

**SUMMONS  
Cross-Complaint  
(CITACION JUDICIAL-CONTRADEMANDA)**

**NOTICE TO CROSS-DEFENDANT:**

**(AVISO AL CONTRA-DEMANDADO):**

KAREN PAZ DOMINGUEZ, in her personal capacity, and as the elected Auditor-Controller for the County of Humboldt

**YOU ARE BEING SUED BY CROSS-COMPLAINANT:**

**(LO ESTÁ DEMANDANDO EL CONTRADEMANDANTE):**

COUNTY OF HUMBOLDT

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED**

JUN 01 2022 AR

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the cross-complainant. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

*Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al contrademandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

*Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), o uniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.*

The name and address of the court is:

*(El nombre y dirección de la corte es):*

Superior Court of Humboldt  
825 5th Street  
Eureka, CA 95501

SHORT NAME OF CASE (from Complaint): (Nombre de Caso):

People, et al, v. Paz Dominguez, et al

CASE NUMBER: (Número del Caso):

CV2200584

The name, address, and telephone number of cross-complainant's attorney, or cross-complainant without an attorney, is:

*(El nombre, la dirección y el número de teléfono del abogado del contrademandante, o del contrademandante que no tiene abogado, es):* Carmen A. Brock (SBN 162592) Colantuono, Highsmith & Whatley, P.C. (530) 432-7357

420 Sierra College Drive, Suite 140  
Grass Valley, CA 95945-5091 CBrock@chwlaw.us

DATE: JUN 02 2022  
*(Fecha)*

**KIM M. BARTLESON** Clerk, by  
*(Secretario)*

**ANGEL R**, Deputy  
*(Adjunto)*

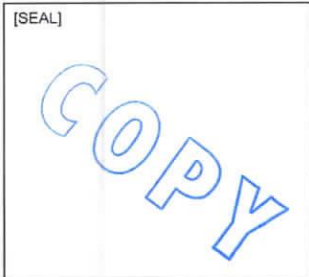
*(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)*

*(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons (POS-010).)*

**NOTICE TO THE PERSON SERVED:** You are served

1.  as an individual cross-defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify):
 

under: <input type="checkbox"/>	CCP 416.10 (corporation)	<input type="checkbox"/>	CCP 416.60 (minor)
<input type="checkbox"/>	CCP 416.20 (defunct corporation)	<input type="checkbox"/>	CCP 416.70 (conservatee)
<input type="checkbox"/>	CCP 416.40 (association or partnership)	<input type="checkbox"/>	CCP 416.90 (authorized person)
<input type="checkbox"/>	other (specify):		
4.  by personal delivery on (date):



1 MICHAEL G. COLANTUONO, State Bar No. 143551  
MColantuono@chwlaw.us  
2 CARMEN A. BROCK, State Bar No. 162592  
CBrock@chwlaw.us  
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Exempt from Filing Fees  
Government Code § 6103

**FILED**

JUN 01 2022

AR

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

7 Attorneys for Cross-Complainant and Cross-Petitioner  
COUNTY OF HUMBOLDT  
8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF HUMBOLDT**

11 PEOPLE OF THE STATE OF CALIFORNIA,  
12 AND CALIFORNIA STATE CONTROLLER  
BETTY T. YEE,

13 Plaintiffs,

14 v.

15 KAREN PAZ DOMINGUEZ, IN HER  
16 PERSONAL CAPACITY, AND IN HER  
OFFICIAL CAPACITY AS AUDITOR-  
17 CONTROLLER FOR THE COUNTY OF  
HUMBOLDT, AND COUNTY OF  
HUMBOLDT,

18 Defendants.

**CASE NO. CV2200584**

*Unlimited Jurisdiction*

(Case assigned to Hon. \_\_\_\_\_)

**HUMBOLDT COUNTY'S CROSS-  
COMPLAINT AGAINST KAREN  
PAZ DOMINGUEZ FOR FAILURE TO  
COMPLY WITH REPORTING  
REQUIREMENTS AND VIOLATION OF  
GOVERNMENT CODE §1090; PETITION  
FOR WRIT OF MANDATE AND RELATED  
CLAIMS**

[Gov. Code §§ 1090, 29093, 53891; Civ. Code  
§ 1085]

19 COUNTY OF HUMBOLDT,  
20

21 Cross-Complaint and Cross-  
Petitioner,  
22

23 v.

24 KAREN PAZ DOMINGUEZ, IN HER  
PERSONAL CAPACITY AS ELECTED  
AUDITOR-CONTROLLER FOR THE  
25 COUNTY OF HUMBOLDT, AND DOES 1-20.

26 Cross-Defendant and Cross-  
Respondent.  
27  
28

1  
**CROSS-COMPLAINT AGAINST KAREN PAZ DOMINGUEZ FOR FAILURE TO COMPLY WITH  
REPORTING REQUIREMENTS AND VIOLATION OF GOVERNMENT CODE §1090;  
PETITION FOR WRIT OF MANDATE AND RELATED CLAIMS**

Colantuono, Highsmith & Whatley, PC  
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GRASS VALLEY, CALIFORNIA 95945-5091

1 Cross-Complainant and Cross-Petitioner County of Humboldt alleges as follows:

2 **INTRODUCTION**

3 1. This is an action brought by the County of Humboldt (“County”) against cross-  
4 defendant and cross-respondent Karen Paz Dominguez (“Paz Dominguez”) for failures in her  
5 performance as County Auditor-Controller, including but not limited to (a) failing to timely file  
6 copies of the County’s adopted budgets by December 1, 2020, and December 1, 2021, in violation of  
7 Government Code section 29093; (b) failing to timely file her Financial Transactions Reports  
8 (“FTR”) for fiscal years 2019–2020 and 2020–2021 in violation of Government Code  
9 section 53891; (c) for failing to perform numerous functions required by law as County Auditor-  
10 Controller; (d) for engaging in conduct which constitutes a conflict of interest under Government  
11 Code section 1090 and the common law conflict of interest doctrine; and (e) for misappropriation of  
12 public funds.

13 2. As the County’s Auditor-Controller, Paz Dominguez is required by law to file a copy of  
14 County’s adopted budget in the State Controller’s Office (“SCO”) by December 1 of each year.  
15 Failure to timely file the adopted budget on time can, and has, subjected the County to a forfeiture in  
16 the amount of \$1,000.00 for each year that the adopted budget is not filed by the statutory deadline.  
17 (Gov. Code, § 29093, subs. (a) and (b).)

18 3. As the County’s Auditor-Controller, Paz Dominguez is also required to file an FTR with  
19 SCO within seven months of the June 30 close each County fiscal year. Failure to file the FTR by the  
20 statutory deadline can subject, and has subjected, Paz Dominguez to forfeitures in the amount of  
21 \$5,000.00, for each year the FTR is not filed in the time, form, and manner prescribed by the State  
22 Controller. (Gov. Code, §§ 12464, subd. (a), 53891; subd. (a) and 53895, subd. (a)(3).)

23 4. Paz Dominguez failed to timely file County’s adopted budgets due on December 1,  
24 2020, and December 1, 2021, and failed to timely file FTRs for fiscal years 2019–2020 and  
25 2020–2021 with the SCO in the time, form, and manner the State Controller has prescribed.

26 5. Paz Dominguez has violated the law for these, and other accounting and reporting  
27 failures required by law; therefore, the County seeks a writ under Code of Civil Procedure section  
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1 1085 compelling Paz Dominguez to perform her ministerial duties under Government Code  
2 sections 29093 and 53891, et seq., as the State Controller prescribes, and to perform her duties as  
3 County Auditor-Controller according to law.

4 6. Paz Dominguez has further failed in her duties as Auditor-Controller by violating  
5 Government Code section 1090 and the common law conflicts of interest doctrine by making a  
6 contract in her official capacity in which she has a disqualifying interest, and for misappropriating  
7 public funds.

8 7. On May 2, 2022, the State of California (“State”) and State Controller Betty T. Yee filed  
9 a Complaint for Failure to Comply with Financial Reporting Requirements and a Petition for Writ of  
10 Mandate against Paz Dominguez in her personal capacity and in her capacity as the elected Auditor-  
11 Controller for the County, and against the County in the case entitled *People of the State of*  
12 *California and California State Controller Betty T. Yee v. Karen Paz Dominguez in her Personal*  
13 *Capacity and as Auditor and Controller for the County of Humboldt, and the County of Humboldt,*  
14 Humboldt County Superior Court Case No. CV220058A (“State Complaint”). The State’s  
15 Complaint and Paz Dominguez’s failures to perform her duties timely and competently give rise to  
16 this Cross-Complaint and Cross-Petition.

17 **PARTIES**

18 8. Cross-Complainant and Cross-Petitioner County is a general law county operating and  
19 existing under the laws of the State of California (“State”).

20 9. Defendant, Cross-Defendant and Cross-Respondent Paz Dominguez is sued in her  
21 personal capacity and in her capacity as the County’s Auditor-Controller. She is an elected County  
22 official who has charge of the County’s financial record-keeping and is responsible under  
23 Government Code sections 29093 and 53891, et seq., to ensure the County’s adopted budgets and  
24 her FTRs are filed in the time, form, and manner the State Controller requires. As a public official  
25 she is bound by Government Code section 1090 not to make, attempt to influence, or participate in  
26 making any contract of the County in which she has any financial interest. She similarly has a duty  
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1 under the common law conflict of interest doctrine to take no actions in her official capacity in  
2 which she has any personal or private interest adverse to that of the County.

3 **JURISDICTION AND VENUE**

4 10. At all relevant times, Paz Dominguez transacted business in the County of Humboldt as  
5 the County's Auditor-Controller.

6 11. The violations of law described in this Cross-Complaint and Cross-Petition were, and  
7 are now, being carried out in the County. This Court has jurisdiction under Article VI, section 10, of  
8 the California Constitution, and sections 393 and 395 of the Code of Civil Procedure.

9 **FIRST CAUSE OF ACTION**

10 **Failure To Comply With Budget Reporting Requirement**

11 **(Government Code section 29093)**

12 12. The County re-allege and incorporates by reference each allegation of paragraphs 1  
13 through 11 of this Cross-Complaint and Cross-Petition as set forth herein.

14 13. Under Government Code section 29093, subdivision (a), the County Auditor-Controller  
15 must file a copy of County's adopted budget with the State Controller by December 1 of each year.

16 14. Government Code section 29093, subdivision (b) provides:

17 If the [county] auditor[-controller], after receipt of written notice from the [State]  
18 Controller, fails to transmit a copy of the adopted budget within 20 days, the county  
19 shall forfeit to the state one thousand dollars (\$1,000) to be recovered in an action  
20 brought by the Attorney General, in the name of the Controller.

21 15. On February 28, 2022, the SCO sent Paz Dominguez a letter advising her the County's  
22 adopted budget for 2020–2021 had not been received by the December 1, 2020 due date. The letter  
23 warned the County would be subjected to a \$1,000.00 forfeiture if Paz Dominguez failed to file the  
24 budget by March 21, 2022.

25 16. On March 21, 2022, the County's Chief Administrative Officer ("CAO") submitted a  
26 budget to the SCO on behalf of the County to meet the March 21, 2022 deadline, even though for the  
27 previous tenure of the CAO's employment with the County, this function had been performed by the  
28

1 Auditor-Controller's office, not the CAO's office. The SCO thereafter informed Paz Dominguez the  
2 County's fiscal years 2020–2021 and 2021–2022 budgets were incomplete because they were  
3 missing fundamental information required by Government Code section 29006, including but not  
4 limited to: Appropriations Limit and Total Annual Appropriations Subject to Limitation, and the  
5 Fiscal Year 2021–2022 Schedules without Beginning Fund Balances--all of which are within the  
6 Auditor-Controller's basic duties to secure and report accurately, and which Paz Dominguez failed  
7 entirely to perform competently.

8 17. The schedules for both fiscal years did not meet the requirement of Government Code  
9 section 29009 and the SCO rejected them.

10 18. Paz Dominguez also failed to file adopted budgets for fiscal years 2020–2021 and  
11 2021–2022 that complied with statutory requirements by the March 21, 2022 deadline articulated in  
12 SCO's February 28, 2022 letters to her, breaching her legal duty to perform her duties competently  
13 and efficiently.

14 19. Paz Dominguez has still not filed fiscal year 2020–2021 and 2021–2022 budgets that  
15 comply with statutory requirements.

## 16 **SECOND CAUSE OF ACTION**

### 17 **Failing To Comply With Financial Transactions Reporting Requirement**

#### 18 **(Government Code section 53891, et seq.)**

19 20. Cross-Complainant and Cross-Petitioner County re-allege and incorporate by reference  
20 each allegation of paragraphs 1 through 19 of this Cross-Complaint and Cross-Petition as if set forth  
21 herein.

22 21. Government Code section 53891, subdivision (a) provides:

23 The officer of each local agency who has charge of the financial records shall furnish  
24 to the [State] Controller a report of all the financial transactions of the local agency  
25 during the preceding fiscal year. The report shall contain underlying data from audited  
26 financial statements prepared under generally accepted accounting principles, if this  
27 data is available. The report shall be furnished within seven months after the close of  
28

1 each fiscal year or within the time prescribed by the [State] Controller, whichever is  
2 later, and shall be in the form and manner required by the [State] Controller.

3 22. Government Code section 53895 provides:

4 (a) An officer of a local agency who fails or refuses to make and file his or her report  
5 within 20 days after receipt of a written notice of the failure from the [State]  
6 Controller shall forfeit to the state:

7 (3) Five thousand dollars (\$5,000) in the case of a local agency with total revenue, in  
8 the prior year, of at least two hundred fifty thousand dollars (\$250,000), as reported in  
9 the Controller's annual financial reports.

10 (b)(l) Upon the request of the [State] Controller, the Attorney General shall prosecute  
11 an action for the forfeiture in the name of the people of the State of California.

12 23. On November 6, 2020, the SCO sent a letter to Paz Dominguez in her capacity as  
13 County Auditor-Controller reminding her of her responsibility to file her 2019–2020 FTR by the  
14 January 1, 2021 due date. The letter also included instructions for the submission of the FTR.

15 24. On February 26, 2021, the SCO sent a letter to Paz Dominguez in her capacity as  
16 County Auditor-Controller advising her that her FTR for 2019–2020 was delinquent, and allowing  
17 her an additional 20 days to comply. The letter warned of a forfeiture up to \$5,000.00, if  
18 Paz Dominguez failed to file her report by March 18, 2021.

19 25. Paz Dominguez did not file her 2019–2020 FTR by the March 18, 2021 deadline, and  
20 from that time forward, has been subject to the forfeiture provisions of Government Code  
21 section 53895.

22 26. On June 1, 2021, the SCO, emailed Paz Dominguez to follow up on its February 26,  
23 2021 letter.

24 27. Paz Dominguez responded on June 14, 2021, stating the County's audit for fiscal  
25 year 2019–2020 was underway, but not yet complete.

26 28. Paz Dominguez offered to complete the report using unaudited information and  
27 indicated it would take two weeks.  
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1           29. The SCO said it would accept the report with unaudited data in the agreed upon two-  
2 week timeframe.

3           30. On June 21, 2021, Paz Dominguez told the SCO that “[w]e exported our data from  
4 Finance Enterprise and are sorting it following some paperwork from last year” and that “[w]e are all  
5 on high alert that this is an urgent priority.”

6           31. Yet, Paz Dominguez did not file her 2019–2020 FTR by the two-week deadline.

7           32. Nearly nine months later, on February 24, 2022, the Attorney General’s Office sent a  
8 Final Demand letter to Paz Dominguez giving her 20 days to file her 2019–2020 FTR.

9           33. On March 16, 2022, Paz Dominguez submitted her FTR with unaudited data, stating it  
10 was prepared by the “AG,” and “Under the Direction of the AG.”

11           34. On March 21, 2022, the SCO returned the 2019–2020 FTR to Paz Dominguez along  
12 with an email stating, in relevant part:

13           We received the financial transactions data for Humboldt County’s 2019–2020  
14 Financial Transactions Report submitted by your office. So far, we have identified  
15 some items requiring immediate revision, and therefore have returned the report. The  
16 General Information page, under “Report Prepared By” requires the first name, last  
17 name, and title of the person who input the data but instead reads “Under the  
18 Direction of the AG,” “N/A”, and “AG”, respectively. Please log into the LGRS  
19 Online system using the account and password previously provided and input an  
20 accurate first and last name and title of the report preparer and resubmit by clicking  
21 “Submit Data” right away, but no later than close of business, Wednesday, March 23,  
22 2022.

23           35. The County is informed and believes that to the date of the filing of this cross-  
24 complaint, Paz Dominguez has not yet responded to the SCO email and has not yet corrected her  
25 FTR.

26           36. As a matter of law, FTRs must be filed in the time, form, and manner the State  
27 Controller requires. (Gov. Code, §§ 12464, subd. (a) and 53891, subd. (a).) By failing to make and  
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1 file her 2019–2020 FTR within 20 days after receipt of the State Controller’s written notice of the  
2 failure, and by refusing to disclose who prepared her 2019–2020 FTR, Paz Dominguez failed or  
3 refused to file her report in the time, form, and manner the State Controller required and failed to file  
4 her report by the date the SCO’s March 21, 2022 email demanded.

5 37. The County is informed and believes unaudited data is allowed, if audited data is not  
6 available, to enable timely filing of an FTR. (Gov. Code, § 53891, subd. (a).) Paz Dominguez’s FTR  
7 for 2019–2020 is more than a year overdue.

8 38. Paz Dominguez’s submission of the deficient 2019–2020 FTR on March 16, 2022, did  
9 not satisfy Paz Dominguez’s statutory obligation and, thus, Paz Dominguez failed in her duty to the  
10 County to comply with all laws.

11 39. Because Paz Dominguez failed to file her 2019–2020 FTR in the time, form, and  
12 manner the State Controller required, she is, and has been, subject to a forfeiture of \$5,000.00, under  
13 Government Code section 53895, subdivision (a)(3).

14 40. On November 5, 2021, the SCO sent a letter to Paz Dominguez, in her capacity as  
15 County Auditor-Controller, reminding her of her responsibility to file her 2020–2021 FTR by the  
16 January 31, 2022 due date. The letter also included instructions for submission of the FTR.

17 41. Paz Dominguez did not file her 2020–2021 FTR by the January 31, 2022 deadline.

18 42. On February 25, 2022, the SCO sent a letter to Paz Dominguez, in her capacity as  
19 County Auditor-Controller, advising that her FTR for 2020–2021 was delinquent and providing 20  
20 additional days to comply. The letter warned that failure to file her report by March 17, 2022, would  
21 cause a forfeiture of up to \$5,000.

22 43. Paz Dominguez did not file her 2020–2021 FTR by the March 17, 2022 deadline, and  
23 has still not done so. She is, therefore, in breach of her duty to the County to comply with all laws.

24 44. Because Paz Dominguez failed to file her 2020–2021 FTR within 20 days of the  
25 Controller’s February 25, 2022 delinquency letter, and she is, and has been, subject to a forfeiture of  
26 \$5,000.00, under Government Code section 53895, subdivision (a)(3).

27  
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1 **THIRD CAUSE OF ACTION**

2 **Mandamus Relief**

3 **(Code of Civil Procedure section 1085, et seq.)**

4 45. Cross-Complainant and Cross-Petitioner County re-alleges and incorporates by  
5 reference each allegation of paragraphs 1 through 44 of this Cross-Complaint and Cross-Petition as  
6 if set forth herein.

7 46. The Court may issue a writ of mandate to compel an officeholder to perform an act that  
8 the law specifically commands. (Code Civ. Proc., § 1085, subd. (a).)

9 47. The writ must be issued in all cases where there is not a plain, speedy, and adequate  
10 remedy, in the ordinary course of law. It must be issued upon the verified petition of the party  
11 beneficially interested. (Code Civ. Proc., § 1086.)

12 48. Government Code section 26880 et seq. defines the Auditor-Controller as the chief  
13 accounting officer for the County who is responsible to maintain all internal controls over the  
14 accounting and methods of keeping the accounts for all offices, departments and districts whose  
15 funds are held in the County treasury. In addition, the Auditor-Controller must maintain all accounts  
16 and statistics and prepare all reports required by law.

17 49. Government Code section 29093, subdivision (a) imposes an annual mandatory duty on  
18 Paz Dominguez, as the Auditor-Controller for County, to file a copy of County's adopted budget in  
19 the office of the State Controller by December 1. She has consistently failed to do so.

20 50. Government Code 53891, subdivision (a) imposes a mandatory duty on  
21 Paz Dominguez, as the Auditor-Controller for County, to furnish the State Controller with a report of  
22 all of County's financial transactions during the preceding fiscal year within seven months of  
23 County's June 30 fiscal year-end. She has consistently failed to do so.

24 51. Additionally, Paz Dominguez has failed to comply with bank reconciliation  
25 requirements and to complete the fiscal Year 2019-2020 single audit report and financial statements  
26 are required by Government Code section 26905.

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1 Government Code section 26905 provides as follows:

2 Not later than the last day of each month, the auditor shall reconcile the cash and  
3 investment accounts as stated on the auditor's books with the cash and investment  
4 accounts as stated on the treasurer's books as of the close of business of the preceding  
5 month to determine that the amounts in those accounts as stated on the books of the  
6 treasurer are in agreement with the amounts in those accounts as stated on the books  
7 of the auditor.

8 52. As of May 31, 2022, the County has been unable to close its fiscal year 2019-2020  
9 Single Audit and issue the 2019-2020 Single Audit Report and the 2019-2020 Financial Statements  
10 because Paz Dominguez, in her capacity as County Auditor-Controller, has not completed or  
11 provided the County's outside Certified Public Accountant the bank reconciliations as required by  
12 Government Code section 26905 for any month of the fiscal year 2019-2020.

13 53. On or about February 3, 2022, after significant delays due to incomplete accounting  
14 work by the office of the Auditor-Controller, the County was forced to seek the assistance of an  
15 outside auditor to prepare the County's fiscal year 2019-2020 financial statements, all to the  
16 detriment of the County and its residents.

17 54. As of May 31, 2022, the fiscal year 2019-2020 Single Audit Report and Financial  
18 Statements have not been completed because the County Auditor-Controller has not produced any  
19 record that the cash and investment accounts, as stated on the treasurer's books, are in agreement  
20 with the amounts in those accounts of the books of the auditor.

21 Code of Federal Regulations section 200.501 subd. (a) provides:

22 **(a) Audit required.** A non-Federal entity that expends \$750,000 or more during the  
23 non-Federal entity's fiscal year in Federal awards must have a single or program-  
24 specific audit conducted for that year in accordance with the provisions of this part.

25 (commonly referred to as the Single Audit.)

26 /////

27  
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1 Code of Federal Regulations section 200.501 also provides:

2 If a non-Federal entity fails to comply with the U.S. Constitution, Federal statutes,  
3 regulations or the terms and conditions of a Federal award, the Federal awarding  
4 agency or pass-through entity may impose additional conditions, as described in  
5 § 200.208. If the Federal awarding agency or pass-through entity determines that  
6 noncompliance cannot be remedied by imposing additional conditions, the Federal  
7 awarding agency or pass-through entity may take one or more of the following  
8 actions, as appropriate in the circumstances:

- 9 (a) Temporarily withhold cash payments pending correction of the deficiency by the non-  
10 Federal entity or more severe enforcement action by the Federal awarding agency or pass-  
11 through entity.
- 12 (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or  
13 part of the cost of the activity or action not in compliance.
- 14 (c) Wholly or partly suspend or terminate the Federal award.
- 15 (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and  
16 Federal awarding agency regulations (or in the case of a pass-through entity, recommend  
17 such a proceeding be initiated by a Federal awarding agency).
- 18 (e) Withhold further Federal awards for the project or program.
- 19 (f) Take other remedies that may be legally available.

20 55. For the year ending June 30, 2020, the County had expenditures of federal awards in  
21 the amount of \$93,732,934.

22 56. On March 19, 2021, the federal Office of Management and Budget (“OMB”) issued a  
23 six-month extension to the Single Audit submission deadline, which extended the County’s  
24 March 31, 2021 fiscal year 2019-2020 Single Audit due date to the Federal Clearing House to  
25 September 30, 2021.

26 57. As of May 31, 2022, the County’s 2019-2020 Single Audit Report and the 2019-2020  
27 Financial Statements have not been completed and are 243 days past due from the extended  
28

1 September 30, 2021 due date. Thus, the County's outside auditor is unable to complete the audit of  
2 the same statements as a result of Paz Dominguez's failure to complete and provide timely bank  
3 reconciliations that comply with Government Code Section 26905.

4 58. On February 23, 2022, the County received notice that all of its federal Workforce  
5 Innovation and Opportunity Act program funding was being placed on a cash hold as the result of  
6 the County's failure to comply with the Single Audit requirement for fiscal year 2019-2020.

7 59. Paz Dominguez, as the County's Auditor-Controller, is required to comply with the  
8 Interest Apportionment Requirement set forth in Government Code Title sections 53630-53686.

9 Government Code section 53645(a) provides:

10 Interest shall be computed and paid by the depository, as follows:

11 (a) For active deposits upon which interest is payable, interest shall be computed on  
12 the average daily balance for the calendar quarter, and shall be paid quarterly.

13 Government Code section 53647 provides:

14 (a) Interest on all money deposited belongs to and shall be paid quarterly into the  
15 general fund of, the local agency represented by the officer making the deposit, unless  
16 otherwise directed by law.

17 (b) Notwithstanding the provisions of subdivision (a), and except as otherwise  
18 directed by law, if the governing body of the local agency represented by the officer  
19 making the deposit so directs, such interest shall be paid to the fund which contains  
20 the principal on which the interest accrued.

21 60. Quarterly, the County's Treasurer is required to determine the amount of interest to be  
22 apportioned across all interest-bearing funds based on the average daily balance of those funds  
23 throughout each quarter. To determine the average daily balance of each fund, the County Auditor-  
24 Controller must post and reconcile all transactions that occurred during that quarter.

25 61. On November 22, 2021, the County Board directed Paz Dominguez as County  
26 Auditor-Controller to deposit quarterly interest to the County's General Fund pursuant to  
27 Government Code section 53647.

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1 62. Interest has neither been apportioned to, nor deposited to any special district or other  
2 entity with funds on deposit with the County Treasurer since the fourth quarter of fiscal year 2019-  
3 2020, and were not apportioned or deposited for the quarter comprised of the months of April, May,  
4 June 2020.

5 63. Interest has not been apportioned or deposited into the County's General Fund since  
6 the second quarter of fiscal year 2018-2019 for the quarter of October, November, December 2018,  
7 all to the detriment of the County and its residents.

8 64. In short, due to Paz Dominguez's failure to reconcile the County's bank statements with  
9 County financial records, the County has incurred major accounting discrepancies totaling tens of  
10 millions of dollars.

11 65. Further, due to Paz Dominguez's incomplete audits, the County has been rendered  
12 ineligible for federal grant monies it needs, resulting in the unnecessary loss of federal funds. These  
13 failures have forced the County to expend hundreds of thousands of local taxpayer dollars  
14 annually—funds that are now not subject to reimbursement.

15 66. The County lacks a plain, speedy, and adequate remedy at law.

16 67. The County must therefore request the Court issue of a writ of mandate compelling  
17 Paz Dominguez to perform all the mandatory statutory duties required of her by law as mentioned  
18 herein as the Auditor-Controller for the County.

19 **FOURTH CAUSE OF ACTION**

20 **Violation of Government Code section 1090**

21 68. Cross-Complainant and Cross-Petitioner County re-alleges and incorporates by  
22 reference each allegation of paragraphs 1 through 67 of this Cross-Complaint and Cross-Petition as  
23 if set forth herein.

24 69. Government Code section 1090 (a) ("Section 1090") forbids any public official from  
25 making, participating in making, or attempting to influence any contract made in their official  
26 capacity in which he or she has a financial interest.  
27  
28

1           70. On or about December 2021, Paz Dominguez contracted, purportedly on behalf of the  
2 County, with Edge Caliber Coaching and Consulting (“Edge Caliber”), whose principal is Danny  
3 Kelley (“Kelley”), for personal coaching services for herself and her department. The County is  
4 informed and believes Kelley was associated with the Humboldt County Democratic Central  
5 Committee (“Democratic Committee”) at the time and was or is a personal friend of Paz Dominguez.

6           71. A draft of a contract with Edge Caliber was prepared by, or at the direction of  
7 Paz Dominguez. However, the contract was not prepared on the County’s pre-approved contract  
8 template and did not include a contract term, insurance requirements or a maximum dollar amount,  
9 all of which the County requires. Paz Dominguez was thereafter provided the correct County  
10 template, which went through several rounds of revisions with Edge Caliber and was approved as to  
11 form only. Paz Dominguez was informed to complete the contract approval process, a Purchasing  
12 Routing slip would be required. However, Paz Dominguez never completed the County process and  
13 simply proceeded with the contract at will absent the necessary final steps. Neither County Counsel  
14 nor the County’s Purchasing Officer or the County’s Board of Supervisors (“BOS”) ever formally  
15 approved the contract.

16           72. The County is informed and believes in December 2021, Kelley voted for the Humboldt  
17 County Democratic Central Committee’s endorsement of Paz Dominguez’s Auditor-Controller re-  
18 election bid and made a non-monetary contribution to her campaign valued at or about \$1,144.

19           73. Although the contract with Edge Caliber was deficient failing in the final steps of  
20 County contract approval, Paz Dominguez nevertheless authorized three payments to Edge Caliber  
21 and her personal friend Kelley with County funds in an amount totaling \$16,851. No budget  
22 authorization or other appropriation approved the payments, rendering them unauthorized and  
23 unlawful.

24           74. A public office is a public trust created in the interest and to benefit the people. Thus,  
25 public officers, like Paz Dominguez, must discharge their responsibilities with integrity and fidelity.  
26 Section 1090 is intended to remove all indirect, and direct, influence of an officer interested in a  
27 contract from a contracting decision. Section 1090 is further intended to remove or limit the  
28

1 possibility of any personal influence, direct or indirect, that might bear on a contracting decision —  
2 and to void contracts actually obtained by such influence.

3 75. A public official, like Paz Dominguez, has a disqualifying financial interest in a contract  
4 when it is reasonably foreseeable the official might profit from it. Section 1090 is intended to  
5 eliminate temptation, avoid the appearance of impropriety, and assure the public of officials'  
6 undivided and uncompromised allegiance.

7 76. Yet, Paz Dominguez participated in making the Edge Caliber contract, which was never  
8 fully approved by County, and paid, or allowed those under her supervision to pay Edge Caliber with  
9 County funds knowing she would appreciate a cognizable benefit from the contract and the  
10 payments made by a re-election party endorsement from Edge Caliber's principal, Kelley, and, if  
11 elected, in the continuing benefits provided both monetarily and otherwise as Auditor-Controller for  
12 the County.

13 77. As such, Paz Dominguez violated Section 1090 and is subject to the penalties and  
14 admonishments provided by Section 1090, according to proof.

15 **FIFTH CAUSE OF ACTION**

16 **Common Law Conflict of Interest**

17 78. Cross-Complainant and Cross-Petitioner County re-alleges and incorporates by  
18 reference each allegation of paragraphs 1 through 77 of this Cross-Complaint and Cross-Petition as  
19 if set forth herein.

20 79. The common law doctrine against conflicts of interest prohibits public officials from  
21 placing themselves in a position in which their private, personal interests may conflict with their  
22 official duties.

23 80. The public is, therefore, entitled to have its representatives perform their duties free  
24 from any personal or pecuniary interest that might affect their judgment.

25 81. Thus, a public official, like Paz Dominguez, is bound to exercise the powers conferred  
26 on her as County Auditor-Controller with disinterested skill, zeal, and diligence solely to benefit the  
27 public.

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1 82. A findings of self-interest need not be based upon actual proof of dishonesty, but may  
2 be warranted whenever a public official, by reason of personal interest in a matter is placed in a  
3 situation of temptation to serve her own purposes to the prejudice of those for whom the law  
4 authorized her to act.

5 83. In this instance, as set forth above, in attempting to contract with, and making  
6 unauthorized payments to Edge Caliber, Paz Dominguez failed to demonstrate disinterested skill and  
7 diligence for the benefit of the public, and instead, tendered public funds without authorization to  
8 benefit a personal friend, to achieve the personal benefit of a party re-election endorsement and, if  
9 re-elected, to retain all of the financial and other benefits afforded her as County Auditor-Controller.

10 84. As such, Paz Dominguez failed to put her duty to the public first, and failed to execute  
11 her role as County Auditor-Controller free of her own personal and pecuniary interest, all in direct  
12 violation of the law.

13 **SIXTH CAUSE OF ACTION**

14 **Misappropriation of Public Funds**

15 **(Penal Code section 424)**

16 85. Cross-Complainant and Cross-Petitioner County re-alleges and incorporates by  
17 reference each allegation of paragraphs 1 through 84 of this Cross-Complaint and Cross-Petition as  
18 if set forth herein.

19 86. Any official of a county in the State charged with the receipt, safekeeping, transfer, or  
20 disbursement of public funds who appropriates any portion those funds for her own or another's use  
21 without lawful authorization and who knowingly prevents a correct reporting of those funds, violates  
22 the law.

23 87. The laws of this State related to misappropriation of public funds were enacted to  
24 safeguard the public treasury and ensure public confidence in the use of public funds. It is, therefore,  
25 the policy of this State that custodians of public funds must hold and keep those funds inviolate and  
26 use or disburse them only in strict compliance with law.

1           88. As more fully set forth above, Paz Dominguez is a public official charged with the  
2 responsibility of safeguarding public funds. Yet, she knowingly directed the payment of public funds  
3 to Edge Caliber and its principal, her personal friend Kelley, for his and her personal benefit with  
4 full knowledge no valid, approved contract with Edge Caliber, budget line item, or other lawful  
5 appropriation authority then existed.

6           89. Additionally, the County is informed and believes the payments made to Edge Caliber  
7 and Kelley were made by Paz Dominguez through a process not typically used for this type of  
8 payment in an effort to conceal the unauthorized nature of the payments.

9           90. As such, Paz Dominguez violated Penal Code section 424 and is subject to all of the  
10 penalties and remedies therefore, according to proof.

**PRAYER**

11  
12           WHEREFORE, Cross-Complainant and Cross-Petitioner County prays for judgment as  
13 follows:

14           1. For an order requiring Paz Dominguez to pay, or to reimburse the County for paying on  
15 her behalf, the forfeiture amount of \$5,000.00, for her failure to timely file her FTR for fiscal year  
16 2019–2020 in the time, form, and manner the State Controller required, in violation of Government  
17 Code sections 12464, subdivision (a), and 53891, et seq.

18           2. For an order requiring Paz Dominguez to pay, or to reimburse the County for paying on  
19 her behalf, the forfeiture amount of \$5,000.00, for her failure to timely file her FTR for fiscal year  
20 2020–2021 in the time, form, and manner the State Controller required, in violation of Government  
21 Code sections 12464, subdivision (a), and 53891, et seq.

22           3. For an order requiring Paz Dominguez to reimburse the County for any and all fines  
23 paid by the County to the State due to her failure to comply with Government Code section 29093,  
24 et. seq. which required her to timely file budgets with the State Controller for fiscal years  
25 2020–2021 and 2021–2022 and all other late fees and penalties the County was required to pay on  
26 her behalf due to her malfeasance.  
27  
28

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1           4. For issuance of a writ under Code of Civil Procedure sections 1085 and 1086 requiring  
2 Paz Dominguez to perform her mandatory statutory duties under the law, including but not limited to  
3 Government Code sections 29093 and 53891, et seq., in the time, form, and manner the State  
4 Controller requires and in the performance of all of the duties required of the County's Auditor-  
5 Controller by Government Code sections 26905 and 53630-53686 and Code of Federal Regulations,  
6 section 200501 as mentioned herein.

7           5. For issuance of a writ under Code of Civil Procedure sections 1085 and 1086 requiring  
8 Paz Dominguez to correct the 2019-2020 FTR to identify who prepared it.

9           6. For a finding Paz Dominguez violated Government Code section 1090 by making,  
10 participating in making or attempting to influence the making of an as-yet-unapproved contract with  
11 Edge Caliber on behalf of the County and paying Edge Caliber with County funds without an  
12 appropriation or other authorization to appreciate a personal benefit therefrom, and for all relief  
13 accorded by law under Section 1090, according to proof.

14           7. For a finding Paz Dominguez violated common law conflict of interest principles by  
15 placing herself in a position in which her private, personal interests potentially conflicted with her  
16 official duties, to the detriment of the public and the office she was elected to serve.

17           8. For a finding that Paz Dominguez, as a public official charged with the responsibility of  
18 safeguarding public funds, failed to do so and knowingly directed payment of public funds to Edge  
19 Caliber and its principal Kelley, for his and her personal benefit in violation of Penal Code  
20 section 424 according to proof, and with penalties to be assessed according to law.

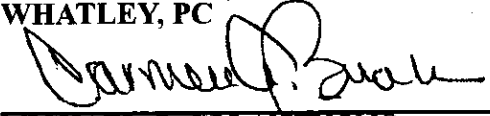
21           9. For fees and costs allowed by law.

22           10. For such other and further relief as the Court may deem just and proper.

23 DATED: June 2, 2022

Respectfully submitted,

24 **COLANTUONO, HIGHSMITH &  
25 WHATLEY, PC**



26 **MICHAEL G. COLANTUONO**  
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28 **ALEXANDRA M. JACK**  
**Attorneys for Cross-Complainant and Petitioner**  
**COUNTY OF HUMBOLDT**

HUMBOLDT COUNTY  
SUPERIOR COURT

2022 JUN -1 PM 3:55

CLERK  
DEPT. OF