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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
8/7/2026 3:24:39 PM

Clerk of the Superior Court
By J. Rael ,Deputy Clerk

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **COUNTY OF SAN DIEGO — CENTRAL DIVISION**

8 DARRYL COTTON, an individual,
9 Plaintiff and Petitioner

10 v.

11 CITY OF SAN DIEGO, a municipal corporation; and
12 DOES 1 through 100, inclusive,

13 Defendants and Respondents.

Case No. 26CU043242C

**VERIFIED PETITION FOR WRIT OF
MANDATE**

[Code Civ. Proc. §§ 1085, 1060]

14 Petitioner DARRYL COTTON (“Cotton”) alleges as follows:

15 **I. INTRODUCTION**

16 1. This is a verified petition for a writ of mandate under Code of Civil Procedure section 1085. It
17 seeks to compel Respondent City of San Diego to perform its duty to act upon a documented, imminent
18 public-health and safety hazard within its jurisdiction — an unpermitted sewage-storage operation that
19 presents a present and continuing danger of toxic, corrosive, and explosive conditions immediately
20 adjacent to Petitioner’s property — after the City opened, and then left wholly unaddressed,
21 Petitioner’s Priority-I complaint concerning it.

22 2. At 6144 Federal Boulevard in the City of San Diego, immediately adjacent to Petitioner’s
23 property, United Rentals (North America), Inc., doing business as Reliable Onsite Services (“United
24 Rentals”), operates a fixed, above-ground bulk tank of approximately 40,000 gallons (a “FRAC tank”)
25 into which it stores and holds commercial septage and portable-toilet waste. Held in a warm, enclosed,
26 never-fully-emptied tank, the waste turns septic and anaerobic and functions as an above-ground septic
27 tank — generating hydrogen sulfide, a toxic, corrosive, and flammable gas, together with acidic and
28 potentially explosive conditions, in a commercial/residential neighborhood. The condition is a public

1 nuisance and an imminent hazard the City is empowered and obligated to address.

2 3. On June 22, 2026, Petitioner placed the City on formal notice of this condition through the
3 City's Code Enforcement complaint process, which opened the matter as Case No. CE-0541944. As of
4 the date of this Petition, that record remains in "Case Opened" status; no inspection has occurred and
5 no action has been taken. Petitioner does not by this Petition seek to compel any particular substantive
6 outcome; he seeks only an order requiring the City to take up and act upon its own opened complaint
7 and to exercise the authority the law vests in it. Because the condition presents an ongoing and
8 imminent danger to public health and safety, Petitioner further requests that any alternative writ or
9 order to show cause be issued and made returnable on shortened time, at the earliest date available to
10 the Court. Concurrently with this Petition, Petitioner has filed an Ex Parte Application for an Order
11 Shortening Time, a supporting Declaration of Darryl Cotton, and a [Proposed] Order Shortening Time.

12 13 **II. PARTIES**

14 4. Petitioner DARRYL COTTON is, and at all relevant times was, the owner of the real property
15 at 6176 Federal Boulevard, San Diego, California 92114, which is immediately adjacent to the
16 operation described herein. Petitioner is directly and specially injured by the condition, over and above
17 any injury to the general public.

18 5. Respondent CITY OF SAN DIEGO is a municipal corporation organized under the laws of the
19 State of California, charged with the protection of public health and safety within its boundaries,
20 including the investigation and abatement of hazardous conditions and code violations through its
21 Development Services Department and Code Enforcement Division.

22 6. Respondents DOES 1 through 100 are persons or entities whose true names and capacities are
23 presently unknown to Petitioner, who therefore sues them by fictitious names and will amend this
24 Petition to allege their true names and capacities when ascertained.

25 26 **III. JURISDICTION AND VENUE**

27 7. This Court has jurisdiction under Code of Civil Procedure sections 1085 and 1060, and under
28 its general legal and equitable powers.

1 8. Venue is proper in this Court because the real property that is the subject of this action, and the
2 acts and conditions complained of, are located in the County of San Diego, and Respondent City of San
3 Diego is situated in this County.

4 5 **IV. EXHAUSTION AND RIPENESS**

6 9. Petitioner has performed all conditions precedent to this action. On June 22, 2026, Petitioner
7 placed Respondent City on formal notice of the condition and its hazards through the City's Code
8 Enforcement complaint process, which opened the matter as Case No. CE-0541944. More than six
9 weeks have since elapsed, during which the City has neither inspected the condition nor taken any
10 action upon it.

11 10. The condition is ongoing and continues, and worsens, each day that it is not abated. No
12 further administrative remedy is available to Petitioner, and the controversy is ripe for review.

13 14 **V. STANDING AND BENEFICIAL INTEREST**

15 11. Petitioner has a direct, substantial, and beneficial interest in the City's performance of
16 its duty. As the owner of the immediately adjacent property, Petitioner is exposed to the toxic,
17 corrosive, and explosive conditions generated by the operation and suffers special injury different in
18 kind and degree from that suffered by the general public, within the meaning of Civil Code section
19 3493.

20 21 **VI. STATEMENT OF FACTS**

22 ***A. The operation and the above-ground septic tank (Exhibit 4).***

23 12. United Rentals operates a commercial sewage-hauling business from the yard at 6144
24 Federal Boulevard. Rather than hauling each load of septage and portable-toilet waste directly to a
25 lawful disposal station, it discharges the waste into the fixed, above-ground FRAC tank, where the
26 material is stored and held before later removal.

27 13. As Petitioner has observed, vacuum trucks add fresh human waste to the tank daily,
28 while the tank is drawn down only in comparatively small volumes at a time and is never completely

1 emptied, so that a settled, fully-septic residue is permanently retained and continuously seeds each
2 incoming load. For all practical purposes, the 40,000-gallon FRAC tank thus operates as an above-
3 ground septic tank — an anaerobic vessel in which stored human waste is continuously broken down
4 — with all of the hazardous and toxic conditions that the science of anaerobic human-waste
5 decomposition documents, and without any of the permitting, siting, containment, or monitoring that
6 such a device requires. It does not merely store the waste; it treats it. Petitioner has documented this
7 ongoing operation in a dated log of video recordings taken from his adjacent property. A true and
8 correct copy of that video log is attached hereto as Exhibit 4 (COTTON-017 through COTTON-020)
9 and incorporated by reference.

10 ***B. The condition is a present, well-established danger (Exhibit 2).***

11 14. The scientific and engineering literature establishes that holding septage in a warm,
12 enclosed, retained-sludge tank drives the material anaerobic and generates hydrogen sulfide (toxic and
13 corrosive) and methane (flammable and explosive), together with volatile fatty acids that render the
14 material acidic and corrosive. Hydrogen sulfide is a highly flammable and explosive gas and is acutely
15 toxic to human health. Federal pretreatment standards, 40 C.F.R. section 403.5(b), prohibit discharges
16 that create a fire or explosion hazard, and in no case permit discharges below pH 5.0 because of the
17 corrosive structural damage they cause.

18 15. The condition at 6144 Federal Boulevard is therefore not a mere odor nuisance but a
19 present and well-established danger of toxic exposure, corrosion, and fire or explosion in a
20 commercial/residential neighborhood. A true and correct summary of the scientific basis for these
21 conditions is attached hereto as Exhibit 2 (COTTON-008 through COTTON-010) and incorporated by
22 reference.

23 ***C. The City was placed on notice and has not acted (Exhibit 1).***

24 16. On June 22, 2026, Petitioner submitted a complaint to the City of San Diego concerning
25 the unpermitted FRAC-tank operation and the hazards it presents. The City opened the matter as Code
26 Enforcement Case No. CE-0541944. A true and correct copy of that complaint is attached hereto as
27 Exhibit 1 (COTTON-002 through COTTON-007) and incorporated by reference.

28 17. As of the date of this Petition, the City's own public record for Case No. CE-0541944

continues to show the matter as newly opened, with no inspection conducted and no action taken. A true and correct copy of the City’s public record for that case, retrieved by Petitioner on August 7, 2026, is included within Exhibit 1 (at COTTON-007). Throughout this period the unpermitted operation has continued without interruption, and the City — though on notice of the condition and its hazards since June 22, 2026 — has allowed it to continue.

18. Petitioner also placed other agencies on notice of the condition beginning in June 2026, including the County of San Diego Department of Environmental Health and Quality, the San Diego Air Pollution Control District, and the City’s stormwater and hazardous-materials programs. As of the date of this Petition, no agency has abated the condition.

D. The condition harms Petitioner and the community (Exhibit 3).

19. The condition directly injures Petitioner in the use and enjoyment of his property and endangers the property and persons in its vicinity, and it likewise injures the surrounding commercial/residential community. A petition bearing the signatures of neighboring residents, documenting the harm the condition causes to the community, is attached hereto as Exhibit 3 (COTTON-011 through COTTON-016) and incorporated by reference.

CAUSE OF ACTION

(Writ of Mandate — Code Civ. Proc. § 1085 — Against Respondent City of San Diego)

20. Petitioner realleges and incorporates by reference each of the foregoing paragraphs as though fully set forth herein.

21. The City received Petitioner’s complaint of an imminent public-health and safety hazard and opened it as Code Enforcement Case No. CE-0541944. Having opened the matter, the City was obligated at a minimum to take it up and act upon it — to exercise the discretion its code-enforcement scheme commits to it — rather than leave it wholly unaddressed. A public agency’s complete failure or refusal to exercise the discretion vested in it is itself a failure to perform a duty that a writ of mandate may compel.

22. San Diego Municipal Code section 121.0406(a) further provides that, upon a determination of a violation, the City Manager shall issue an Abatement Notice and Order; section

1 121.0416(a) empowers the City to exercise summary abatement powers where a condition creates an
2 imminent hazard to life, health, and safety; and sections 121.0402 and 121.0302(i) declare such
3 conditions public nuisances subject to the City's abatement authority.

4 23. As of the date of this Petition — more than six weeks after the complaint was opened —
5 the City has neither inspected the condition nor taken any action of any kind on Case No. CE-0541944,
6 and has thus failed and refused to exercise the discretion, or to perform any of the steps, that its own
7 scheme prescribes. In doing so, the City has allowed a known, ongoing, and hazardous operation that it
8 is authorized and obligated to abate to continue unabated to the present day.

9 24. Petitioner has a beneficial interest in the City's performance of its duty and no plain,
10 speedy, or adequate remedy in the ordinary course of law. Petitioner is entitled to a writ of mandate
11 commanding the City to take up and act upon Case No. CE-0541944 and to exercise the discretion
12 vested in it; Petitioner does not seek to compel any particular substantive outcome, only that the City
13 perform its duty to act.

14
15 **PRAYER FOR RELIEF**

16 WHEREFORE, Petitioner prays for judgment as follows:

17 1. For a peremptory writ of mandate commanding Respondent City of San Diego to take up and
18 act upon Code Enforcement Case No. CE-0541944 and to exercise the discretion vested in it by law;

19 2. For an alternative writ of mandate or an order to show cause why such relief should not be
20 granted, issued and made returnable on shortened time and at the earliest date available to the Court
21 given the ongoing and imminent hazard;

22 3. For a declaration that Respondent City has failed to perform its duty to act upon the condition,
23 and that the condition constitutes a public nuisance and imminent hazard the City is authorized and
24 obligated to address;

25 4. For costs of suit incurred herein; and

26 5. For such other and further relief as the Court deems just and proper.

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1 Dated: August 7, 2026

Respectfully submitted,

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5 Darryl Cotton, Petitioner In pro se

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7 **VERIFICATION**

8 I, Darryl Cotton, am the Petitioner in the above-entitled action. I have read the foregoing Verified
9 Petition for Writ of Mandate and know its contents. The matters stated therein are true of my own
10 knowledge, except as to those matters stated on information and belief, and as to those matters I believe
11 them to be true.

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

14 Executed on August 7, 2026, at San Diego, California.

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17 Darryl Cotton
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