



HILL, FARRER & BURRILL LLP

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## APPEALS COURT CALLS FOR NEW TRIAL IN EL CAPITAN BUILDING OWNER'S INVERSE CONDEMNATION ACTION AGAINST MTA

— Suit stems from subway construction in Hollywood —

**LOS ANGELES** – CUNA Mutual Life Insurance Company, owner of the El Capitan Theater Building in Hollywood, today won its appeal for a new trial in its action against the Los Angeles County Metropolitan Transportation Authority to recover costs for underpinning the historic building to protect it from anticipated damage by the excavation and construction of the Hollywood/Highland Metro Rail Station.

The court reversed a decision by Judge Richard L. Fruin, Jr. of the Superior Court of Los Angeles County.

“The court agreed with the El Capitan that a private owner has the right to protect its property against a public improvement which threatens the property, provided the owner acts reasonably and in good faith,” said Dean E. Dennis of Hill, Farrer & Burrill LLP who argued the appeal. Dennis’ partners Kevin Brogan and Paul Porter, who tried the case in the lower court, “look forward to a new trial based upon the standard we argued at the lower court and on appeal.”

Tunneling for the subway in 1994 had caused the El Capitan Building to settle about one-quarter inch. After studying anticipated settlement from the excavation and construction of the proposed subway station in the adjacent street, the building’s geotechnical consultants recommended protective action to ensure that the historic building did not suffer increased damage. The consultants recommended an underpinning system to shore up the building’s foundation. When MTA declined to pay for this system, CUNA went ahead with the work at a cost of approximately \$800,000.

When MTA refused to pay for the underpinning to protect the historic El Capitan building, CUNA filed suit for inverse condemnation through Hill, Farrer & Burrill which has specialized in representing owners in condemnation matters.

### **About Hill, Farrer & Burrill, LLP**

Hill Farrer & Burrill LLP is a full-service California law firm that has served the expanding litigation and transaction needs of the business community for 80 years, working with America’s corporate giants, privately held companies and entrepreneurs. The firm offers strong expertise in labor and employment, real property, commercial and corporate law, intellectual property, environmental law, employee benefits, bankruptcy, and tax and estate planning. The firm’s attorneys are known for the business perspective they bring to solving complex legal issues and have an outstanding track record in the courts and around the negotiating table.