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# IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

TESORO REFINING & MARKETING COMPANY, LLC et. al.,

*Plaintiffs & Appellants,*

v.

CITY OF CARSON,

*Defendant & Respondent.*

Second Appellate District, Division 4, Appeal No. B335686
On Appeal from the Superior Court of Los Angeles County
The Honorable Holly J. Fujie, Presiding
Superior Court Case No. 23STCV14351

## [PROPOSED] BRIEF OF AMICI CURIAE CALIFORNIA STATE ASSOCIATION OF COUNTIES AND LEAGUE OF CALIFORNIA CITIES IN SUPPORT OF DEFENDANT AND RESPONDENT CITY OF CARSON

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## BRIEF OF AMICI CURIAE

## I. INTRODUCTION AND SUMMARY OF ARGUMENT

While the ultimate issue in this case turns upon the interpretation of the Government Claims Act ("GCA"), the key to that question lies elsewhere – in the nature and history of the exhaustion doctrine.

In Plaintiffs' view, administrative remedies are merely "procedure[s] for presentation, consideration, and enforcement of claims" (or, less flatteringly, simply "administrative hurdles")[1], no different in substance from the GCA itself. This is fundamentally mistaken. While statutory claims filing procedures and administrative remedies are both (typically) initiated through the submission of some kind of writing generally expressing one's grievance, the similarities end there. The origins, purpose, underlying theory, and practical operation of the two are wholly different – and ***every time*** these two fields have interacted, and ***in every context,*** the courts have uniformly emphasized the difference between these two independent requirements.

Plaintiffs neatly present both of their main conceptual errors in this initial description of the lower courts' holding:

> "Carson can require taxpayers to complete a potentially years-long administrative process...as a precondition to exercising their rights under the GCA so long as the City characterizes that precondition as 'exhaustion of administrative remedies.'"[2]

Their first mistake ("*Carson can require* taxpayers to complete a potentially years-long administrative process...") is the font from which most of the other errors flow. This thoroughly misunderstands the

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[1] Plaintiffs' Opening Brief ("Open. Brf."), pp. 12, 15.

[2] *Id.* at p. 14.

exhaustion doctrine. While the requirement to exhaust a particular administrative remedy is sometimes explicitly codified, at its core the exhaustion doctrine is "judicially developed," "a fundamental rule of procedure laid down by courts of last resort, followed under the doctrine of *stare decisis*, and binding upon all courts." (*Plaza Hollister Ltd. Partnership v. County of San Benito* (1999) 72 Cal.App.4th 1, 35-36; *Abelleira v. District Court of Appeal* (1941) 17 Cal.2d 280, 293.) The exhaustion mandate is not the product of whichever legislative body enacted the administrative procedures in question, but rather operates as a structural component of the judicial process that is triggered by the *existence* of an adequate administrative remedy, not its source.

The latter flaw ("...so long as *the City characterizes* that precondition as 'exhaustion of administrative remedies'") is no less profound. Simply put, it is well-established that whether an administrative procedure triggers the exhaustion requirement is a matter of *substance*, not characterization. (See, e.g., *Plantier v. Ramona Municipal Water Dist.* (2019) 7 Cal.5th 372, 384 ["As a general matter, a remedy is not adequate unless it establishes clearly defined machinery for the submission, evaluation and resolution of complaints by aggrieved parties"].) Many of Plaintiffs' supposed horribles are merely recast versions of the common argument that a particular administrative remedy would be inadequate. These hypotheticals (and they *are* hypothetical, as no such claim is raised regarding the City of Carson's actual remedial scheme here) are fully addressed ***within the established framework of the exhaustion doctrine***, and are not a reason to depart from it.

Perhaps most significant, though, is what is wholly *missing* from Plaintiffs' briefing. "[A]bsent a clear indication of legislative intent, we should refrain from inferring a statutory exemption from our settled rule requiring exhaustion of administrative remedies." (*Campbell v. Regents of*

*University of California* (2005) 35 Cal.4th 311, 333.) For all their digging in the history of the 1959 and 1963 claims legislation, Plaintiffs cannot muster a single ounce of evidence that the Legislature actually foresaw any tension between "uniform claim filing procedure" and the "settled rule requiring exhaustion of administrative remedies," much less "clear indication of legislative intent" to displace such remedies in any case where a claim might be filed. In the end, theirs is merely the same argument from silence that this Court has rejected time and again.

This brief will proceed in three parts. First, it will explore the origin, jurisprudential theory and purposes, and operation of the exhaustion doctrine, compared on each point with the statutory claims filing requirements of the GCA. Second, it will examine and respond to the veritable school of "red herring" arguments posited in Plaintiffs' briefing. Third, it will detail the revolutionary changes to the legal landscape that Plaintiffs' position would wreak and the substantial public policy reasons for avoiding those harms.

## II. EXHAUSTION AND ITS DISCONTENTS

Plaintiffs' stake their case entirely on field preemption – i.e., upon the assertion that the GCA occupies the field, to the exclusion of any otherwise applicable requirement to exhaust administrative remedies prior to bringing suit.[3] The Court of Appeal's opinion raises weighty questions regarding whether the GCA has any field preemptive effect, but it is ultimately unnecessary for this Court to resolve those questions here. Even if the GCA fully occupies *some* field, the "crucial" question is "[h]ow the relevant field occupied by the allegedly preemptive state legislation is

[3] See, e.g., Opn. Brf., pp. 27-46.

defined..." (*Morehart v. County of Santa Barbara* (1994) 7 Cal.4th 725, 748.)

Plaintiffs are not entirely consistent regarding the extent of the "field" they claim preempted,[4] but even accepting the broadest formulation in their briefing – "procedure[s] for presentation, consideration, and enforcement of claims against counties, cities, their officers, agents, or employees"[5] – begs the question of whether the exhaustion doctrine lies within this field. Simply put, is the judge-made requirement that litigants must exhaust available administrative remedies and obtain an agency's *final* decision before seeking judicial relief a "procedure for presentation, consideration, and enforcement of claims" within the GCA's preemptive ambit?

Plaintiffs blithely assume this to be the case, deriding any suggested distinction as "spurious,"[6] but they do so without any actual analysis of the exhaustion doctrine. This is error. As will appear, the requirement to exhaust administrative remedies – imposed by the courts themselves, not the administrative agency – differs from "claims" procedures on every level, and is entirely outside the "field" addressed by the GCA.

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[4] Plaintiffs' briefing repeatedly frames the issue in term of the "local tax refunds" when it suits them, and even distinguishes one of the City's authorities on the grounds that it "was not a tax case" (Plaintiffs' Reply Brief ("Rep. Brf."), p. 38. See also *id.* at p. 22 ["*Cty. of San Diego v. Myers*...has nothing to do with tax refunds or the GCA, and the City ignores the tax cases Appellants cited..."]); however, they also acknowledge that the question here is not really "limit[ed] to any particular type of claim under the Act" and proceed to elaborate a parade of supposed horribles arising outside of the tax context. (Open. Brf., pp. 54-55; Rep. Brf., p. 23.)

[5] Opn. Brf., p. 15, quoting article XI, section 12 of the California Constitution.

[6] Rep. Brf., p. 42.

## A. HISTORY, THEORY, AND PURPOSES OF EXHAUSTION

"The exhaustion doctrine was created by the courts as a means of integrating agencies into the legal system in a manner that respects their unique institutional advantages and statutory responsibilities." (2 Davis & Pierce, Administrative Law Treatise (3d ed. 1994) § 15.3, p. 316.) "The doctrine is as old as federal administrative law" (Berger, *Exhaustion of Administrative Remedies* (1939) 48 Yale L.J. 981), and at its core represents a structural accommodation between the judicial power and the burgeoning administrative state in an increasingly complex and highly regulated legal landscape. (See also Jaffe, *The Exhaustion of Administrative Remedies*, (1963) 12 Buffalo L.Rev.327, 328.)

Exhaustion (and the cognate doctrines of primary jurisdiction and ripeness) function ultimately by regulating the *timing* of judicial involvement in administrative matters, thereby respecting both the competence of the administrative agency and the courts' final power of judicial review. (Davis & Pierce, *supra,* § 15.1, p. 305; Stason, *Timing of Judicial Redress From Erroneous Administrative Action* (1941) 25 Minn.L.Rev. 560; Asimow, Judicial Review of Administrative Decision: Standing and Timing (Sept. 1992), printed in 27 Cal. Law Revision Com. Rep. 229, 253 (1997).) The nature of the exhaustion requirement as a "self-limitation" imposed by the courts (Stason, *supra,* 25 Minn.L.Rev. at p. 581), rather than a command of the legislative body that created the administrative scheme, has been clear from the earliest days, when the federal courts applied the doctrine in cases of failure to exhaust *state-level* administrative remedies. (See, e.g., *Pittsburgh Railway v. Board of Public Works* (1898) 172 U.S. 32, 47 ["While this provision [of state law] cannot, of course, bind the courts of the United States, it is nearly in accord with the rule governing the exercise of the jurisdiction in equity of those courts,

as established by the decisions…"]. See also Dunlap, *Administrative Law-Exhaustion of Administrative Remedies as a Prerequisite to Judicial Review* (1946) 44 Mich.L.Rev. 1035, 1040.)

The first manifestations of exhaustion doctrine emerged in tax cases,[7] and were framed as "a phase of the doctrine that a suit in equity will not lie where there is an adequate remedy at law." (Dunlap, *supra,* 44 Mich.L.Rev. at p. 1036. See also Reed, *Exhaustion of Administrative Remedies in California* (1968) 56 Cal.L.Rev. 1061, 1062.) However, a series of U.S. Supreme Court decisions[8] rapidly evolved the doctrine through "common law reasoning" (Davis & Pierce, *supra,* § 15.3, p. 316), expanding the types of cases to which it applied (including actions at law), refining the theoretical justifications for the doctrine as a judge-made rule of "judicial administration," and clarifying that exhaustion of administrative remedies is a mandatory precondition to judicial review, "not merely a rule governing the exercise of discretion." (*Myers, supra,* 303 U.S., at p, 51, fn. 9. See also Dunlap, *supra,* 44 Mich.L.Rev. at p. 1036.) As part of this common law evolution, "the courts have assembled logical support for the exhaustion doctrine on its own merits" (*ibid*.), which includes:

> "A primary purpose is, of course, the avoidance of premature interruption of the administrative process. The agency, like a trial court, is created for the purpose of applying a statute in the first instance. Accordingly, it is normally desirable to let the agency develop the necessary factual background upon which decisions

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[7] See, e.g., *Dundee Mortg. Trust Inv. Co. v. Charlton* (C.C.D.Or. 1887) 32 F. 192; *Altschul v. Gittings* (C.C.D.Or. 1898) 86 F. 200. See also Berger, *supra,* 48 Yale L.J. at p. 981. This fact imbues Plaintiffs' assault on the exhaustion requirement specifically in the *tax* context with a certain irony.

[8] See, e.g., *United States v. Sing Tuck* (1904) 194 U.S. 161; *Prentis v. Atlantic Coast Line* (1908) 211 U.S. 210; *Myers v. Bethlehem Shipbuilding Corp*. (1938) 303 U.S. 41.

> should be based. And since agency decisions are frequently of a discretionary nature or frequently require expertise, the agency should be given the first chance to exercise that discretion or to apply that expertise. And of course it is generally more efficient for the administrative process to go forward without interruption than it is to permit the parties to seek aid from the courts at various intermediate stages. The very same reasons lie behind judicial rules sharply limiting interlocutory appeals. Closely related to the above reasons is a notion peculiar to administrative law. The administrative agency is created as a separate entity and invested with certain powers and duties. The courts ordinarily should not interfere with an agency until it has completed its action, or else has clearly exceeded its jurisdiction. As Professor Jaffe puts it, 'the exhaustion doctrine is, therefore, an expression of executive and administrative autonomy.'" (*McKart v. United States* (1969) 395 U.S. 185, 193-194. See also Scriven, *Exhausting Administrative and Legislative Remedies in Zoning Cases* (1974) 48 Tul.L.Rev. 665, 665-666.)

Incorporation of the exhaustion doctrine into California law proceeded along similar lines. As in federal jurisprudence, here "[t]he exhaustion doctrine is a judicially created doctrine (notwithstanding the fact that it has now been codified in various statutes)." (*Redevelopment Agency v. Superior Court* (1991) 228 Cal.App.3d 1487, 1493.) It initially appeared in the late-Nineteenth Century as a straightforward exercise of the courts' power to deny "relief in equity when a plaintiff had failed to seek an available administrative remedy" (Reed, *supra,* 56 Cal.L.Rev. at p. 1065. See also *Harney v. Benson* (1896) 113 Cal. 314; *San Joaquin etc. Irr. Co. v. County of Stanislaus* (1908) 155 Cal. 21),[9] but both the theory and operation of the "California exhaustion rule" took a great leap forward in

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[9] As in federal practice, California courts applied exhaustion requirements with especial vigor in tax cases. "Early California cases required taxpayers to seek relief from local boards of equalization as a precondition to judicial review of alleged overassessments involving valuation questions." (*Plaza Hollister, supra,* 72 Cal.App.4th at p. 30.)

*Abelleira, supra*, which "established it virtually full grown." (Reed, *supra,* 56 Cal.L.Rev. at p. 1061.)

*Abelleira* took an expansive view of both the role and application of exhaustion. "The rule itself is settled with scarcely any conflict. It is not a matter of judicial discretion, but is a fundamental rule of procedure laid down by courts of last resort, followed under the doctrine of *stare decisis*, and binding upon all courts." (*Abelleira, supra*, 17 Cal.2d at p. 293.) While largely based on the then-extant federal precedents (Reed, *supra,* 56 Cal.L.Rev. at p. 1061), the *Abelleira* court went a step further, holding that "exhaustion of the administrative remedy is a jurisdictional prerequisite to resort to the courts." (*Abelleira, supra*, 17 Cal.2d at p. 293. See also Asmiow, *supra,* 27 Cal. Law Revision Com. Rep. at p. 257.) While the exact contours of this limitation upon our state courts' jurisdiction have been litigated for decades, it has a number of significant consequences – including *Abelleira's* specific caution that interference with the exhaustion rule is a "drastic step...in defiance of an established rule of jurisdiction." (*Abelleira, supra*, 17 Cal.2d at p. 297. See also Reed, *supra,* 56 Cal.L.Rev. at p. 1069.)

Consistent with the jurisdictional holding and "tone" of *Abelleira*, California's implementation of the exhaustion rule has been both "broad" and "strict." (Reed, *supra,* 56 Cal.L.Rev. at pp. 1061, 1068-1069). "Unless an exception to the rule is applicable, a litigant must fully complete all federal, state and local administrative remedies before coming to court or defending against administrative enforcement...The exhaustion rule applies whenever a process exists whereby an unfavorable agency decision might be challenged within that agency or another agency." (Asmiow, *supra,* 27 Cal. Law Revision Com. Rep. at p. 254.)

As under federal practice, the exhaustion requirement is triggered by the *content* of a remedial administrative process, not its *source*. It is well-

established that "where an administrative remedy is provided by statute, relief must be sought from the administrative body and this remedy exhausted before the courts will act...The rule applies as well when the administrative procedure is provided by regulation, resolution or ordinance." (*Green v. City of Oceanside* (1987) 194 Cal.App.3d 212, 219-220. See also *Parthemore v. Col* (2013) 221 Cal.App.4th 1372, 1379.)[10] Since the exhaustion requirement "flows from the adequacy and availability of an administrative remedy" – not the intent of the enacting body – it applies "even though the administrative remedy is couched in permissive language." (*Williams v. Housing Authority of Los Angeles* (2004) 121 Cal.App.4th 708, 732-736.) The exhaustion requirement applies even to the quasi-judicial internal procedures of private associations. (*Westlake Community Hosp. v. Superior Court* (1976) 17 Cal.3d 465, 474-477.) "The failure to exhaust administrative remedies will bar actions for damages, including tort claims." (*Edgren v. Regents of University of California* (1984) 158 Cal.App.3d 515, 520.)

In another parallel with federal authorities, "[t]he purposes of the [California] exhaustion requirement have often been spelled out." (Asmiow, *supra,* 27 Cal. Law Revision Com. Rep. at p. 256):

> "[E]xhaustion of administrative remedies furthers a number of important societal and governmental interests, including: (1) bolstering administrative autonomy; (2) permitting the agency to

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[10] While application of the exhaustion requirement is ultimately a matter of the court's equitable administration of its own "jurisdiction," this does not mean that the intent of the legislative body that enacted an administrative scheme is wholly irrelevant. The Legislature, of course, can statutorily mandate exhaustion regardless of the normal requisites of the doctrine – and in any case, the intent of the enacting body is often probative of whether an administrative process *actually possesses* the structural features necessary to trigger the doctrine. (See, e.g., *Hill RHF Housing Partners, L.P. v. City of Los Angeles* (2021) 12 Cal.5th 458, 482-485.)

> resolve factual issues, apply its expertise and exercise statutorily delegated remedies; (3) mitigating damages; and (4) promoting judicial economy. The policy favoring administrative autonomy reflects the assessment that courts should not interfere with an agency determination until the agency has reached a final decision and avoids running afoul of the separation of powers doctrine. The policy of judicial efficiency is promoted by the exhaustion doctrine because it (1) lightens the burden on courts in cases where an administrative remedy is available; (2) facilitates the development of a complete record that draws on administrative expertise; and (3) serves as a preliminary sifting process that will unearth and analyze the relevant evidence." (*Muskan Food & Fuel, Inc. v. City of Fresno* (2021) 69 Cal.App.5th 372, 384)

In a reflection of the breadth of the modern administrative state – and the range of agencies necessary for effective governance – the concern for administrative autonomy is not limited to state executive agencies, but rather recognizes that "the agencies of state *and local government* are a separate branch of government and their autonomy must be respected." (Asmiow, *supra,* 27 Cal. Law Revision Com. Rep. at p. 256.)

In contrast to all the foregoing, the GCA's claims filing requirements arise from different origins, and serve different purposes. Claims presentation requirements have their roots in sovereign immunity, as "conditions to the government's waiver of its sovereign immunity from suit." (Recommendation and Study Relating to the Presentation of Claims Against Public Entities (Jan. 1959) 2 Cal. Law Revision Com. Rep. (1959) p. A-74. See also *R.L. v. Merced City School Dist.* (2025) 114 Cal.App.5th 89, 113 ["Under the law existing at the time of the Government Claims Act's enactment, a claim presentation requirement was viewed as the mechanism by which the state consents to be sued, i.e., waives procedural immunity"].) As this Court has explained:

> "We begin...with a brief synopsis of relevant portions of the state statutory scheme known as the Tort Claims Act. This body of legislation was enacted following our decision in *Muskopf v.*

> *Corning Hospital Dist*. (1961) 55 Cal.2d 211, which abolished the doctrine of governmental tort immunity. Government Code section 815 restores sovereign immunity in California except as provided in the Tort Claims Act or other statute. Thus the intent of the act is not to expand the rights of plaintiffs in suits against governmental entities, but to confine potential governmental liability to rigidly delineated circumstances: immunity is waived only if the various requirements of the act are satisfied. One key prerequisite to waiver of immunity is contained in Government Code section 911.2, which provides in relevant part that 'A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented to the public entity...'" (*Williams v. Horvath* (1976) 16 Cal.3d 834, 838.)

As might be expected from this different source, the purposes of the GCA's claim filing requirements are quite dissimilar from those of the exhaustion doctrine. Whereas the latter promotes broad "societal and governmental interests" related to the role and functioning of the judiciary (*Rojo v. Kliger* (1990) 52 Cal.3d 65, 86), the former serves the immediate needs of the governmental entity now being subjected to suit – i.e., "Prompt notice" and an "Opportunity to consider and settle claims." (Recommendation Relating to Sovereign Immunity, No. 2—Claims, Actions and Judgments Against Public Entities and Public Employees (Jan. 1963) 4 Cal. Law Revision Com. Rep. (1963) p. 1008.) Notably absent is any goal of engaging the agency's "preliminary sifting process" to "resolve factual issues" or "administrative expertise" in technical matters, much less promoting administrative autonomy or judicial economy – because, as will appear in the next section, unlike exhaustion, the GCA contains no such features.

### B. OPERATION OF THE EXHAUSTION DOCTRINE

As noted above, critical to Plaintiffs' position is the assertion that local agencies could simply re-label local claims requirements as "administrative remedies," thereby undermining the "uniform claim filing

procedure" intended by the Legislature when enacting the GCA. In addition to the theoretical flaws noted above, this assertion is mistaken in practical operation.

This Court has made it clear that regardless of whether a procedure is characterized as an "administrative remedy," the exhaustion requirement is not triggered unless that procedure is "adequate" – i.e., there must be a "genuine remedy to exhaust." (*Plantier, supra,* 7 Cal.5th at p. 384; *Hill RHF Housing Partners, supra,* 12 Cal.5th at p. 479.) "As a general matter, a remedy is not adequate unless it establishes clearly defined machinery for the submission, evaluation and resolution of complaints by aggrieved parties." (*Plantier, supra,* 7 Cal.5th at p. 384.) The requisite process cannot be established informally (*Alta-Dena Dairy v. County of San Diego* (1969) 271 Cal.App.2d 66, 73); rather, the administrative body must be required "to actually accept, evaluate and resolve disputes or complaints." (*City of Coachella v. Riverside County Airport Land Use Com.* (1989) 210 Cal.App.3d 1277, 1287.) There must be "procedure for the hearing or determination of the appeal" (*Rosenfield v. Malcolm* (1967) 65 Cal.2d 559, 567) and "standards for decisionmaking." (*City of Oakland v. Oakland Police & Fire Retirement System* (2014) 224 Cal App.4th 210, 237.)

The mere ability to submit evidence to an administrative body and have it "considered" is insufficient – the body must be obligated to "*do*" something with that evidence, and to make a determination of the contested issues. (*City of Coachella, supra,* 210 Cal.App.3d at p. 1287.) Moreover, the administrative agency must be empowered to resolve and "correct" the specific issue raised (i.e., to which exhaustion will be applied) (*Park 'n Fly of San Francisco v. City of S. San Francisco* (1987) 188 Cal.App.3d 1201, 1209). Thus, constitutional challenges to administrative action are subject to exhaustion only if the administrative body is clearly empowered to resolve constitutional objections. (See *Carachure v. City of Azusa* (2025)

110 Cal.App.5th 776, 788.) Finally, "[t]he administrative remedy also must comport with due process." (*Los Globos Corp. v. City of Los Angeles* (2017) 17 Cal.App.5th 627, 633.) "[A] remedy might be inadequate because of a lack of minimally adequate notice or other necessary procedure. If the procedure in question cannot furnish any of the relief sought by plaintiff, or an acceptable substitute for that relief, it is not adequate." (Asmiow, *supra,* 27 Cal. Law Revision Com. Rep. at p. 264.)

The foregoing structural components of an adequate administrative remedy ensure that the purposes of the exhaustion doctrine are genuinely fulfilled, and are fully consistent with the equitable origins of the exhaustion doctrine. By contrast, the GCA possesses none of these features. As aptly summarized by the Court of Appeal in *Lozada v. City and County of San Francisco* (2006) 145 Cal.App.4th 1139, 1156-1157:

> "[U]nlike the requirement that administrative remedies be exhausted before suit, under the claim filing requirements of the Government Claims Act there are no administrative hearing procedures involving the exercise of administrative expertise and the creation of a reviewable hearing record. A claim filed under the act simply provides notice to the public entity of the existence and specific nature of the claim, facilitating early investigation of disputes and settlement without trial if appropriate, as well as to enable the public entity to engage in fiscal planning for potential liabilities and to avoid similar liabilities in the future."

Simply put, as an administrative remedy, the claims procedures set forth in the GCA *would be inadequate*. They were not intended to serve the same purposes as administrative exhaustion, *and do not do so*. From here, the conclusion that the GCA "is a separate, additional prerequisite to commencing an action against the state or a local public entity and is not a substitute for the exhaustion of an administrative remedy" (*Richards v. Department of Alcoholic Beverage Control* (2006) 139 Cal.App.4th 304,

315) would seem obvious – and, as set forth in the next section, that is exactly the conclusion drawn by *every court* to consider the question.

### C. EXHAUSTION AND THE GCA PART I: THE CASELAW

Judicial recognition of the fundamental distinction between exhaustion requirements (established by the courts, as a matter of judicial administration) and claims filing requirements (established by legislation, as a condition of waiving sovereign immunity) actually predates the modern GCA. *Redlands High School Dist. v. Superior Court (*1942) 20 Cal.2d 348 concerned whether the lower courts' disregard of an applicable claims statute was merely an error of law, or an act in excess of jurisdiction reviewable by *certiorari* (the only type of appellate review available in that case). This Court found that it was simply an error of law – explicitly distinguishing claims presentation requirements from exhaustion requirements, which are jurisdictional:

> "[T]here are certain procedural rules developed by the courts which operate as a limitation on their power and are so fundamental in their nature that any violation thereof constitutes an excess of jurisdiction for the purposes of certiorari or prohibition. (For example, failure to exhaust the administrative remedies provided by statute before resorting to a court of law to challenge the order of an administrative agency)...The requirements of section 2.801 of the School Code, however, cannot be brought within the doctrine of those cases involving statutes which restrict the power of the courts. Under the provisions of that section, liability on the part of the school district (that is, the waiver of sovereign immunity) is made dependent upon the filing of a claim within ninety days. That requirement, however, is one which goes to the elements of the plaintiff's right to recover rather than to the power of the court." (*Id.* at pp. 359-360.)

As will appear, the courts have uniformly maintained this distinction through word and deed, reasoning and holding, throughout the many years since.

Plaintiffs attempt to construct a carefully gerrymandered four-part test for ostensibly relevant caselaw addressing the interplay between the GCA and exhaustion doctrine:

> "...the City has never cited a single case which holds that (1) a local government (not the Legislature) may (2) require exhaustion of a local administrative remedy (not one imposed by state statute), (3) where the GCA was held to actually apply to the claims at issue, and (4) where the GCA was actually complied with..."[11]

As it turns out, that delicately phrased claim itself is mistaken (see below) – but even on its own terms, this formulation overlooks two larger and ultimately fatal points. The first is a bedrock of common law: "As a general rule, the principle of *stare decisis* directs us to adhere not only to the holdings of our prior cases, but also to their explications of the governing rules of law." (*Seminole Tribe v. Fla.* (1996) 517 U.S. 44, 67.) This bedrock likewise prevails in California, where it is the *ratio decidendi* – "the principle or rule that constitutes the ground of the decision" – that "has the effect of a precedent." (9 Witkin, Cal. Procedure (2025) Appeal, § 530.) While Plaintiffs are perhaps correct that there is no "single case" absolutely identical to this one, they have no answer for the reasoning of the *many cases* addressing the interplay between exhaustion doctrine and the GCA, and the obvious import of that reasoning for this matter.

Second, the converse of their claim is much simpler, and more forceful for this simplicity: *Plaintiffs have never cited a single case holding that compliance with the GCA excuses exhaustion of administrative remedies*.

The cases involving interactions between exhaustion doctrine and the GCA fall into several major groups, whose factual and procedural

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[11] Opn. Brf., p. 17.

distinctions make their uniformity of analysis especially striking. The first group is a series of Court of Appeal opinions that contain the most detailed discussion of the issue. *Bozaich v. State of California* (1973) 32 Cal.App.3d 688, addressed the question of whether an exception present under exhaustion doctrine (i.e., class actions) should likewise apply to the GCA's claims filing requirements. The court firmly rejected the attempt to syncretize these two distinct requirements:

> "The doctrine of exhaustion of administrative remedies evolved for the benefit of the courts, not for the benefit of litigants, the state or its political subdivisions. It rests on considerations of comity and convenience, and its basic purpose is to secure a preliminary administrative sifting process to lighten the burden of overworked courts in cases where administrative remedies are available and are as likely as the judicial remedy to provide the wanted relief. The claim-filing requirements of the Government Code are directly related to the doctrine of governmental immunity and exist for the benefit of the state, not the judicial system; they were adopted by the Legislature in the exercise of its legislative prerogative to impose conditions as a prerequisite to the commencement of any action against the public entity. The doctrine of exhaustion of administrative remedies has no relationship whatever to division 3.6 of the Government Code, and it follows that any exception to that doctrine is not controlling here." (*Id*. at p. 698.)

*Lozada, supra,* and *Parthemore, supra,* form a pair, the former holding that an exemption from exhaustion requirements does not excuse compliance with the GCA, and the latter holding the converse, that exemption from the GCA does not excuse exhaustion of administrative remedies. Both holdings were based upon the same rationale articulated in *Bozaich*. *Lozada* reasoned that "[t]he origin and purposes of the government claim filing requirements and the administrative remedies exhaustion doctrine differ, and elimination of the exhaustion requirement does not release a litigant from the need to comply with Government

Claims Act requirements" (*Lozada, supra,* 145 Cal.App.4th at p. 1155),[12] and *Parthemore* likewise concluded that "the cases make it plain that plaintiff's obligation to exhaust the administrative remedies available to prisoners concerning the medical treatment they receive is independent of the obligation to comply with the Government Claims Act." (*Parthemore, supra,* 221 Cal.App.4th at p. 1382.)

*Richards, supra,* is most nearly on point here, and perilously close to dispositive. Like Tesoro here, Richards had not pursued the administrative remedies established by the agency, but *had* filed an (apparently) compliant claim under the GCA before commencing suit. Relying on *Bozaich*, the court held this insufficient:

> "Richards cites no authority to support his contention that the presentation of a claim under the California Tort Claims Act (Gov. Code, § 810 et seq.) in lieu of pursuing an administrative remedy established by the Department satisfied the exhaustion requirement. The presentation of a claim pursuant to the Tort Claims Act is a separate, additional prerequisite to commencing an action against the state or a local public entity and is not a substitute for the exhaustion of an administrative remedy." (*Richards, supra,* 139 Cal.App.4th at p. 315. See also *Cornejo v. Lightbourne (*2013) 220 Cal.App.4th 932, 938 ["Ordinarily, filing a claim with a public entity pursuant to the Claims Act is a jurisdictional element of any cause of action for damages against the public entity that must be satisfied *in addition* to the exhaustion of any administrative remedies"].)

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[12] Plaintiffs subtly mischaracterize *Lozada* as holding that "the Legislature was free to exempt plaintiffs from one requirement and not the other." (Rep. Brf., pp. 34-35.) However, the Legislature's freedom to act was never at issue in *Lozada*; rather, the question was whether *the action the Legislature actually took* on one subject (exhaustion) affected the other (GCA) – and the court concluded that it did not, because the two are entirely independent of one another. Contrary to Plaintiffs' suggestion, this says quite a great deal about "about what local governments can do" with respect to administrative remedies.

Perhaps recognizing that *Richards* is fatal to their case, Plaintiffs just ignore it (although it was cited repeatedly in the City's briefing). Their response to the other authorities is simply to recite the results of each case, without acknowledgement of the courts' *reasoning* or any effort to explain why that reasoning does not apply here, or why those courts might have been wrong.[13] This is not the way. *Bozaich*, for example, could *only* conclude that there was "a failure to comply with the GCA itself" (Rep. Brf., p. 34) by distinguishing the GCA from administrative exhaustion requirements.[14] *That* is the *ratio decidendi* which binds the lower courts and persuades the higher (see 9 Witkin, Cal. Procedure (2025) Appeal, § 531), and for which Plaintiffs have no rebuttal, *because there is none*.

The closest Plaintiffs come to any actual engagement with these cases is the brief assertion that *Parthemore* "dealt with state, not local, administrative remedies."[15] (One assumes they would likely make a similar assertion regarding *Richards*, had they addressed it.) To begin with, the administrative remedy in *Parthemore* was adopted by *agency regulation* (*Parthemore, supra,* 221 Cal.App.4th at pp. 1379-1380), which – like a local ordinance – could not conflict with the GCA, a state statute. (*Agric. Labor Relations Bd. v. Superior Court* (1976) 16 Cal.3d 392, 427.) But there is, of course, no conflict between administrative remedies that must be exhausted and the GCA's claim filing requirements. They're entirely separate – that's the point, both in *Parthemore* and here.

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[13] See, e.g., Rep. Brf., pp. 31-39.

[14] Unlike Plaintiffs, the *Lozada* court clearly understood this, noting that "[t]he important point of *Bozaich* for purposes of our analysis is that the doctrine of exhaustion of administrative remedies is unrelated to the claim presentation provisions of the Government Claims Act..." (*Lozada, supra,* 145 Cal.App.4th at p. 1156.)

[15] Rep. Brf., p. 34.

More fundamentally, the source of the administrative remedy simply was not a factor in the reasoning of any of these cases, and there is not a hint that it played any role in the courts' decisions. Litigants must take a court's reasoning at its word, and are not at liberty to invent hypothetical rationales *post hoc*.

The second group is a series of federal District Court cases (cited with approval in *Cornejo, supra,* 220 Cal.App.4th at p. 938) that are equally close on point with *Richards*. *Bowman v. Yolo County* (E.D. Cal. 2008) 2008 U.S. Dist. LEXIS 66351, *Creighton v. City of Livingston* (E.D. Cal. 2009) 628 F.Supp.2d 1199, and *Ortiz v. Lopez* (E.D. Cal. 2010) 688 F.Supp.2d 1072 all involved whistleblower claims under Labor Code section 1102.5, for which exhaustion of available administrative remedies is required (as set forth in *Campbell, supra*). These courts, relying on *Richards*, each held that "the filing of a Tort Claims Act claim does not satisfy the purposes of the exhaustion of administrative remedies requirement." (*Bowman, supra*.) A clearer repudiation of Plaintiffs' position would be difficult to envision.

Plaintiffs attempt to avoid this conclusion by arguing that "[t]he federal cases the City cites...addressed discrimination claims under the Labor Code for which the Legislature specifically adopted administrative remedies that had to be exhausted in addition to filing a GCA claim."[16] That is not an accurate characterization of the holding of these cases, to put it mildly. Once again, Plaintiffs fail to confront the decisions these courts *actually made*. The source of the administrative remedy played *no role* in any of these courts' reasoning – as evidenced by their uniform citations to *Campbell, supra,* which itself involved *internal* administrative remedies

[16] Rep. Brf., p. 33.

rather than anything "the Legislature specifically adopted." In reality, these cases provide yet another demonstration that the requirements to (1) exhaust any available administrative remedies, and (2) file a compliant GCA claim, are distinct obligations occupying separate spheres, and consistently coexist without conflict.

The final group of cases are those that Plaintiffs believe should not exist, in which compliant GCA claims were *actually filed*, but the courts nonetheless dismissed one or more causes of action for failure to exhaust local administrative remedies. These cases generally do provide the same level of analysis of this issue as *Bozaich* and its progeny, and must be approached with due sensitivity to the axiom "that cases are not authority for propositions not considered." (*McWilliams v. City of Long Beach* (2013) 56 Cal.4th 613, 626.) Nonetheless, at a minimum these cases belie Plaintiffs' assertion that applying the exhaustion doctrine would somehow "Effect a Revolution in Local Government Claims"[17] – and conversely, they demonstrate the breadth of disruption that *Plaintiffs' position* would wreak. More broadly, the fact that none of these courts perceived any conflict between local administrative remedies and the GCA should give some pause when considering Plaintiffs' bolder claims.

*Los Globos, supra,* involved a nightclub owner's action for damages arising from a reduction in the number of patrons allowed at the club. The court noted that the owner had "filed a claim for damages with the City," but had not exhausted its administrative remedies under the Los Angeles Municipal Code. The court held this failure fatal: "Los Globos admittedly failed to exhaust its administrative remedies prior to filing suit in superior

[17] Opn. Brf., p. 53.

court. This failure bars Los Globos from pursuing its claim here." (*Los Globos, supra,* 17 Cal.App.5th at p. 629.)[18]

*Williams v. Housing Authority of Los Angeles, supra,* is similarly on point. *Williams* was an employment case that involved both FEHA claims (exempt from internal exhaustion requirements under *Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074), and statutory claims for wrongful demotion and constructive termination (which were not exempt). The plaintiff "alleged that he complied with the Tort Claims Act," but had not exhausted the internal appeals process set forth in HACLA's personnel rules. *Williams* held this failure fatal with respect to those causes of action unrelated to the FEHA claim, and made the following pertinent observation:

> "Nor do we agree with Williams that there is a distinction in requiring the exhaustion of administrative remedies depending upon whether the employer is a university, private association, or a public entity. The exhaustion requirement flows from the adequacy and availability of an administrative remedy. Thus, we conclude that where, as here, there is an adequate and available internal administrative remedy, Williams must exhaust that remedy before filing a civil action alleging nonstatutory causes of action arising from his employment." (*Williams, supra,* 121 Cal.App.4th at p. 736.)[19]

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[18] Plaintiffs' efforts to distinguish *Los Globos* suffer from many of the same flaws noted above. They describe the case as concerning "Los Globos's failure to comply with the Government Claims Act itself" (Rep. Brf., p. 36), neglecting to mention that this was merely one of the defendant's alternative arguments, *which the court explicitly did not reach* (*Los Globos, supra,* 17 Cal.App.5th at p. 635) – and that the actual holding in the case (reasoning and result) was based *entirely* on exhaustion principles, notwithstanding the applicability of the GCA. (Plaintiffs' arguments relating to accrual and attempts to distinguish pre- and post-deprivation remedies are discussed in Sections II.E and III.A, *infra*.)

[19] Plaintiffs mention *Williams* only once, citing it for the proposition that the Legislature has implicitly exempted FEHA claims from the GCA. (Rep. Brf., p. 33.) To say that this misses the point would be an understatement.

The analysis thus comes full circle. From the earliest federal cases to today, "[t]he exhaustion requirement flows from the adequacy and availability of an administrative remedy" – and that requirement operates independently of the GCA's claims filing provisions. As explained in the next section, this conclusion is perfectly consistent with the text and structure of the GCA (as well as its history, theory, and purpose).

### D. EXHAUSTION AND THE GCA PART II: THE STATUTE

The Legislature can, of course, "grant the right to seek judicial review of an administrative action without resort to administrative remedies or may make the judicial and administrative remedies cumulative." (*California Correctional Peace Officers Assn. v. State Personnel Bd.* (1995) 10 Cal.4th 1133, 1151.) However, there is a strong presumption that the Legislature did not intend this "drastic" step (*Campbell, supra,* 35 Cal. 4th at p. 333; *Abelleira, supra*, 17 Cal.2d at p. 297), and the statutes found to have such an effect generally included explicit statutory language (see, e.g., *McKee v. Bell-Carter Olive Co.* (1986) 186 Cal.App.3d 1230, 1240 [describing the administrative remedy as "cumulative...in addition to any other...remedies...provided for by law"]) and/or unimpeachable legislative history (e.g., *Mounger v. Gates* (1987) 193 Cal.App.3d 1248, 1256 [committee report stating legislative intent to provide "immediate access to superior court to enforce their rights...without having to pursue administrative remedies"].) The same cannot be said for the GCA.

Plaintiffs' argument on this point is based ultimately upon a conflation: They assume, explicitly, that a request for administrative

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Both the facts of *Williams* and much of its reasoning are anathema to Plaintiffs' position, but lacking any answer, they simply ignore it.

review, under an established remedial scheme, "is indistinguishable from a 'claim' under the GCA" (at least when the payment of money may result from a successful administrative appeal). (Rep. Brf., p. 16.)[20] This is the basis for both their conceptual argument that exhaustion and the GCA occupy the same "field," and for many of the specific procedural conflicts they allege.

As with much of Plaintiffs' briefing, their focus on the superficial[21] misses the substance. The fact the payment of money may result as a downstream consequence of a particular remedy does not automatically transform that remedy into a "claim for money or damages." The classic example of this is *County of Los Angeles v. Riley* (1942) 20 Cal.2d 652, *Minsky v. City of Los Angeles* (1974) 11 Cal.3d 113, and their progeny. These cases hold that actions in mandamus to compel the release of wrongfully detained funds or property, are not "claims for money or damages," "even though the result compels the public official to release money wrongfully detained." (*City of Dinuba v. County of Tulare* (2007)

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[20] For the first time in their Reply Brief, Plaintiffs advance the revised argument that the field of GCA preemption is, actually, limited only to *post-deprivation* administrative remedies. (Rep. Brf., pp. 21, 36.) While Plaintiffs barely acknowledge their shift, this is a significant new concession both in legal theory and practical effect. At an absolute minimum, this would seem to necessitate examination (or remand) to determine whether the City's administrative appeal process here was actually a pre- or post-deprivation remedy, which is disputed. (Compare Defendant's Answer Brief, p. 15 with Rep Brf., pp. 40-41.) More broadly, this would be a significant caveat to the supposed "field" of GCA preemption, the contours of which would doubtless be litigated for years to come. Regardless, though, this concession does not save their position, because as discussed below, whether that administrative remedy occurs pre- or post- the (alleged) deprivation is irrelevant to the issue of preemption. (To the extent that this new argument is premised on accrual concepts, that subject is addressed in Section III.A, *infra*.)

[21] See, e.g., Rep. Brf., pp. 16-17.

41 Cal.4th 859, 868.) "While the action has the practical effect of awarding plaintiffs money (which has routinely been referred to as 'damages' by all parties), in law it is simply an action in mandamus to compel by ministerial act the release of funds, not one for damages..." (C*ounty of Sacramento v. Lackner* (1979) 97 Cal.App.3d 576, 588.)

The analogy isn't exact (e.g., administrative appeals typically are not limited to correcting ministerial errors), but it is compelling in substance – especially in light of the history and purposes of the exhaustion doctrine. At its heart, an aggrieved party's request for administrative review, under an established remedial scheme, is not a "claim for money or damages"; rather, it is a request that the agency render a final (and judicially reviewable) decision on disputed issues of fact and/or law different from its initial decision. The fact that a successful administrative appeal may result in return of "money wrongfully detained" under the initial decision does not transform that appeal into a "claim for money or damages." In this connection, *Bertone v. City & County of San Francisco* (1952) 111 Cal.App.2d 579 is instructive. As described in *Minsky* (with approval):

> "In *Bertone* the plaintiff paid $5,000 to the water department to be held in trust pending a settlement of a disputed water district assessment. Even though no such settlement was reached, the city and county refused to return the money. When the plaintiff sought the return of his funds, the respondents argued that a then applicable charter provision required all claims for damages against the city to be presented to the controller within 60 days after the occurrence. The plaintiff answered that his claim was not for 'damages' but rather was an action based on a receipt given for his money. The Bertone court agreed with the plaintiff, implicitly recognizing that trust principles authorized specific recovery of the money, and held the claims presentation procedure inapplicable." (*Minsky, supra,* 11 Cal.3d at pp. 122-123.)

Thus here, the fact that Plaintiffs' (alleged) "overpayment" in response to the City's initial Notice of Deficiency might be returned if that

Notice is reversed by the City Manager on appeal does not convert the appeal into a claim for damages under the GCA – and does not excuse Plaintiffs from pursuing such an appeal before seeking judicial review.

In sum, the history, theory, operation, purpose, and text of the relevant law unanimously refute Plaintiffs' claim for exemption from the longstanding requirement to exhaust their administrative remedies.[22] The analysis could end here, as Plaintiffs' other points are ultimately merely variations of their flawed conflation of administrative remedies and GCA claims; however, for purposes of completeness, several of their more prominent arguments will be specifically addressed in the next section. [23]

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[22] Since the *requirement to exhaust* an administrative remedy, whatever its source, is actually "laid down by courts of last resort" (*Abelleira, supra*, 17 Cal.2d at p. 293), not the administrative agency, is questionable whether *preemption* is even the correct analytical lens through which to evaluate Plaintiffs' claims – or rather whether the question should be viewed purely as one of statutory construction, i.e., did the Legislature intend to abrogate the common law exhaustion doctrine? (Compare *Mounger, supra* [taking this analytical approach].) At the end of the day, however, this does not matter. Regardless of whether the question is approached as one of preemption, or legislative abrogation of the common law, there is a clear presumption against "inferring a statutory exemption from our settled rule requiring exhaustion of administrative remedies" (*Campbell, supra,* 35 Cal. 4th at p. 333), which Plaintiffs have not rebutted under any framework.

[23] The fact that a request for administrative review is not a "claim for money or damages" – i.e., not the same thing as a GCA claim – answers Plaintiffs' complaints about various "conflicts" between the procedural details of the City's administrative process and those of the GCA's claims process – such as when the claim is filed, in which office, and the timelines and procedures under which it is considered. (Opn. Brf., pp. 48-50.) Such differences are feature, not a bug – and are entirely unsurprising given that these two processes are entirely independent and distinct in concept, purpose, timing, and operation.

## III. PLAINTIFFS' SCHOOL OF RED HERRINGS

### A. ACCRUAL AND TOLLING

Plaintiffs stake a great deal of their case on the assertion that "[a] claim for refund of taxes illegally paid accrues upon payment."[24] This is the fact that supposedly places post-payment administrative remedies within the field occupied by the GCA,[25] and the source of specific conflicts that, in their view, "affirmatively inhibit taxpayers from meeting the [GCA] deadlines."[26] Unfortunately for Plaintiffs, this assertion is flat wrong on the law, at least as applied here.

Beginning with Plaintiffs' authorities, the principal case upon which they rely, *Bainbridge v. County of Riverside* (1959) 167 Cal.App.2d 418, actually held that "[a] cause of action accrues at the moment when the party who owns it is entitled to bring and prosecute an action thereon" – which, *in that case*, was "upon payment of the last item in each instance." (*Id.* at p. 422.) The corollary to this seems obvious – and the caselaw bears it out: Where there is an administrative refund remedy, that remedy must be exhausted, and "the cause of action for a refund does not accrue until the claim for refund has been denied or rejected in some manner." (*Hamilton & High, LLC v. City of Palo Alto* (2023) 89 Cal.App.5th 528, 557 quoting *State of California ex rel. Dept. of Motor Vehicles v. Superior Court* (1998) 66 Cal.App.4th 421, 435.) As *Hamilton & High* explained:

> "A cause of action typically accrues at the time when a suit may be maintained. Ordinarily this is when the wrongful act is done and the obligation or the liability arises, but it does not accrue until the party owning it is entitled to begin and prosecute an action thereon. In other words, a cause of action accrues upon the occurrence of the

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[24] Opn. Brf., p. 49.

[25] Rep. Brf., p. 35.

[26] Opn. Brf., pp. 49-51.

> last element essential to the cause of action. Stated differently, a cause of action accrues at the time when the cause of action is complete with all of its elements...[I]t is not when the wrongful act is done and the obligation or the liability arises but when the party owning it is entitled to begin and prosecute an action thereon that determines the action is complete with all of its elements...Under these circumstances, only upon the City's refusal to issue a refund could plaintiffs maintain a suit based upon a refund demand for alleged noncompliance with the Mitigation Fee Act's accounting and findings requirements. As stated in analogous actions involving tax and other types of refunds, the cause of action for a refund does not accrue until the claim for refund has been denied or rejected in some manner..." (*Hamilton & High, supra,* 89 Cal.App.5th at pp. 556-557.)

This is obviously fatal to Plaintiffs' argument – but their difficulties don't end there. This black-letter principle of accrual has specifically been applied to cases arising under the GCA. *A. Teichert & Son, Inc. v. State* (1965) 238 Cal.App.2d 736 (disapproved on other grounds in *E. H. Morrill Co. v. State of California* (1967) 65 Cal.2d 787, 792) concerned a public contractor's claim for contract damages, and presented the specific question of when the (then two-year) timeline to file a GCA claim started running:

> "Generally, a cause of action accrues and the statute of limitations starts to run when the cause of action is complete and the party has a right to sue...Plaintiff contends that its right to sue for money claimed under the construction contract did not accrue until completion of the nonjudicial remedy established by the contract specifications, specifically section 9(f) of the Standard Specifications. With this contention we agree. Either of two requirements of law supplies a footing for this view - exhaustion of administrative remedies or exhaustion of contract remedies...A basic doctrine of law demands exhaustion of a party's administrative remedies before he files suit, even though no statute makes it a condition of his right to sue... Under one doctrine or the other, claims under Teichert's contract with the state did not accrue and the two-year period on filing such claims with the State Board of Control did not start until completion of the settlement procedure

established by section 9(f) of the Standard Specifications." (*Teichert, supra,* 238 Cal.App.2d at pp. 744-745.) [27]

*Myers v. County of Orange* (1970) 6 Cal.App.3d 626, is to similar effect. That case involved a wrongful discharge action maintained by the widow of a deceased county employee, who spent years exhausting the county's administrative remedies prior to filing a GCA claim. As relevant here, the *Myers* court began with "the general proposition that, where the plaintiff must exhaust administrative remedies before bringing suit but has delayed commencement thereof, a statute of limitations is tolled during the time consumed by the administrative proceeding once it has been commenced." (*Id.* at p. 633.) The complication in *Myers* arose from a dispute over whether the widow herself (as distinct from the decedent employee) was subject to an exhaustion requirement – which the court avoided by holding that, regardless of accrual, the claims filing deadline

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[27] Plaintiffs effort to distinguish *Teichert* are, as elsewhere, superficial. They assert that *Teichert* "merely held that when a government contractor agrees to enter a contract that itself includes a specific procedure for pre-litigation resolution...that agreed-upon procedure must be followed…being forced to comply with a procedure one agreed to follow is dramatically different from being unilaterally deprived of the remedies the GCA authorizes..." (Rep. Brf., p. 24.) This argument is not without some irony – given Plaintiffs' earlier-expressed horror at the prospect of "forcing contract claims into administrative tribunals" (Opn. Brf., p. 17) – but in any event it misstates the case. The administrative remedy in *Teichert* was contained in the "Standard Specifications of the State Department of Public Works, Division of Highways," a regulatory document incorporated by the Department into the competitively bid public contract plaintiff was awarded. Describing this as an "agreed-upon procedure" puts adhesion contracts to shame. More importantly, the *Teichert* court expressly rested its decision on *both* exhaustion of administrative remedies *and* exhaustion of contract remedies as alternative holdings.

was equitably tolled while the widow pursued those (arguably inapplicable) administrative remedies.[28]

*Myers* express application of equitable tolling to the GCA claims deadline[29] has generated some confusion, as that appears to conflict with *Willis v. City of Carlsbad* (2020) 48 Cal.App.5th 1104 on this point.[30] However, this confusion (and potential conflict) is of no moment here. For present purposes, the relevant aspect of *Myers* – like *Teichert* – is the "general proposition" that the GCA's claims filing period does not begin to run until any applicable administrative remedies are exhausted.

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[28] Plaintiffs' brief description of *Myers* ("*Myers* was a case in which the plaintiff did submit a letter within the requisite year that substantially complied with the requirements of § 910, making it a timely "claim" within the meaning of the case law..." Rep. Brf., p. 42) once again appears to envision the decision *they wish* the court had made, rather the *actual reasoning or result* of that case. While the fact that some of the correspondence exchanged during the administrative proceedings in that case "satisf[ied] the purposes" of the GCA was among the equitable factors considered by the court when applying tolling doctrine, the decision was *not* based on any finding of "timely" compliance with the GCA, substantial or otherwise, but rather upon *excusing* such timelines through tolling. (See *Myers, supra,* 6 Cal.App.3d at p. 637.)

[29] *Myers, supra,* 6 Cal.App.3d at pp. 636-637 ["We recognize, of course, that strictly speaking, the statutes requiring the presentation of a claim within one year are not statutes of limitations. These statutes are comparable, however, to a statute of limitations and have the same effect...We see no good reason, therefore, why the rule of [equitable tolling] should not be applied to toll the running of the one-year claim period..."])

[30] *Willis, supra,* 48 Cal.App.5th at p. 1121 ["We conclude the doctrine of equitable tolling cannot be invoked to suspend section 911.2's six-month deadline for filing a prerequisite government claim. As we have explained...the six-month period of section 911.2 is not a statute of limitations to which tolling rules might apply"].) The *Willis* court appears to have been unaware of *Myers'* seemingly contrary holding on the tolling issue.

*Hamilton & High*, *Teichert*, and *Myers* put the final nail into Plaintiffs' arguments. They make it clear that the fields of administrative exhaustion and GCA claims are *temporally* separate, as well as conceptually distinct; confirm that administrative remedies are wholly outside the subject matter actually addressed by the GCA; and conclusively dispose of Plaintiffs' argument that "it is impossible to comply with both" administrative remedies and the GCA.[31]

### B. MUCH ADO ABOUT NOTHING: *McWILLIAMS*, *VOLKSWAGEN*, AND *SIPPLE*

Plaintiffs place near-total reliance on three cases, *McWilliams, supra, Volkswagen Pacific, Inc. v. City of Los Angeles* (1972) 7 Cal.3d 48, and *Sipple v. City of Hayward* (2014) 225 Cal.App.4th 349, suggesting that

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[31] While unnecessary to the decision here, it is worth noting that there are practical, as well as jurisprudential, solutions to the supposed impossibility that Plaintiffs perceive of both exhausting administrative remedies and complying with the GCA's timelines. Even if, as Plaintiffs argue, (1) the GCA claims deadline accrued upon payment of the disputed tax, not exhaustion of the administrative appeals process (*contra Hamilton & High* and *Teichert*), and (2) the GCA deadline, thus triggered, cannot be tolled while the appeals process proceeds (*contra Myers*), there would *still* be no irreconcilable conflict between these processes. Although, as noted, there is some confusion regarding whether equitable tolling applies to the GCA's claims filing deadline, it is well-established that tolling *does* apply to the subsequent statute of limitations for filing suit after the GCA claim is denied. (*Addison v. State of California* (1978) 21 Cal.3d 313, 321.) There would be no theoretical or practical difficulty with a rule that required an aggrieved party to file a GCA claim while their administrative appeal was pending (thereby satisfying the GCA's salutary purposes), but tolled the subsequent statute of limitations pending completion of the administrative process (thereby fulfilling the goals of exhaustion doctrine). This would be a simple, obvious, and elegant solution that accommodates both of these strong public policy interests without conflict – if such accommodation were actually necessary, which, due to the unambiguous accrual caselaw, it is not. (See *Wright v. State of California* (2004) 122 Cal.App.4th 659, 670-671 [adopting this approach].)

they "support[] the conclusion that the Legislature intended to occupy the field" and even "address the question presented in this case."[32] However, this reliance does withstand basic legal analysis.

Taking these cases sequentially, as the Court of Appeal noted, "*McWilliams* is not a preemption case" (Slip. Op., at p. 14) – but more importantly for our purposes, it did not involve the exhaustion doctrine or administrative remedies of any kind.[33] The *McWilliams* Court consequently neither considered nor addressed the actual questions pertinent here – i.e., is an administrative remedy equivalent to a "claim for money or damages" within the GCA's ambit, and did the Legislature intend the "drastic step" of interfering with "our settled rule requiring exhaustion of administrative remedies"? What Plaintiffs' *really* like about *McWilliams* is the language – i.e., "which level of government—the state or the local public entity—should define the procedures governing an action for refund of a local tax" and "[t]he City is not authorized under the Government Claims Act to establish its own claims procedure..."(*id.* at pp. 618, 628-629) – but this language does not aid them for a number of reasons.

Of course, "[i]t is axiomatic that language in a judicial opinion is to be understood in accordance with the facts and issues before the court. An opinion is not authority for propositions not considered. An appellate decision is not authority for everything said in the court's opinion but only for the points actually involved and actually decided" (*People v. Knoller* (2007) 41 Cal.4th 139, 154–155); however, Plaintiffs' difficulties here go deeper. The exhaustion requirement itself *is established by the state "level*

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[32] Opn. Brf., p. 37; Rep. Brf., p. 31.

[33] The local "procedure" at issue in *McWilliams* was an ordinance simply prohibiting class action refund claims. There was no suggestion that any administrative remedy existed for the underlying tax disputes, and no such issues were considered.

*of government"* – specifically, the "courts of last resort," who have imposed this requirement as a jurisdictional "self-limitation" when certain conditions exist (i.e., an adequate and available administrative remedy). Moreover, as discussed above, an administrative remedy is not a "claims procedure" within the meaning of the GCA. Plaintiffs' essential premise, that limitations upon the "procedure for the *presentation of claims for money or damages* against a local government entity" (*McWilliams, supra,* 56 Cal.4th at p. 616) must necessarily affect *administrative appeals processes*, simply assumes the conclusion, rather than aiding in the analysis.

Even less need be said of *Volkswagen*. That decision's statement that "the filing of claims for money or damages against California government units is an area of statewide concern in which the Legislature has occupied the entire field" (*Volkswagen, supra,* 7 Cal.3d at p. 62, fn. 7) may or may not have been dicta (see Slip. Opn., at p. 12), which the *McWilliams* court may or may not have adopted (see Opn. Brf., p. 42) – but none of that is relevant here. Even if the GCA occupies the field of "claims for money or damages," this does not answer the essential question of *whether the exhaustion doctrine is part of that field* – a question that was not involved, considered, or decided in *Volkswagen*.

Last and certainly least is *Sipple*. The criticisms of that decision leveled by the instant Court of Appeal and the City appear fully justified, but it is unnecessary to pass on the merits of that case here. As with *McWilliams* and *Volkswagen*, *Sipple* involved no question of administrative remedies or exhaustion. In that case, the local agencies had attempted to regulate *standing* to file a GCA claim, through a novel extension of the

pay-first-litigate-later rule.[34] This effort to regulate *who can file* a GCA claim was held preempted under *McWilliams*.[35] Such a "refund first" mechanism obviously does not purport to be an administrative remedy, does not serve any of the purposes of the exhaustion doctrine, and does not present *any* of the features that trigger exhaustion requirements under the caselaw. Unsurprisingly, therefore, *Sipple* did not consider any question of administrative exhaustion or its relation to the GCA.

Again, what Plaintiffs like about *Sipple* is really just the language – i.e., "[t]o the extent that [local] ordinances establish a precondition to filing a claim, they are preempted by the Government Claims Act"[36] – but that language does not assist the resolution of any of the questions *actually presented here*, for the reasons noted above.

Plaintiffs cannot cite any cases supporting their position that the GCA abrogates the requirement to exhaust administrative remedies, because no such cases exist. Every court to *actually consider* the interplay between the GCA and exhaustion has concluded otherwise, leaving Plaintiffs with nothing but unhelpful language in inapposite cases - in short, with nothing of substance.

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[34] The ordinances in question purported to "allow a service supplier...to file a [GCA] claim only in the event that the service supplier has already refunded disputed taxes from its own funds to its customers." (*Sipple, supra,* 225 Cal.App.4th at p. 357.)

[35] Interestingly, Sipple appears to have employed *conflict* preemption – specifically, conflict with the GCA standing provisions of Government Code section 910 – rather than field preemption. (*Sipple, supra,* 225 Cal.App.4th at pp. 357-358.)

[36] Rep. Brf., pp. 27, 29.

### C. EXHAUSTION EXPLAINS IT ALL

Many of the supposed horribles that Plaintiffs' envision arising from administrative exhaustion requirements (both generally, and in this case) are simply embryonic forms of issues that commonly arise within administrative remedies jurisprudence, and are fully resolved therein.

Plaintiffs envision being compelled to participate in administrative appeals that are "years long," "without discovery rights," and impede claims "from being adjudicated on their merits."[37] These are nothing more than commonplace challenges to the adequacy of the administrative remedy. An administrative process that unduly delays resolution of the issue, or lacks sufficient machinery for taking evidence or adjudicating disputes would not trigger exhaustion requirements in the first place, thus obviating these concerns. (See, e.g., Asmiow, *supra,* 27 Cal. Law Revision Com. Rep. at pp. 263-265.) Moreover, these challenges are entirely hypothetical, as Plaintiffs have made no effort to show that the City's administrative remedy here is actually inadequate.

Other hypothetical concerns center on the specter of "a police brutality claim" subject to "an administrative review...making the relevant 'factfinder' the police chief" and "an alleged failure to maintain city property in a safe condition...litigated before a panel comprised of employees from the city's department of public works."[38] Putting aside any questions of plausibility of these scenarios, such concerns, if they actually arose, would be fully resolvable within the exhaustion doctrine itself. Plaintiffs are plainly trying to imply biased decision-makers and (at least in the case of the hypothetical "police brutality claim") administrative procedures that could not provide the injured party with effective relief.

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[37] Opn. Brf., pp. 12, 14, 54.

[38] Opn. Brf., p. 54.

The well-established futility and irreparable harm exceptions to the exhaustion requirement (see *City of San Jose v. Operating Engineers Local Union No. 3* (2010) 49 Cal.4th 597, 609) provide a clear framework for evaluating such claims, and mitigating such hazards when they actually arise. (As above, these concerns are wholly hypothetical here, as Plaintiffs have made no such showing with regard to the City's actual administrative process in this case.)

As to the actual administrative process this case, Plaintiffs claim that the City Attorney "advised" them that the City's administrative procedures were "merely alternative options that are available to" Plaintiffs, which they apparently interpreted to mean that these remedies need not be exhausted.[39] Putting aside the facts (1) that these claims do not accurately characterize the record; (2) that Plaintiffs were at all times represented by their own capable counsel; and (3) that, under *Williams*, administrative remedies "couched in permissive language" also must be exhausted, even if these claims had some substance, they would not help Plaintiffs' argument here.

This too is a common argument addressed within the exhaustion caselaw, i.e., that the agency is estopped from invoking the exhaustion doctrine due to statements made by agency representatives. (See, e.g., *Steinhart v. County of Los Angeles* (2010) 47 Cal.4th 1298.) Plaintiffs' submissions in this case fall woefully short of establishing such estoppel (see *id.* at pp. 1314-1318), but, as above, the exhaustion doctrine incorporates mechanisms for addressing these issues, when meritorious.

As the foregoing demonstrates, the exhaustion doctrine has developed extensive caselaw designed to address all these issues and ensure that an administrative remedy actually serves the judiciary's purposes

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[39] Opn. Brf., pp. 21-22; Rep. Brf., p. 41.

underlying the doctrine in order to trigger exhaustion requirements. These concerns are fully addressed within the exhaustion doctrine, and are not a reason to depart from it.

### D. THE ISSUE THAT WASN'T: CODE OF CIVIL PROCEDURE SECTION 1094.5

Plaintiffs spend several pages of their briefing complaining vociferously about one provision in the Carson Municipal Code indicating that the City's final administrative decision shall be "subject to judicial review pursuant to Code of Civil Procedure Section 1094.5." (Carson Mun. Code, § 63523, subd. (c).)[40] The level of emphasis they place on this issue is surprising, as it is, in common parlance, a "nothing burger."

The Municipal Code section in question simply cross-references the normal provision for judicial review of an "administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal, corporation, board, or officer..." (Code Civ. Proc., § 1094.5.) If anything, this section is most informative regarding the robust nature of the administrative remedy actually contemplated by the City under this section (i.e., precisely the type of remedy that *should* trigger exhaustion under established caselaw).

Whether Section 1094.5 would actually govern judicial review of the City's decisions under this section, and if that answer might differ depending on whether the City's administrative remedies are provided pre- or post-payment, *could* be interesting questions – *if* Plaintiffs had actually availed themselves of these remedies, and now sought to litigate the appropriate avenue and standard of judicial review. They did no such thing, of course, and this is but another hypothetical distraction. In any event, the

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[40] Opn. Brf., pp. 51-53; Rep. Brf., p. 41.

applicable chapter of the Carson Municipal Code contains an express severability provision (§ 63526), and thus any infirmity in the provisions for judicial review has absolutely no bearing on the validity and applicability of the remedial scheme as a whole.

### E. CAUGHT IN THEIR OWN "TRAP FOR THE UNWARY"

At the end of the day, Plaintiffs' legislative intent arguments begin and end with the GCA's general purposes to promote uniformity in claims filing requirements and avoid "traps for the unwary."[41] While administrative remedies are *not* claims filing procedures, it cannot be denied that complete abrogation of all such administrative remedies (at least when money is sought) would serve the goal of statewide uniformity – but at an immense cost which there is no evidence, whatsoever, the Legislature intended.

"[N]o legislation pursues its purposes at all costs. Deciding what competing values will or will not be sacrificed to the achievement of a particular objective is the very essence of legislative choice—and it frustrates rather than effectuates legislative intent simplistically to assume that whatever furthers the statute's primary objective must be the law." (*In re Friend* (2021) 11 Cal.5th 720, 740.) In this respect, Plaintiffs' arguments come up woefully short. They assert that "[t]here's little doubt that the Legislature is, and was, aware of the ostensible policy benefits of administrative remedies when it enacted the GCA,"[42] but this simply isn't true. One searches in vain through the legislative history behind the 1959

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[41] Opn. Brf., pp. 35-36; Rep. Brf., pp. 11, 29, 42.

[42] Rep. Brf., p. 11.

claims legislation[43] and the 1963 enactment of the GCA,[44] and the influential background study of Professor Van Alstyne,[45] for any reference to administrative remedies, exhaustion, or the purposes, policies, and value of the exhaustion doctrine. There are none, and nothing else to indicate that the Legislature perceived any potential tension between standardizing *claims filing procedures* and the "settled rule requiring exhaustion of administrative remedies."

As discussed in Section II.A, *supra,* the exhaustion doctrine serves different purposes from claims filing requirements. The latter provide a narrow set of immediate benefits to public entity litigants, whereas the former provides a broad set of structural benefits to the judicial process. If the Legislature had intended to take the "drastic step" of sacrificing those broader values to achieve uniformity, one would expect to see *some* mention of this amongst the hundreds of pages of studies. There is no such mention because the Legislature had no such intent. The distinction between claims presentation requirements and the requirement to exhaust administrative remedies were well-established by 1959 (*Redlands High School, supra*), and the Legislature had no reason to believe – or intend – that their regulation of the former would impact the latter, much less impact it as dramatically as Plaintiffs propose.

In sum, *Campbell's* admonition carries equal force here: "[A]bsent a clear indication of legislative intent, we should refrain from inferring a

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[43] Recommendation and Study Relating to the Presentation of Claims Against Public Entities, *supra,* 2 Cal. Law Revision Com. Rep. (1959).

[44] Recommendation Relating to Sovereign Immunity, No. 2—Claims, Actions and Judgments Against Public Entities and Public Employees (Jan. 1963) 4 Cal. Law Revision Com. Rep. (1963).

[45] A Study Relating to Sovereign Immunity (Jan. 1963) 5 Cal. Law Revision Com. Rep. (1963).

statutory exemption from our settled rule requiring exhaustion of administrative remedies." There is no such clear indication here, and indeed all observable indications are to the contrary. As a matter of legislative intent, as well as text, history, and caselaw, the GCA does not establish any exemption from the exhaustion doctrine.

## IV. STEP BACK FROM THE BRINK: PLAINTIFF'S READING OF THE LAW WOULD LIGHT A "REVOLUTION" THAT THIS COURT SHOULD DECLINE TO SPARK

The preceding sections have examined the functions and purposes of exhaustion doctrine from the perspective of their *differences from the GCA*. However, is it critical not the lose sight of the public policy benefits that those functions and purposes provide *in their own right* – which will be discussed in this section.

In their Reply Brief, Plaintiffs continue a theme that has grounded their arguments throughout this case; namely, that a ruling in the City's favor "would revolutionize local government claims"[46] Yet, in fact, a ruling in Plaintiffs' favor would constitute the real sea change in the relationship between administrative remedies and government claims. Plaintiffs' request of the court is the actual call for a revolution – and one this Court should not heed.

The exhaustion doctrine's rationale is the prevention of interference with the jurisdiction of administrative tribunals by the courts, which are only authorized to review final administrative determinations. "The essence of the exhaustion doctrine is the public agency's opportunity to receive and respond to articulated factual issues and legal theories before its actions are

[46] Rep. Brf., p. 23.

subjected to judicial review." (*Park Area Neighbors v. Town of Fairfax* (1994) 29 Cal.App.4th 1442, 1447.)

Plaintiffs do not adequately address this. Administrative remedies and claims against local government are common – and exist in concert with one another across many fields. Cases like *Los Globos* (and *Rezai v. City Tustin* (1994) 26 Cal.App.4th 443, cited by the City) (land use), *Williams, Bowman, Creighton, and Ortiz* (employment), and this case (taxation), make clear the consistency of this coexistence, and the breadth of disruption to all of these fields, and more, that Plaintiffs' position would cause. The question lying at the heart of this matter is whether those seeking relief from local government are required to both exhaust local remedies and comply with the Government Claims Act's procedures prior to suing. The answer is clear: when an administrative remedy exists, it must be pursued prior to the claims process. Finding otherwise would itself be the very revolution that Plaintiffs warn us about.

## V. CONCLUSION

In sum, the GCA does not preempt local administrative remedies, and does not abrogate the judge-made requirement that any available and adequate administrative remedies – federal, state, or local – must be exhausted prior to bringing suit in court. If the real question truly is, as Plaintiffs would frame it, "which level of government—the state or the local public entity—should define the procedures governing an action for refund of a local tax," the answer here is "the courts" - by directing litigants to exhaust administrative remedies and obtain the entity's *genuinely final decision* before seeking judicial relief. There is no inconsistency between this longstanding exercise of the judiciary's equitable powers, ingrained into the common law, and the GCA. The judgment of the Court of Appeal should therefore be AFFIRMED.

Dated: October 8, 2025

Respectfully submitted,

*/s/ ARTHUR J. WYLENE*
Attorney for *Amici Curiae*

## CERTIFICATE OF COMPLIANCE

Pursuant to California Rules of Court, rules 8.74, 8.204, and 8.520, I certify that the attached brief has been prepared using a proportionately spaced 13-point Times New Roman typeface and, according to Microsoft Word, contains 12,287 words, exclusive of those materials not required to be counted under Rule 8.520(c)(3).

Dated: October 8, 2025

Respectfully submitted,

*/s/ ARTHUR J. WYLENE*
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## CERTIFICATE OF SERVICE

***Tesoro Refining & Marketing Company, LLC, et al. v. City of Carson***
**Case No. S289952**

I declare as follows:

I am over 18 years of age and not a party to this action. I am employed in the County of Sacramento, State of California. My business address is 1215 K Street, Suite 1650, Sacramento, CA 95814.

On **October 8, 2025**, I served true copies of the document(s): described as **[PROPOSED] BRIEF OF AMICI CURIAE CALIFORNIA STATE ASSOCIATION OF COUNTIES AND LEAGUE OF CALIFORNIA CITIES IN SUPPORT OF DEFENDANT AND RESPONDENT CITY OF CARSON** on the interested parties in this action represented on the attached Service List by the following means:

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Executed on October 8, 2025, at Sacramento, California.

*/s/ TAYLOR W. KAYATTA*

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***Tesoro Refining & Marketing Company, LLC, et al. v. City of Carson***
**Case No. S289952**

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**STATE OF CALIFORNIA**
Supreme Court of California

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Rural County Representatives of California

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