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8 SAN MATEO COUNTY HARBOR DISTRICT
BOARD OF HARBOR COMMISSIONERS and
9 SAN MATEO COUNTY HARBOR DISTRICT

NO FEE DUE
GOV'T CODE § 6103

ENDORSED FILED
SAN MATEO COUNTY

JUL 13 2015

Clerk of the Superior Court
By TYLER MAXWELL
DEPUTY CLERK

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN MATEO

13 THREE CAPTAINS SEA PRODUCTS, INC.,
14 a California Corporation,

15 Petitioner,

16 v.

17 SAN MATEO COUNTY HARBOR
DISTRICT BOARD OF HARBOR
18 COMMISSIONERS and SAN MATEO
COUNTY HARBOR DISTRICT,

19 Respondents.

CASE NO. CIV 534067

**NOTICE OF MOTION AND MOTION TO
STRIKE PETITIONER'S VERIFIED
PETITION FOR WRIT OF MANDATE
AND COMPLAINT**

CODE CIV. PROC., § 425.16

Judge: Hon. George A. Miram
Date: August 6, 2015

Time: 2:00 p.m.
Dept.: 28, Courtroom 2F

Action Filed: June 2, 2015
Trial Date: TBD

22 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

23 PLEASE TAKE NOTICE that on August 6, 2015, at 2:00 p.m. or as soon thereafter as the
24 matter may be heard in Department 28, Courtroom 2F, of the above-titled Court located at 400
25 County Center, Redwood City, California 94063, Respondents San Mateo County Harbor District
26 and the District's Board of Harbor Commissioners (collectively, the "District"), will and hereby do
27 move this Court for an order, pursuant to Code of Civil Procedure section 425.16, striking the
28

CIV 534067

NOTICE OF MOTION AND MOTION TO STRIKE PETITIONER'S VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT

1 second cause of action of the Petition for Writ of Mandate and Complaint for Declaratory and
2 Injunctive Relief ("Petition") filed on June 2, 2015, by Petitioner Three Captains Sea Products,
3 Inc. ("Three Captains").

4 This motion to strike is based on the fact that Three Captains' second cause of action
5 challenges a District Board member's constitutional right to petition before the California Coastal
6 Commission. Specifically, Three Captains seeks to reverse the Board's decision to discontinue a
7 one-year, probationary agreement between the District and Three Captains, by which Three
8 Captains temporarily installed a new hoist at Johnson Pier in Pillar Point Harbor. The Board's
9 decision was based in relevant part on Three Captains' failure to obtain a permit the Coastal
10 Commission required for the hoist. Three Captains attacks that part of the District's decision
11 alleging that District Commissioner Sabrina Brennan appeared before the Coastal Commission to
12 advocate against Three Captains' permit application. This cause of action is subject to a special
13 motion to strike because Commissioner Brennan's statements to the Coastal Commission, which
14 form the gravamen for the claim, constitute activities which are explicitly protected under Section
15 425.16, subdivision (e).

16 Further, Three Captains cannot demonstrate any reasonable probability that it will prevail
17 on this claim. It raises two meritless positions. First, it half-heartedly suggests that it was never
18 required to obtain a Coastal Commission permit. But Three Captains acknowledges in its Petition
19 that the Coastal Commission asserted jurisdiction over Three Captains' hoist, and Three Captains
20 never challenged that decision. Second, Three Captains alleges that even if a permit were
21 required, the District, by the actions of Commissioner Brennan, improperly interfered with Three
22 Captains' ability to get the required permit. But, the evidence demonstrates that (1) Commissioner
23 Brennan violated no law when she contacted the Coastal Commission and (2) that Three Captains'
24 failure to obtain the Coastal Commission permit was caused by its own failure to submit a
25 complete application and by the concerns raised by other fishing businesses, rather than as a result
26 of anything Commission Brennan did. Three Captains' second cause of action is therefore without
27 merit.

28 In addition to seeking an order striking Three Captains' second cause of action without

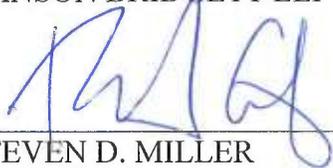
1 leave to amend, the District also seeks an award of its attorneys' fees in bringing this special
2 motion to strike. (Code Civ. Proc., § 425.16, subdivision (c).) The District will prove up its
3 specific fee claim in a separate motion.

4 Respondents' Motion is based on this Notice of Motion, the accompanying Memorandum,
5 the Declaration of Sabrina Brennan in support of the Motion filed and served herewith, the
6 contents of the Court's file in this matter including any matters that may be judicially noticed by
7 the Court, the complete pleadings, and any further evidence and argument of counsel that may be
8 presented at or before the hearing.

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DATED: July 13, 2015

HANSON BRIDGETT LLP

By: 

STEVEN D. MILLER
ADAM W. HOFMANN
BRENDAN A. QUIGLEY
Attorneys for Respondents
SAN MATEO COUNTY HARBOR DISTRICT
BOARD OF HARBOR COMMISSIONERS and
SAN MATEO COUNTY HARBOR DISTRICT

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is 425 Market Street, 26th Floor, San Francisco, CA 94105.

On July 13, 2015, I served true copies of the following document(s) described as **NOTICE OF MOTION AND MOTION TO STRIKE PETITIONER'S VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT** on the interested parties in this action as follows:

Todd W. Blischke, Esq.
Williams Kastner & Gibbs, PLLC
601 Union Street, Suite 4100
Seattle, WA 98101
Telephone: (206) 628-6600

BY OVERNIGHT DELIVERY: I enclosed said document(s) in an envelope or package provided by the overnight service carrier and addressed to the persons at the addresses listed in the Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight service carrier or delivered such document(s) to a courier or driver authorized by the overnight service carrier to receive documents.

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

Executed on July 13, 2015, at San Francisco, California.



Teresa M. Mendoza