



November 17, 2022

**VIA ELECTRONIC MAIL TO 9-AWA-AGC-Part-16@faa.gov**

Office of the Chief Counsel  
Attention: FAA Part 16 Docket Clerk, AGC-600  
Federal Aviation Administration  
800 Independence Avenue SW  
Washington, DC 20591

Re: *Aircraft Owners and Pilots Association, et. al v. County of Santa Clara, California*  
Docket No. FAA-2022-1385

Complainants oppose Santa Clara County's Motion for Extension of Time to Respond to the Complaint. It is another superb example of why the Part 16 Complaint was filed: failure to acknowledge and timely address issues airport users and the FAA raised with the County *in 2021*.<sup>1</sup> And 2023 is now just 6 weeks away.

The County received the Part 16 Complaint on October 14, more than a month ago. Its legal team should have begun drafting a substantive Answer then. Apparently, it didn't. Instead, it used time to draft a multi-page communication to the FAA's Chief Counsel seeking dismissal of the Part 16 Complaint. The County received a Notice of Docketing of the Part 16 Complaint on November 3, 2022. Its legal team should have been drafting a substantive Answer then. Apparently, it didn't. Then it waited 11 days to file its multi-page Motion, which asks the FAA to triple its deadline for filing a required response. Santa Clara County counsel's poor time management choices in responding to the Complaint don't justify an extension of time.

Any negotiations or potential agreement to participate in an FAA demonstration or pilot program doesn't solve the situation facing Complainants now. Since January 1, 2022, parties have been willing and able to provide 100 octane fuel that is commercially available now at County airports. Parties remain willing and able to provide 100 octane fuel that is commercially available now at County airports now.<sup>2</sup> Yet the County refuses to allow them to do so and remedy the current unavailability and current denial of access to 100 octane fuel. With an immediate remedy at hand offered by tenants, the County has not rescinded its prohibition on use of 100LL at County airports. Instead, it prioritizes negotiations regarding an opportunity to be realized at an unknown date in the future to provide an unleaded high octane fuel that is not currently available in the marketplace. The County is doing what it wants to do, not what it is required to do.

The County doesn't speak for Complainants when stating, "The current briefing schedule would present similar difficulties for all parties." The briefing schedule doesn't present difficulties for the Complainants.

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<sup>1</sup> The County acknowledged this in its Motion, referencing "a previous complaint filed by Complainants with the FAA a year ago raising substantially similar issues as their current Complaint."

<sup>2</sup> See Attachment 13, Affidavit of Walter Gyger on behalf of Trade Winds Aviation, to Part 16 Complaint.

Complainants are in full support “to make the Part 16 process both expedited and complete” and look forward to the FAA’s fulfillment of this intent in this Part 16 matter.<sup>3</sup>

The County’s legal office has vastly more resources than Complainant’s legal team. It has more than 100 attorneys on staff,<sup>4</sup> a deep bench to support drafting and filing a response by the deadline. Lawyers having commitments and deadlines to manage in more than one matter is not unusual. It’s also not a license for the County to exploit procedural rules for its own gain in a situation of its own deliberate making. *See, e.g., Stonkus v. City of Brockton Sch. Dep’t*, 322 F.3d 97, 101 (1st Cir. 2003) (“Most attorneys are busy most of the time and they must organize their work so as to be able to meet the time requirements of matters they are handling or suffer the consequences.”)

The County is wrong in stating a delay will not prejudice Complainants. The Part 16 Complaint and affidavits detail the ongoing harm to Complainants. Local and national implications grow as the issues at hand remain unaddressed. Timely responses and resolution are a priority to AOPA and its Co-Complainants, and to the safety and efficiency of the national aviation system. For these reasons, the County’s Motion for Extension of Time to Respond to the Complaint should be denied.

Respectfully submitted,



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<sup>3</sup> Rules of Practice for Federally-Assisted Airport Enforcement Proceedings (Retrospective Regulatory Review) 78 FR 56135 (Sept. 12, 2013) (codified at 14 C.F.R. pt. 16).

<sup>4</sup> <https://counsel.sccgov.org/office-overview/attorneys>


**Certificate of Service**

I hereby certify that I have this day caused the foregoing Reply to Santa Clara County's Motion for Extension of Time to Respond to the Complaint to be served on the following persons by electronic mail with a courtesy copy via U.S. Mail:

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Dated this 17th day of November, 2022



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