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5 Attorneys for Plaintiffs Oscar De La Torre and Elias Serna

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES**

11 OSCAR DE LA TORRE and ELIAS)
SERNA)

12 Plaintiffs,)

13 v.)

14 CITY OF SANTA MONICA and)
15 DOES 1 through 10, inclusive)

16 Defendants.)

Case No.: 21STCV08597

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR SUMMARY
JUDGMENT OR, IN THE
ALTERNATIVE, FOR SUMMARY
ADJUDICATION**

Filed Concurrently With:

- 1) Separate Statement of Undisputed Material Facts;
- 2) Memorandum of Points and Authorities;
- 3) Evidence in Support;
- 4) [Proposed] Order; and
- 5) Proof of Service

Date: March 24, 2022
Time: 8:30 a.m.
Dept. 15

[Hon. Richard Fruin]

Reservation #: 018818364065

1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on March 24, 2022, at or about 8:30 a.m., or as soon
3 thereafter as the matter may be heard in Department 15 of the above-entitled Court, located
4 at 111 North Hill Street, Los Angeles, California 90012, Plaintiffs Oscar de la Torre and
5 Elias Serna ("Plaintiffs") will and hereby do move this Court pursuant to California Code of
6 Civil Procedure section 437c as follows for summary judgment or, in the alternative,
7 summary adjudication in favor of Plaintiffs, and against Defendant City of Santa Monica
8 ("Defendant").

9 Plaintiffs make this motion because there are no triable issues of material fact on
10 either of the two causes of action in the Verified Second Amended Complaint; the
11 undisputed facts compel judgment in favor of Plaintiffs.

12 For an elected official to have a conflict of interest that prevents him from
13 participating in discussions and decisions, he must have a financial or other personal interest
14 in the subject, different than that of a group of constituents generally. As this Court has
15 already ruled, "Plaintiff de la Torre does not have a personal stake in" the case styled *Pico*
16 *Neighborhood Association, et al. v. City of Santa Monica*, Case No. BC616804 ("Voting
17 Rights Case"), now pending in the California Supreme Court, "but voices a point of view
18 that is contrary to the majority of the councilmembers." The relief sought and awarded by
19 the Los Angeles Superior Court in the Voting Rights Case affects all voters in Santa Monica,
20 not just Councilmember de la Torre. Therefore, Councilmember de la Torre may not be
21 excluded from performing the duties he was elected to perform. As this Court wrote in its
22 September 30, 2021 Ruling, "[Defendant]'s actions to exclude the participation of a
23 councilmember who campaigned in support of the plaintiffs in the [Voting Rights Case]
24 thwarts the political process."

25 This Motion is based upon this Notice, the Separate Statement of Undisputed Material
26 Facts, the Memorandum of Points and Authorities in Support of the Motion, the Evidence in
27 Support of the Motion, all pleadings and papers on file herein, and on such other and further
28

1 evidence and argument, both oral and in writing, as may be presented at the hearing on this
2 matter.

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Respectfully submitted:

DATED: January 5, 2022

TRIVINO-PEREZ & ASSOCIATES

By: /s/ Wilfredo Trivino Perez
Wilfredo Trivino-Perez
Attorneys for Plaintiffs



Make a Reservation

OSCAR DE LA TORRE vs CITY OF SANTA MONICA

Case Number: 21STCV08597 Case Type: Civil Unlimited Category: Other Complaint (non-tort/non-complex)
Date Filed: 2021-03-04 Location: Stanley Mosk Courthouse - Department 15

Reservation

Case Name: OSCAR DE LA TORRE vs CITY OF SANTA MONICA	Case Number: 21STCV08597
Type: Joinder to Motion for Summary Judgment / Adjudication	Status: RESERVED
Filing Party: Oscar De La Torre (Plaintiff)	Location: Stanley Mosk Courthouse - Department 15
Date/Time: 03/24/2022 9:15 AM	Number of Motions: 1
Reservation ID: 018818364065	Confirmation Code: CR-GDJCJEP3VEHBVD8MM

Fees

Description	Fee	Qty	Amount
Joinder to Motion for Summary Judgment / Adjudication	500.00	1	500.00
Credit Card Percentage Fee (2.75%)	13.75	1	13.75
TOTAL			\$513.75

Payment

Amount: \$513.75	Type: Visa
Account Number: XXXX2930	Authorization: 041019

[Print Receipt](#)

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