Fourteenth Amendments to the United States Constitution, and 42 U.S.C. § 1983, the County may not take away this vested property right without compensating County Retirees for the value that it represents.

THIRTEENTH CLAIM FOR RELIEF
(Alternative Due Process – U.S. Constitution & 42 U.S.C. § 1983)

109. Plaintiff incorporates by reference paragraphs 1-14, 18-21, and 24-33 set forth above as though fully set forth herein.

110. Retiree health care benefits were an integral part of the total compensation received by County Retirees, including members of SCARE, in exchange for the performance of their services as active employees of the County. County Retirees have performed their duties under their contracts with the County.

111. County Retirees have a vested property right pursuant to the tie arrangement in the County's provision of the same health care benefits, and in payment by the County of the same portion of the cost as the County provides to active management employees, because, inter alia:

a. the County promised to provide those benefits after retirement in exchange for services the County Retirees rendered during their active employment;

b. the County Retirees reasonably, detrimentally relied on the County's promise

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to pay the full cost of their health care premiums as part of their total compensation;

c. the County Retirees decided to forego other benefits, while employed, in lieu of retiree health care benefits; and

d. the County Retirees have performed their duties under these contracts.

112. By passing implementing the \$500 flat contribution for retirees *and* employees, and the \$600 monthly benefit for employees *only*, the County has breached its obligations to the County Retirees under the “tie agreement.”

113. County Retirees have been, and will increasingly continue to be, damaged monetarily. They also risk losing their health care benefits and/or forgoing making other necessary payments in order to pay for their health care benefits.

114. The County’s actions were neither reasonable nor necessary to fulfilling an important public purpose and were not, therefore, justifiable.

115. Under the Fifth and Fourteenth Amendments to the United States Constitution, and 42 U.S.C. § 1983, the County may not take away this vested property right without compensating County Retirees for the value that it represents.

PRAYER

WHEREFORE, Plaintiff respectfully requests:

1. On the First Claim for Relief:

a. That this Court declare that the County Retirees have a contractual right to, and vested property interest in, the County’s system of providing health care benefits, which includes the obligation to pay all, or substantially all, of the cost of health care benefits for Retirees and their dependents, and includes the implicit subsidy.

b. That this Court declare that the County’s recent changes to the retiree health care benefit system, including, but not limited to, the changes formalized by the County Resolution of August 19, 2008, breached the contract the County has with the Retirees and deprived the Retirees of a vested property interest.

c. That this Court issue an injunction ordering the County to reinstate its health care

1 benefit system for Retirees that existed prior to the County's implementation of the
2 flat \$500 contribution for retiree health care benefits.

- 3 d. That this Court issue an injunction ordering the County to do the following:
- 4 i. Review its records of health care benefit premium costs and payments;
 - 5 ii. Ascertain the difference between what the County has paid toward
6 Retirees' premium costs since the \$500 flat contribution system was
7 implemented and what the County would have paid toward Retiree
8 premium costs had the \$500 flat contribution system not been
9 implemented; and
 - 10 iii. Compensate the Retirees for this amount with interest.
- 11 e. That this Court award reasonable attorney's fees and costs.
- 12 f. That this Court award such additional or alternative relief as may be just, proper
13 and equitable.
- 14 2. On the Second Claim for Relief:
- 15 a. That this Court declare that the County Retirees have a contractual right to, and
16 vested property interest in, the County's system of providing health care benefits,
17 which includes the obligation to pay the same portion of the health care benefit
18 cost for Retirees as the County pays for active management employees, and
19 includes the implicit subsidy.
 - 20 b. That this Court declare that the County's recent changes to the retiree health care
21 benefit system, including, but not limited to, the changes formalized by the County
22 Resolutions of August 19, 2008 and September 16, 2008, breached the contract the
23 County has with the Retirees and deprived the Retirees of a vested property
24 interest.
 - 25 c. That this Court issue an injunction ordering the County to either reinstate its health
26 care benefit system for Retirees that existed prior to the County's implementation
27 of the flat \$500 contribution for retiree health care benefits, or extend the \$600
28 monthly benefit to Retirees, retroactive to the date it was effective for active

1 management employees.

- 2 d. That this Court issue an injunction ordering the County to do the following:
- 3 i. Review its records of health care benefit premium costs and payments;
- 4 ii. Ascertain the difference between what the County has paid toward
- 5 Retirees' premium costs since the \$500 flat contribution system was
- 6 implemented and the \$1100 a month contribution the County provides to
- 7 active management employees; and
- 8 iii. Compensate the Retirees for this amount with interest.
- 9 e. That this Court award reasonable attorney's fees and costs.
- 10 f. That this Court award such additional or alternative relief as may be just, proper
- 11 and equitable.

12 3. On the Third Claim for Relief:

- 13 a. That this Court declare that the County Retirees have a contractual right to, and
- 14 vested property interest in, the County's system of providing health care benefits,
- 15 which includes the obligation to pay the same portion of the health care benefit
- 16 cost for Retirees as the County pays for active management employees, and
- 17 includes the implicit subsidy.
- 18 b. That this Court declare that the County's recent changes to the retiree health care
- 19 benefit system, including, but not limited to, the changes formalized by the County
- 20 Resolutions of August 19, 2008 and September 16, 2008, breached the contract the
- 21 County has with the Retirees, deprived the Retirees of a vested property interest,
- 22 and breached the covenant of good faith and fair dealing in the contract between
- 23 the Retirees and the County.
- 24 c. That this Court issue an injunction ordering the County to either reinstate its health
- 25 care benefit system for Retirees that existed prior to the County's implementation
- 26 of the flat \$500 contribution for retiree health care benefits, or extend the \$600
- 27 monthly benefit to Retirees, retroactive to the date it was effective for active
- 28 management employees.

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- d. That this Court issue an injunction ordering the County to do the following:
 - i. Review its records of health care benefit premium costs and payments;
 - ii. Ascertain the difference between what the County has paid toward Retirees' premium costs since the \$500 flat contribution system was implemented and the \$1100 a month contribution the County provides to active management employees; and
 - iii. Compensate the Retirees for this amount with interest.
 - e. That this Court award reasonable attorney's fees and costs.
 - f. That this Court award such additional or alternative relief as may be just, proper and equitable.
4. On the Fourth and Sixth Claims for Relief:
- a. That this Court declare that the County Retirees have a contractual and Constitutional right to, and vested property interest in, the County's system of providing health care benefits, which includes the obligation to pay all, or substantially all, of the cost of health care benefits for Retirees and their dependents, and includes the implicit subsidy.
 - b. That this Court declare that the County's recent changes to the retiree health care benefit system, including, but not limited to, the changes formalized by the County Resolution of August 19, 2008, breached the contract the County has with the Retirees, deprived the Retirees of a vested property interest, and impaired the County's contractual obligations to the Retirees under the United States and California Constitutions.
 - c. That this Court issue an injunction ordering the County to reinstate its health care benefit system for Retirees that existed prior to the County's implementation of the flat \$500 contribution for retiree health care benefits.
 - d. That this Court issue an injunction ordering the County to do the following:
 - i. Review its records of health benefit premium costs and payments;
 - ii. Ascertain the difference between what the County has paid toward

1 Retirees' premium costs since the \$500 flat contribution system was
2 implemented and what the County would have paid toward Retiree
3 premium costs had the \$500 flat contribution system not been
4 implemented; and

5 iii. Compensate the Retirees for this amount with interest.

6 e. That this Court award reasonable attorney's fees and costs.

7 f. That this Court award such additional or alternative relief as may be just, proper
8 and equitable.

9 5. On the Fifth and Seventh Claims for Relief:

- 10 a. That this Court declare that the County Retirees have a contractual and
11 Constitutional right to, and vested property interest in, the County's system of
12 providing health care benefits, which includes the obligation to pay the same
13 portion of the health care benefit cost for Retirees as the County pays for active
14 management employees, and includes the implicit subsidy.
- 15 b. That this Court declare that the County's recent changes to the retiree health care
16 benefit system, including, but not limited to, the changes formalized by the County
17 Resolutions of August 19, 2008 and September 16, 2008, breached the contract the
18 County has with the Retirees, deprived the Retirees of a vested property interest,
19 and impaired the County's contractual obligations to the Retirees under the United
20 States and California Constitutions.
- 21 c. That this Court issue an injunction ordering the County to either reinstate its health
22 care benefit system for Retirees that existed prior to the County's implementation
23 of the flat \$500 contribution for retiree health care benefits, or extend the \$600
24 monthly benefit to Retirees, retroactive to the date it was effective for active
25 management employees.
- 26 d. That this Court issue an injunction ordering the County to do the following:
- 27 i. Review its records of health care benefit premium costs and payments;
- 28 ii. Ascertain the difference between what the County has paid toward

1 Retirees' premium costs since the \$500 flat contribution system was
2 implemented and the \$1100 a month contribution the County provides to
3 active management employees; and

4 iii. Compensate the Retirees for this amount with interest.

5 e. That this Court award reasonable attorney's fees and costs.

6 f. That this Court award such additional or alternative relief as may be just, proper
7 and equitable.

8 6. On the Eighth Claim for Relief:

9 a. That this Court declare that the County Retirees have reasonably and detrimentally
10 relied on the County's promises to provide a system of providing health care
11 benefits, which included the obligation to pay all, or substantially all, of the cost of
12 the health care benefits for Retirees and their dependents, and included the implicit
13 subsidy, and were induced by those promises to, among other things, accept
14 employment, remain employed, and forgo other employment benefits.

15 b. That this Court declare that the County is estopped from carrying out,
16 implementing, or continuing to implement its recent changes to the retiree health
17 care benefit system, including, but not limited to, the changes formalized by the
18 County Resolution of August 19, 2008.

19 c. That this Court issue an injunction ordering the County to reinstate its health care
20 benefit system for Retirees that existed prior to the County's implementation of the
21 flat \$500 contribution for retiree health care benefits.

22 d. That this Court issue an injunction ordering the County to do the following:
23 i. Review its records of health care benefit premium costs and payments;
24 ii. Ascertain the difference between what the County has paid toward
25 Retirees' premium costs since the \$500 flat contribution system was
26 implemented and what the County would have paid toward Retiree
27 premium costs had the \$500 flat contribution system not been
28 implemented; and

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- iii. Compensate the Retirees for this amount with interest.
 - e. That this Court award reasonable attorney's fees and costs.
 - f. That this Court award such additional or alternative relief as may be just, proper and equitable.
7. On the Ninth Claim for Relief:
- a. That this Court declare that the County Retirees have reasonably and detrimentally relied on the County's promises to provide a system of providing health care benefits, which included the obligation to pay the same portion of the health care benefit cost for Retirees as the County pays for active management employees, and includes the implicit subsidy, and were induced to, among other things, accept employment, remain employed, and forgo other employment benefits.
 - b. That this Court declare that the County is estopped from carrying out, implementing, or continuing to implement its recent changes to the retiree health care benefit system, including, but not limited to, the changes formalized by the County Resolutions of August 19, 2008 and September 16, 2008.
 - c. That this Court issue an injunction ordering the County to either reinstate its health care benefit system for Retirees that existed prior to the County's implementation of the flat \$500 contribution for retiree health care benefits, or extend the \$600 monthly benefit to Retirees, retroactive to the date it was effective for active management employees.
 - d. That this Court issue an injunction ordering the County to do the following:
 - i. Review its records of health care benefit premium costs and payments;
 - ii. Ascertain the difference between what the County has paid toward Retirees' premium costs since the \$500 flat contribution system was implemented and the \$1100 a month contribution the County provides to active management employees; and
 - iii. Compensate the Retirees for this amount with interest.
 - e. That this Court award reasonable attorney's fees and costs.

- 1 f. That this Court award such additional or alternative relief as may be just, proper
2 and equitable.
- 3 8. On the Tenth and Twelfth Claims for Relief:
- 4 a. That this Court declare that the County Retirees have a contractual and
5 Constitutional right to, and vested property interest in, the County's system of
6 providing health care benefits, which includes the obligation to pay all, or
7 substantially all, of the cost of health care benefits for Retirees and their
8 dependents, and includes the implicit subsidy.
- 9 b. That this Court declare that the County's recent changes to the retiree health care
10 benefit system, including, but not limited to, the changes formalized by the County
11 Resolution of August 19, 2008, breached the contract the County has with the
12 Retirees, deprived the Retirees of a vested and Constitutionally-protected property
13 interest, and denied the Retirees due process under the United States and
14 California Constitutions.
- 15 c. That this Court issue an injunction ordering the County to reinstate its health care
16 benefit system for Retirees that existed prior to the County's implementation of the
17 flat \$500 contribution for retiree health care benefits.
- 18 d. That this Court issue an injunction ordering the County to do the following:
- 19 i. Review its records of health care benefit premium costs and payments;
- 20 ii. Ascertain the difference between what the County has paid toward
21 Retirees' premium costs since the \$500 flat contribution system was
22 implemented and what the County would have paid toward Retiree
23 premium costs had the \$500 flat contribution system not been
24 implemented; and
- 25 iii. Compensate the Retirees for this amount with interest.
- 26 e. That this Court award reasonable attorney's fees and costs.
- 27 f. That this Court award such additional or alternative relief as may be just, proper
28 and equitable.

1 9. On the Eleventh and Thirteenth Claims for Relief:

- 2 a. That this Court declare that the County Retirees have a contractual and
3 Constitutional right to, and vested property interest in, the County's system of
4 providing health care benefits, which includes the obligation to pay the same
5 portion of the health care benefit cost for Retirees as the County pays for active
6 management employees, and includes the implicit subsidy.
- 7 b. That this Court declare that the County's recent changes to the retiree health care
8 benefit system, including, but not limited to, the changes formalized by the County
9 Resolutions of August 19, 2008 and September 16, 2008, breached the contract the
10 County has with the Retirees, deprived the Retirees of a vested and
11 Constitutionally-protected property interest, and denied the Retirees due process
12 under the United States and California Constitutions.
- 13 c. That this Court issue an injunction ordering the County to either reinstate its health
14 care benefit system for Retirees that existed prior to the County's implementation
15 of the flat \$500 contribution for retiree health care benefits, or extend the \$600
16 monthly benefit to Retirees, retroactive to the date it was effective for active
17 management employees.
- 18 d. That this Court issue an injunction ordering the County to do the following:
19 i. Review its records of health care benefit premium costs and payments;
20 ii. Ascertain the difference between what the County has paid toward
21 Retirees' premium costs since the \$500 flat contribution system was
22 implemented and the \$1100 a month contribution the County provides to
23 active management employees; and
24 iii. Compensate the Retirees for this amount with interest.
- 25 e. That this Court award reasonable attorney's fees and costs.
- 26 f. That this Court award such additional or alternative relief as may be just, proper
27 and equitable.

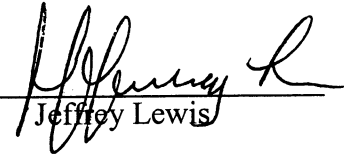
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Respectfully Submitted,

Dated: September 21, 2009

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