M. Renee Orth (SBN 241847)
P.O. Box 213
Standard, California 95373
Telephone: 310-995-1582
Email: renee@reneeorth.com
Attorney for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF TUOLUMNE

DORRIYA ANDERSON; CRAIG ANDERSON; JAMES ROBERTS; JOANN ROBERTS; FRANK FERNANDEZ; ANTONIO FERNANDEZ; JIM FERNANDEZ; and PATRICIA REH,

Plaintiffs,

v.

JOHN LAMAR SLATON, an individual; BRUCE SLATON, an individual; ROBERT A. WOODWORTH and DIANE WOODWORTH, individually and as trustees; DJ SLATON EXCAVATION, form unknown; COUNTY OF TUOLUMNE, a political subdivision of the State of California; and DOES 1 through 50, inclusive,

Defendants.

Case No. CV68663

EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION; FOR ORDER PRESERVING EVIDENCE AND FOR EXPEDITED INSPECTION AND SAMPLING

DATE:
TIME:
DEPT:

EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION; FOR ORDER PRESERVING EVIDENCE AND FOR EXPEDITED INSPECTION AND SAMPLING

NOTICE OF EX PARTE APPLICATION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 11, 2026, at 8:00 a.m., or as soon thereafter as the matter may be heard, in the above-entitled Court, Plaintiffs will apply ex parte for a temporary restraining order and related relief as set forth below.

This application is made on the ground that the material at 18955 Industry Way — the central physical evidence in this action — is being removed and destroyed, untested, and that once removed it cannot be recreated, such that Plaintiffs will suffer immediate and irreparable harm unless the Court acts before a noticed motion can be heard.

Notice of Ex Parte Application (Cal. Rules of Court, rule 3.1204)

Notice of this ex parte application was given as follows. On September 8, 2026, Plaintiffs' counsel appeared at the Office of the County Counsel regarding the ongoing removal and the need to preserve the material. Counsel spoke with Chris Schmidt, who directed her to the County's outside counsel, Alison Southard. Counsel had left Ms. Southard a voicemail at 3:21 p.m., left another voicemail from the County Counsel lobby at 4:06 p.m., and spoke with Ms. Southard when she returned the call at 4:24 p.m. Counsel also gave written notice by email to County Counsel and Ms. Southard stating the relief Plaintiffs intended to seek. On September 9 at 9:04 a.m., Ms. Southard acknowledged the email and requested the date, time, location, and moving papers. (Orth Decl. ¶¶ 12-13.)

On September 10, 2026, at 8:09 a.m., counsel emailed Ms. Southard and County Counsel Walter Wall, copying County officials, that Plaintiffs would seek an ex parte temporary restraining order and related relief on Friday, September 11, 2026; stated that removal was ongoing; asked whether the County would oppose; and stated that the papers would be provided before the hearing. At 8:45 a.m., Ms. Southard again requested the hearing time and papers. Counsel responded that she would be at the courthouse at 8:00 a.m. to have the application decided as soon as the Court was available and would transmit the application when complete. No department or conventional hearing time had been assigned. Ms. Southard subsequently advised that the County would oppose. Counsel had contacted the Court and was following the procedure communicated to her: appear at 8:00 a.m. for assignment and presentation to an available judicial officer. (Orth Decl. ¶¶ 14-16.)

Counsel also notified the private defendants whose contact information was available. At approximately 8:10 a.m. on September 10, counsel telephoned Defendant Bruce Slaton and left a voicemail stating that Plaintiffs would seek an ex parte temporary restraining order to prevent further removal and destruction of evidence the following morning in the Tuolumne County Superior Court and urging him or his attorney, if any, to contact counsel for further information. At approximately 8:20 a.m., counsel spoke with Jim Hatler of Sierra Rock Products and gave him the same notice. Mr. Hatler stated that approximately 90 percent of the material removed from the Site had already been processed and mixed with other material. Because counsel lacked direct contact information for Defendants Robert A. and Diane Woodworth, counsel gave notice to a person who identified himself as their son, Robert Woodworth. He stated that they lived outside the country and that he would relay the message and counsel's contact information. (Orth Decl. ¶¶ 17-19.)

To the extent any recipient received less than the ordinary notice or Plaintiffs could not provide a department that the Court had not yet assigned, exceptional circumstances justify consideration of the application. Material evidence continues to be at risk of being removed, and Mr. Hatler's statement confirmed that approximately 90 percent of the removed material had already been processed and commingled. Delay would create a substantial risk that the remaining identifiable evidence would be lost before a regularly noticed application could be heard. (Orth Decl. ¶¶ 18, 20-21; Cal. Rules of Court, rules 3.1203(a), 3.1204(b).)

EX PARTE APPLICATION AND MEMORANDUM OF POINTS AND AUTHORITIES

I. RELIEF REQUESTED

Plaintiffs apply ex parte for an order:

(1) temporarily restraining Defendants, and all persons acting in concert with them or at their direction, including the County of Tuolumne, from removing, transporting, disturbing, grading, covering, or otherwise altering any material at 18955 Industry Way, Sonora (APN 097-090-010) (the "Site"), pending hearing on an order to show cause re preliminary injunction;

(2) requiring Defendants to preserve in place all material remaining at the Site, together with the ground and surfaces beneath and adjacent to the areas from which material has been or is being removed, and further requiring that all material already removed from the Site and delivered to the facility operated by Jim Hatler in Jamestown, California — which Plaintiffs are informed and believe is operating as Sierra Rock Products, Inc. — or to any other location, be preserved and not further processed, crushed, buried, commingled, moved, or disturbed;

(3) requiring Defendants to identify, in writing and within 24 hours, the destination of all material already removed from the Site and the identity of each person who transported it, so that the material may be located and sampled;

(4) permitting Plaintiffs and their qualified expert, on an expedited basis, to enter and inspect the Site and any destination location and to collect representative samples of the material under a documented chain of custody; and

(5) setting an order to show cause why a preliminary injunction should not issue on the same terms.

II. INTRODUCTION

The material at the Site is the single most important piece of physical evidence in this case. Whether it contains asbestos and other hazardous constituents — a central factual question underlying Plaintiffs' claims — can be proven only by testing the material itself. A substantial pile of that material has been loaded and hauled away, untested, and once it is gone it cannot be recreated or examined. Plaintiffs served the Defendants with a written demand to preserve this evidence. The County's own Local Enforcement Agency ("LEA") directed, on May 11, 2026, that crushed material containing serpentinite undergo County-arranged asbestos sampling before its hazard status and appropriate disposal method could be determined. That sampling has not occurred. The May 11, 2026 letter also mandated that uncrushed asphalt with adhered serpentine not be removed without prior submission of a removal plan to the LEA to include the material's destination. Material is being removed without testing and without an approved removal plan, with the County's knowledge

and, Plaintiffs are informed and believe, with its sanction. Only immediate intervention by this Court can prevent the irreparable loss of the evidence at the heart of this action.

III. STATEMENT OF FACTS

The Complaint was filed August 3, 2026, and the County was served August 4, 2026. Defendant Bruce Slaton was served on August 20, 2026, and Defendants Diane Woodworth and Robert A. Woodworth were served on August 25, 2026. The remaining Defendants, John Lamar Slaton and DJ Slaton Excavation, have not yet been served despite good faith efforts to effect service. (Orth Decl. ¶ 2.)

The material at the Site is the central physical evidence in this action, and its composition is a central disputed fact. (Orth Decl. ¶ 3.) On July 29, 2026, Plaintiffs sent a written evidence-preservation demand to the County by U.S. mail; delivery was confirmed on August 1, 2026. (Orth Decl. ¶ 4, Ex. 1.) That same day, Plaintiffs sent an identical demand by certified mail to the Slaton and Woodworth Defendants. Delivery to Bruce Slaton was confirmed on August 1, 2026. The letters to Diane Woodworth, Robert A. Woodworth, and John Lamar Slaton were returned undelivered. (Orth Decl. ¶ 5, Ex. 2.)

On May 11, 2026, the County's Local Enforcement Agency issued a letter to the Woodworth Defendants and John Lamar Slaton captioned "Removal of Pile(s) Containing Serpentinite and Testing of Crushed Material at 18955 Industry Way." The letter required that uncrushed asphalt inert debris with serpentine adherence be removed from the Site and disposed of at an approved facility, with a removal plan, destination facility, and disposal or recycling receipts submitted to the County's Environmental Health Department. The letter separately required that crushed material containing

serpentinite undergo asbestos sampling—to be arranged by the County through a third-party consultant, under chain of custody, with split samples made available for independent testing—to determine whether the material meets hazardous-waste criteria and to establish the appropriate disposal or allowable use. The letter stated that the Environmental Health Department would contact the recipients to schedule that sample collection. (Orth Decl. ¶ 6, Ex. 3.) On July 27, 2026, Plaintiffs submitted a California Public Records Act request to the LEA following up on the May 11 letter; as of the filing of this application, Plaintiffs have not received a substantive response. (Orth Decl. ¶ 6, Ex. 5.)

On August 19, 2026, Wes Mindermann of CalRecycle advised that the LEA indicated it was working on obtaining site access to conduct sampling at some future date; as of the filing of this application, no such sampling has been performed. (Orth Decl. ¶ 7.)

On Thursday, September 3, 2026, Plaintiff Dorriya Anderson observed heavy equipment — an excavator and a tractor-trailer — being moved onto the Site, and she reported to the Sheriff that Defendants appeared to be preparing to remove evidence central to this pending litigation. (Anderson Decl. ¶ 2.) That afternoon, plaintiffs' counsel's legal assistant Scott Fischler received a text message from Ms. Anderson stating that Slaton was unloading equipment on the parcel. (Fischler Decl. ¶ 2.)

On the morning of Friday, September 4, 2026, Ms. Anderson observed material being excavated and prepared for removal at approximately 9:23 a.m. (Anderson Decl. ¶ 3.) At 9:25 a.m., she telephoned Roger Root to report that the Slatons were preparing to remove material from the Site; Mr. Root said he would send LEA Director Debbie Larson. Ms. Larson arrived at

approximately 10:04 a.m. with Community Development Director Tamera Blankenship, and Kent Rasmussen of the Air Pollution Control District arrived shortly before them. None of them stopped the removal, and Ms. Blankenship told Ms. Anderson there was nothing they could do to stop it. (Anderson Decl. ¶ 4.)

Mr. Fischler went to the Site on Friday, September 4, 2026, arriving at 9:43 a.m., and returned on Tuesday, September 8, 2026, at approximately 2:12 p.m.; on both occasions he personally observed the excavation, loading, and removal of material from the Site, and took video of the activity. (Fischler Decl. ¶¶ 2–3.) Mr. Fischler spoke with a man who identified himself as Rick Flovin, a friend of Bruce Slaton, and asked that removal cease because the material was evidence in litigation filed August 3, 2026; Mr. Flovin conferred with Mr. Slaton and reported that Slaton would not cease removal. (Fischler Decl. ¶ 3.) Mr. Fischler asked that a sample of the material be placed in a bag he provided for testing — sampling the County's May 11, 2026 letter contemplated would be arranged by the County, and which had not yet occurred. Mr. Slaton, through Mr. Flovin, refused, as did Jim Hatler. Mr. Flovin stated that Mr. Hatler was receiving the material at his facility in Jamestown, called Sierra Rock Products. (Fischler Decl. ¶ 3.)

At approximately 11:26 a.m. on September 4, 2026, Ms. Anderson observed a white Slaton dump truck loaded with removed material leave the Site along Mono Way and proceed onto the State Route 108 on-ramp toward Jamestown, emitting a cloud of dust from the untarped truck bed. (Anderson Decl. ¶ 5.) Mr. Rasmussen of the Air Pollution Control District stated that the County had agreed to allow the removal of the material. (Fischler Decl. ¶ 4.) Mr. Fischler also observed Mr. Slaton operating the excavator and moving untested material, generating significant dust while dust-suppression watering had stopped. (Fischler Decl. ¶ 6.)

The County refused to intervene to stop the removal, despite the Slaton Defendants' apparent failure to comply with the requirements of the May 11, 2026 letter — including the absence of any County-arranged sampling of the crushed serpentinite material and, on information and belief, the absence of any removal plan submitted for the uncrushed material. When Mr. Fischler contacted the County, he was referred to Todd James of the County Counsel's office, who stated that the County had no authority to stop the removal. (Fischler Decl. ¶¶ 5, 7.) The removal resumed on Tuesday, September 8, 2026, when both Ms. Anderson and Mr. Fischler again observed dump trucks removing material from the Site. (Anderson Decl. ¶ 7; Fischler Decl. ¶ 2.)

At least some of the material being removed may be central to Plaintiffs' inverse condemnation cause of action against the County—namely, surface material removed from Tuolumne Road and deposited at the Site by the County. Its removal and commingling would destroy evidence of the County's own conduct. (Orth Decl. ¶ 9.) Plaintiffs demanded a halt in person, by telephone, and in writing; the County did not halt the removal. (Orth Decl. ¶¶ 12, 20; Ex. 4.)

IV. ARGUMENT

A. Ex Parte Relief Is Warranted Because the Evidence Is Being Destroyed in Real Time.

Ex parte relief is proper where the applicant makes an affirmative factual showing of irreparable harm, immediate danger, or another statutory basis for granting relief without a noticed motion. (Cal. Rules of Court, rule 3.1202(c).) Here the harm is not merely imminent; it is occurring. Each hour the material is left on the Sierra Rock Products site without an order for its preservation

risks permanent loss of critical evidence. Furthermore, there is additional material on the Site that must be protected from spoliation. No noticed motion, which could not be heard for weeks, can protect evidence that is being hauled away today. This is the paradigmatic circumstance for ex parte intervention.

B. A Temporary Restraining Order Should Issue to Prevent Irreparable Harm.

A temporary restraining order may issue to preserve the status quo and prevent irreparable injury pending a hearing on a preliminary injunction. (Code Civ. Proc. § 527.) The court weighs the likelihood that the applicant will prevail and the interim harm to the applicant if relief is denied against the harm to the respondent if it is granted. (*White v. Davis* (2003) 30 Cal.4th 528, 554.)

Both factors favor Plaintiffs decisively. The interim harm is the permanent loss of the dispositive evidence in the case — the classic irreparable injury, because it cannot be remedied by damages or any later order. By contrast, the only burden on Defendants is delay: the material need only remain in place, or be sampled before removal, for a short time. The material Defendants are disposing of has been on the Site for at least two years. Preserving that evidence pending its examination imposes no cognizable hardship comparable to its irretrievable destruction. And Plaintiffs' underlying claims — for nuisance, for statutory violations, for abatement, for inverse condemnation, and for a writ compelling the County to perform its duties — are supported by the County's own records, including the LEA's determination that the Site is an unpermitted solid waste disposal site and its May 11, 2026 letter requiring County-arranged asbestos sampling of the crushed material and a documented removal plan for the uncrushed material.

C. The Court Should Order Preservation of the Evidence and Expedited Inspection and Sampling.

Independent of the injunction power, the Court has authority to order the preservation of evidence and to permit inspection, testing, and sampling of physical evidence and land. (Code Civ. Proc. §§ 2019.020, 2031.010 [inspection, testing, and sampling of land and tangible things].) Given the urgency, Plaintiffs request that the ordinary notice period for a demand to inspect be shortened so that inspection and sampling may occur immediately, before the evidence is gone. Because material is already being removed to the Sierra Rock Products facility in Jamestown, the Court should also require Defendants to disclose the destination of removed material so that representative samples may be obtained there.

D. The Circumstances Independently Implicate the Law Governing Spoliation of Evidence.

The destruction of material evidence after litigation has been filed, and after a demand to preserve it has been served, is spoliation. California does not recognize a separate tort for spoliation, but it provides substantial remedies: the trier of fact may infer that destroyed evidence would have been unfavorable to the party responsible for its destruction (Evid. Code § 413); the court may impose discovery sanctions, including issue, evidence, and terminating sanctions (Code Civ. Proc. § 2023.030); and the willful destruction of evidence about to be produced may carry consequences under Penal Code section 135. (*Cedars-Sinai Medical Center v. Superior Court* (1998) 18 Cal.4th 1, 12.)

Plaintiffs raise these authorities not to seek sanctions in this application, but because they underscore the gravity of what is occurring and the Court's strong interest in preventing it. The law's disapproval of evidence destruction is precisely why interim relief to prevent it is appropriate here.

V. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant the ex parte application, issue the temporary restraining order and the preservation and inspection orders set forth above, and set an order to show cause re preliminary injunction.

Dated: September 10, 2026

Respectfully submitted,

M. Renée Orth, Attorney for Plaintiffs