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14 CITY OF SANTA MONICA

*Exempt from filing fee pursuant to  
Government Code § 6103*

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16 **FOR THE COUNTY OF LOS ANGELES**

17 OSCAR DE LA TORRE and ELIAS SERNA,  
18  
19 Plaintiffs,  
20  
21 v.  
22 CITY OF SANTA MONICA,  
and DOES 1 through 10, inclusive  
23 Defendants.

CASE NO.: 21STCV08597

Assigned to Hon. Richard L. Fruin

**DECLARATION OF CAROL M.  
SILBERBERG IN SUPPORT OF  
DEFENDANT CITY OF SANTA  
MONICA’S MOTION FOR SUMMARY  
JUDGMENT OR, IN THE ALTERNATIVE,  
SUMMARY ADJUDICATION VOL I OF IV  
(EXS. 1-12)**

Date: May 6, 2022

Time: 9:15 a.m.

Dept.: 15

Reservation No: 661700682638

Action Filed: March 4, 2021

Trial Date: May 16, 2022

1 I, Carol M. Silberberg, declare as follows:

2 1. I am an attorney, duly licensed to practice law in the State of California and am an  
3 attorney in the law firm of Berry Silberberg Stokes PC, counsel for Defendant City of Santa Monica.  
4 I have personal knowledge of the matters stated herein and, if called upon to do so, I could and would  
5 competently testify thereto.

6 2. Attached hereto as **Exhibit 1** is a true and correct copy of transcript excerpts from the  
7 deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

8 3. Attached hereto as **Exhibit 2** is a true and correct copy of transcript excerpts from the  
9 deposition of Maria Loya taken on January 25, 2022 in this matter.

10 4. Attached hereto as **Exhibit 3** is a true and correct copy of transcript excerpts from the  
11 deposition of Kevin Shenkman taken on January 27, 2022 in this matter.

12 5. Attached hereto as **Exhibit 4** is a true and correct copy of transcript excerpts from the  
13 deposition of Elias Serna taken on January 21, 2022 in this matter.

14 6. Attached hereto as **Exhibit 5** is a true and correct copy of transcript excerpts from the  
15 deposition of Oscar De la Torre in his individual capacity taken on May 9, 2018 in the CVRA Action.

16 7. Attached hereto as **Exhibit 6** is a true and correct copy of transcript excerpts from the  
17 deposition of Oscar De la Torre in his capacity as the person most qualified for the Pico Neighborhood  
18 Association taken on May 11, 2018 in the CVRA Action.

19 8. Attached hereto as **Exhibit 7** is a true and correct copy of transcript excerpts from the  
20 deposition of Maria Loya taken on May 15, 2018 in the CVRA Action.

21 9. Attached hereto as **Exhibit 8** is a true and correct copy of transcript excerpts from the  
22 deposition of Terrence O'Day taken on September 23, 2016 in the CVRA Action.

23 10. Attached hereto as **Exhibit 9** is a true and correct copy of transcript excerpts from the  
24 deposition of Kevin McKeown taken on December 16, 2016 in the CVRA Action.

25 11. Attached hereto as **Exhibit 10** is a true and correct copy of transcript excerpts from the  
26 deposition of Ted Winterer taken on February 26, 2018 in the CVRA Action.

27 12. Attached hereto as **Exhibit 11** is a true and correct copy of transcript excerpts from the  
28 deposition of Sue Himmelrich taken on May 30, 2017 in the CVRA Action.

1           13. Attached hereto as **Exhibit 12** is a true and correct copy of excerpts from the trial  
2 transcripts in the CVRA action from August 22, 2018 and August 23, 2018.

3           14. Attached hereto as **Exhibit 13** is a true and correct copy of Deposition Exhibit 6 from  
4 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

5           15. Attached hereto as **Exhibit 14** is a true and correct copy of Deposition Exhibit 7 from  
6 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

7           16. Attached hereto as **Exhibit 15** is a true and correct copy of Deposition Exhibit 12 from  
8 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

9           17. Attached hereto as **Exhibit 16** is a true and correct copy of Deposition Exhibit 17 from  
10 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

11           18. Attached hereto as **Exhibit 17** is a true and correct copy of Deposition Exhibit 21 from  
12 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

13           19. Attached hereto as **Exhibit 18** is a true and correct copy of Deposition Exhibit 24 from  
14 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

15           20. Attached hereto as **Exhibit 19** is a true and correct copy of Deposition Exhibit 25 from  
16 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

17           21. Attached hereto as **Exhibit 20** is a true and correct copy of Deposition Exhibit 30 from  
18 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

19           22. Attached hereto as **Exhibit 21** is a true and correct copy of Deposition Exhibit 31 from  
20 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

21           23. Attached hereto as **Exhibit 22** is a true and correct copy of Deposition Exhibit 38 from  
22 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

23           24. Attached hereto as **Exhibit 23** is a true and correct copy of Deposition Exhibit 39 from  
24 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

25           25. Attached hereto as **Exhibit 24** is a true and correct copy of Deposition Exhibit 41 from  
26 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

27           26. Attached hereto as **Exhibit 25** is a true and correct copy of Deposition Exhibit 42 from  
28 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

1           27. Attached hereto as **Exhibit 26** is a true and correct copy of Deposition Exhibit 45 from  
2 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

3           28. Attached hereto as **Exhibit 27** is a true and correct copy of Deposition Exhibit 51 from  
4 the deposition of Maria Loya taken on January 25, 2022 in this matter.

5           29. Attached hereto as **Exhibit 28** is a true and correct copy of Deposition Exhibit 56 from  
6 the deposition of Kevin Shenkman taken on January 27, 2022 in this matter.

7           30. Attached hereto as **Exhibit 29** is a true and correct copy of Deposition Exhibit 57 from  
8 the deposition of Kevin Shenkman taken on January 27, 2022 in this matter.

9           31. Attached hereto as **Exhibit 30** is a true and correct copy of Deposition Exhibit 58 from  
10 the deposition of Kevin Shenkman taken on January 27, 2022 in this matter.

11           32. Attached hereto as **Exhibit 31** is a true and correct copy of Deposition Exhibit 60 from  
12 the deposition of Kevin Shenkman taken on January 27, 2022 in this matter.

13           33. Attached hereto as **Exhibit 32** is a true and correct copy of Deposition Exhibit 64 from  
14 the deposition of Kevin Shenkman taken on January 27, 2022 in this matter.

15           34. Attached hereto as **Exhibit 33** is a true and correct copy of Deposition Exhibit 65 from  
16 the deposition of Kevin Shenkman taken on January 27, 2022 in this matter.

17           35. Attached hereto as **Exhibit 34** is a true and correct copy of Deposition Exhibit 68 from  
18 the deposition of Kevin Shenkman taken on January 27, 2022 in this matter.

19           36. Attached hereto as **Exhibit 35** is a true and correct copy of Deposition Exhibit 72 from  
20 the deposition of Kevin Shenkman taken on January 27, 2022 in this matter.

21           37. Attached hereto as **Exhibit 36** is a true and correct copy of Deposition Exhibit 74 from  
22 the deposition of Kevin Shenkman taken on January 27, 2022 in this matter.

23           38. Attached hereto as **Exhibit 37** is a true and correct copy of Deposition Exhibit 76 from  
24 the deposition of Kevin Shenkman taken on January 27, 2022 in this matter.

25           39. Attached hereto as **Exhibit 38** is a true and correct copy of Deposition Exhibit 79 from  
26 the deposition of Kevin Shenkman taken on January 27, 2022 in this matter.

27           40. Attached hereto as **Exhibit 39** is a true and correct copy of Deposition Exhibit 80  
28 without the accompanying exhibits from the deposition of Kevin Shenkman taken on January 27, 2022

1 in this matter.

2 41. Attached hereto as **Exhibit 40** is a true and correct copy of the January 26, 2021 City  
3 Council hearing transcript.

4 42. Attached hereto as **Exhibit 41** is a true and correct copy of the April 13, 2021 City  
5 Council hearing transcript.

6 43. Attached hereto as **Exhibit 42** is a true and correct copy of the November 9, 2021 City  
7 Council hearing transcript.

8 44. On November 11, 2021, Deputy City Attorney Kirsten Galler and I participated in a  
9 scheduled meet and confer telephone conference with counsel for Plaintiffs, Wilfredo Trivino-Perez,  
10 and Plaintiff Oscar De la Torre. When the telephone conference began, Mr. Shenkman was also on the  
11 line and in the same room as Mr. Trivino-Perez and Mr. De la Torre, and Mr. Shenkman participated  
12 throughout the two-and-a-half-hour conference, including making legal arguments opposing the  
13 discovery sought by the City of Santa Monica.

14 45. In November 2021, Mr. Shenkman drafted a declaration to avoid discovery and to aid  
15 in the assertion of the deliberative process privilege. On November 17, 2021, Mr. Trivino-Perez sent  
16 an email to me attaching “proposed declarations in lieu of discovery” including a proposed declaration  
17 for Mr. Shenkman. Attached hereto as **Exhibit 43** is a true and accurate copy of that email and  
18 attachment.

19 46. Attached hereto as **Exhibit 44** is a true and correct copy of documents bates labeled as  
20 P0863-0895 produced by Plaintiffs in this matter.

21 47. Attached hereto as **Exhibit 45** is a true and correct copy of documents bates labeled as  
22 P0910-0916 produced by Plaintiffs in this matter.

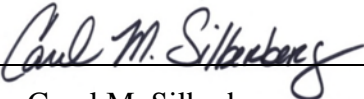
23 48. Attached hereto as **Exhibit 46** is a true and correct copy of a declaration of Jon Katz  
24 executed on February 4, 2022 (without the thumb drives referenced therein).

25 49. Attached hereto as **Exhibit 47** is a true and correct copy of Deposition Exhibit 36 from  
26 the deposition of Oscar De la Torre taken on January 20, 2022 in this matter.

27 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
28 true and correct to the best of my knowledge, information, and belief.

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Executed on February 12, 2022 at Pasadena, California.

By   
Carol M. Silberberg

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

OSCAR DE LA TORRE and ELIAS SERNA,  
Plaintiffs,

vs.

Case No: 21STCV08597

CITY OF SANTA MONICA, and DOES 1  
through 10, inclusive,

Defendant.

---

REMOTE VIDEOTAPE DEPOSITION OF OSCAR DE LA TORRE  
Malibu, California  
Thursday, January 20, 2022  
Volume I

Reported by:  
DEBBIE RAZAVI, CSR NO. 9989  
Job No. 5022062  
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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

OSCAR DE LA TORRE and ELIAS SERNA,  
Plaintiffs,

vs.

Case No: 21STCV08597

CITY OF SANTA MONICA, and DOES 1  
through 10, inclusive,

Defendant.

\_\_\_\_\_ /

Remote videotape deposition of OSCAR DE LA TORRE,  
Volume I, taken on behalf of Defendant, with the witness  
located in Malibu, California, beginning at 10:59 a.m.  
and ending at 7:26 p.m., on Thursday, January 20, 2022,  
before Debbie Razavi, Certified Shorthand Reporter No.  
9989.

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APPEARANCES - REMOTE

For Plaintiff:

TRIVINO-PEREZ AND ASSOCIATES

BY: WILFREDO TRIVINO-PEREZ, ESQUIRE

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(213) 986-2688

csilberberg@berrysilberberg.com

The Videographer: Frank Clare

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OSCAR DE LA TORRE

Volume I

BY MS. SILBERBERG 8

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Malibu, California, Thursday, January 20, 2022,

10:59 a.m.

THE VIDEOGRAPHER: Good morning. We are on the record at 10:59 a.m. on January 20, 2022. Audio and

10:59:11

video recording will continue to take place unless all parties agree to go off the record.

This is media unit number one of the video recorded deposition of Oscar de la Torre taken by counsel for the defendant in the matter of Oscar de la

10:59:31

Torre, et al., versus the City of Santa Monica, et al., filed in the Superior Court of the State of California, County of Los Angeles, case number 21STCV98597. This deposition is taking place through Veritext Zoom technology. All participants are attending remotely.

10:59:59

My name is Frank Clare. I'm the videographer. The court reporter is Debbie Razavi also from Veritext. I'm not related to any party in this action, nor am I financially interested in the outcome.

If there are any objections to proceeding,

11:00:15

please state them at the time of your appearance.

At this time will counsel please identify yourselves and state who you represent starting with the questioning attorney.

MS. SILBERBERG: Carol Silberberg on behalf of

11:00:26

1 of the City of Santa Monica.

2 MS. GALLER: Kirsten Galler also on behalf of  
3 defendant City of Santa Monica.

4 MR. TRIVINO-PEREZ: Wilfredo Trivino-Perez on  
5 behalf of plaintiff Oscar de la Torre.

11:00:40

6 THE VIDEOGRAPHER: Thank you. The court  
7 reporter will administer the oath and examination may  
8 begin.

9 OSCAR DE LA TORRE,  
10 having been administered an oath, was examined and

11:00:44

11 testified as follows:

12 EXAMINATION

13 BY MS. SILBERBERG:

14 Q. Good morning, Mr. de la Torre. Just for the  
15 record, I just want to note we noticed the deposition

11:01:00

16 for 9:30. To accommodate the witness, we agreed to  
17 start at 10:30, and due to technical issues and needing  
18 to resend links and things to the witness we are  
19 actually getting started a bit late today.

20 Mr. de la Torre, my name is Carol Silberberg

11:01:17

21 and I represent the City of Santa Monica.

22 Can you please state your name and address.

23 A. Oscar de la Torre, 2039 and-a-half Stewart  
24 Street, Santa Monica, California 90404.

25 Q. Thank you. And where are you presently

11:01:33

Page 8

1 Q. Do you have any documents with you?

2 A. I have papers. Is it okay to have a paper and  
3 a pen to write with?

4 Q. Is it just blank paper?

5 A. It's just blank, yeah.

11:02:47

6 Q. Have you ever been deposed before?

7 A. Yes.

8 Q. How many times, sir?

9 A. One time regarding the CVRA action, and then  
10 another time regarding -- there was an incident of

11:03:06

11 police abuse, alleged police abuse of a resident in the  
12 city, and I was deposed as a member.

13 Q. In respect to the CVRA, do you recall being  
14 deposed once or twice?

15 A. I think it was probably a two-day thing.

11:03:29

16 Q. During the depositions in the CVRA was there  
17 an attorney who represented you?

18 A. Yes, I believe so.

19 Q. Who was that?

20 A. I believe Kevin Shenkman was the attorney

11:03:51

21 representing me that day.

22 Q. With respect to the second action you referred  
23 to, the alleged police abuse action, was there an  
24 attorney defending you for that deposition?

25 A. Yes, there was.

11:04:04

Page 10

1 associations in Santa Monica founded by mainly African  
2 American and Mexican American leaders in the Pico  
3 neighborhood. There was a church on 19th and Michigan.  
4 The pastor there was one of the main leaders. So it  
5 gets involved in various issues. All the board members

11:23:52

6 are volunteers, no one gets paid. It's a small budget,  
7 and mainly it provides advocacy around issues of like  
8 youth development, housing, affordable housing, public  
9 safety, mostly quality of life issues.

10 Q. Mr. de la Torre, were your parents members of

11:24:14

11 the PNA?

12 A. My father -- when we first moved in to the

13 neighborhood, my father was involved with the

14 Neighborhood Watch program that the PNA was organizing.

15 Q. Is your wife currently a member of the PNA?

11:24:29

16 A. Yes, she is.

17 Q. Is she a member of the board?

18 A. She is.

19 Q. What is her current role?

20 A. I believe -- I want to say she is treasurer.

11:24:38

21 Q. Do you provide your wife any help in doing her  
22 treasurer tasks?

23 A. No. No.

24 Q. Other than your wife, do you have any family

25 members who are current members of the PNA?

11:24:51

Page 25

1 A. No.

2 Q. Were you previously a member of the PNA board?

3 A. Yes.

4 Q. Can you tell me how many years you were a  
5 member of the board.

11:25:07

6 A. I can't remember exactly exact dates but  
7 definitely more than five years. Prior to being elected  
8 to the city council.

9 Q. What is the purpose of the board of the PNA?

10 A. You know, to set direction in terms of policy,

11:25:29

11 to, you know, define sort of the priorities, to apply  
12 for city grants. The city provides a small grant, they  
13 used to, they don't anymore, they used to provide a  
14 \$4,000 grant, so making sure all the documents get  
15 submitted for that. I'm trying to think what else.

11:25:56

16 Yeah, I guess overall providing advocacy and leadership  
17 for the organization.

18 Q. What was your last role on the PNA board?

19 A. I believe I was co-chair.

20 Q. What are the duties of the co-chair?

11:26:22

21 A. To lead the meetings, notice the meetings,  
22 facilitate the dialogue during the meetings, represent  
23 the organization, you know, in all important matters,  
24 attending the neighborhood council meetings. There's a  
25 neighborhood council that meets once a month on

11:26:49

Page 26

1 Saturdays and I would attend those meetings as well.

2 Q. And you resigned from the PNA board at its  
3 meeting held on or about November 19, 2020; is that  
4 correct?

5 A. Correct.

11:26:58

6 Q. Do you have any current involvement in the  
7 PNA?

8 A. No.

9 Q. Do you currently attend PNA meetings?

10 A. No.

11:27:08

11 Q. Have you ever paid (sic) to be a consultant  
12 for the PNA?

13 A. No.

14 MR. TRIVINO-PEREZ: I didn't understand the  
15 question. Did you say have you ever been made --

11:27:16

16 BY MS. SILBERBERG:

17 Q. Have you ever been paid to be a consultant for  
18 the PNA?

19 A. No. It's 100 percent always volunteer. No  
20 board member that I have ever known has been compensated

11:27:26

21 for any work for the PNA.

22 Q. Even after you resigned from the board, did  
23 you do any consulting for the PNA?

24 A. No.

25 Q. Are you familiar with the lawsuit entitled

11:27:40

Page 27

1 taken.

2 Q. As you sit here today you don't recall any  
3 minutes about a vote regarding the CVRA action?

4 A. Not 100 percent. You know, I'm pretty sure a  
5 vote took place, but I can't recall if the vote took

11:30:39

6 place.

7 Q. When did you first meet Kevin Shenkman?

8 A. I remember it was around -- wow. It's been a  
9 while, but it was definitely before 2015 because, as you  
10 know, I served on the school board for 18 years and I

11:30:59

11 represent Santa Monica and Malibu so two cities and I  
12 met him around public education issues.

13 Q. Has Mr. Shenkman ever represented you as an  
14 attorney?

15 A. At one point when I was on the board of the

11:31:19

16 Pico Neighborhood Association I was a plaintiff and  
17 Kevin Shenkman was representing the organization, yes.

18 Q. Have you ever served as a consultant for any  
19 litigation Mr. Shenkman has filed?

20 A. No.

11:31:35

21 Q. How would you describe your current  
22 relationship with Mr. Shenkman?

23 A. You know, I consider him a friend.

24 Q. Would you consider him a good friend?

25 A. You know, I admire his work so I would say I

11:31:49

Page 30



1 think he is a good person. And in terms of a good  
2 friend, he has never given me reason to think otherwise.  
3 So I guess if you -- a lot of people use the word  
4 "friend" very loosely sometimes. I have a lot of  
5 admiration for the work that he does.

11:32:11

6 Q. When I use the word "friend," what do you  
7 think it means?

8 A. That you can -- that you can talk to somebody,  
9 you know, and that they would accept a phone call, that  
10 they would give you honest feedback. So, yeah, I mean,

11:32:32

11 I have childhood friends that are different than a  
12 friend I recently met, you know, there's a different  
13 emotional connection. So I wouldn't say -- I guess I  
14 look at -- you know, through the years I have developed  
15 a friendship, you know, and a friendship based on common

11:32:58

16 values.

17 Q. Since your election to the city council have  
18 you met with Mr. Shenkman to discuss the CVRA action?

19 A. Yes.

20 Q. Approximately how many times?

11:33:24

21 A. Oh, you know, I can't recall how many times.  
22 I would say probably anywhere between five to 10 times.

23 Q. How often do you tend to have telephone  
24 conversations with Mr. Shenkman?

25 A. There's times that -- I'm not very good at

11:33:52

Page 31

1 Q. Part of your campaign was based on your  
2 position in favor of district-based elections; is that  
3 correct?

4 A. That's correct.

5 Q. Were there other candidates who won -- strike  
11:39:10

6 that.

7 Were there other candidates who ran and also  
8 favored district-based elections?

9 A. Yes.

10 Q. At that same time?

11:39:20

11 A. Yes.

12 Q. Who were those candidates?

13 A. Phil Brock and Christine Parra.

14 Q. Were they also elected in 2020?

15 A. Yes.

11:39:29

16 Q. As a city council member do you represent the  
17 people of the Pico neighborhood?

18 A. I represent all residents in the City of Santa  
19 Monica.

20 Q. Do you represent the people who are not in

11:39:40

21 favor of district-based elections?

22 A. Yes.

23 Q. Do you hold any committee positions within the  
24 city council?

25 A. I'm trying to think which ones just got

11:39:54

Page 36

1 duties as a city council member?

2 MR. TRIVINO-PEREZ: Objection. Vague as to  
3 "independent research," I believe you said. Can you  
4 rephrase that.

5 MS. SILBERBERG: Let me rephrase it.

11:41:12

6 Q. You received some training from the city.  
7 Other than that training, did you do anything to  
8 understand your duties as a city council member?

9 A. Just, you know, reading the budget. But are  
10 you talking about before my election or right after the

11:41:34

11 election?

12 Q. After the election, sir.

13 A. After the election I participated in any  
14 training that the city organized. They typically do a  
15 series of trainings. One, for example, sexual

11:41:50

16 harassment training, another one on cyber security, and  
17 then of course what you mentioned, the ethics and  
18 conflict of interest.

19 Q. In November 2020 after you were elected to the  
20 city council did you have a conversation with

11:42:20

21 Mr. Cardona about potential conflicts?

22 A. Yes.

23 Q. How was that conversation done? Was it in  
24 person, was it telephonically?

25 A. It was telephonically.

11:42:31

Page 38

1           A.    No.  I don't recall if someone reviewed it  
2           before I sent it, but I know I did engage Mr. Dan  
3           Ambrose around that time regarding the question of  
4           conflict that Mr. Cardona was saying I had.

5           Q.    I'm going to ask you to go back to the Exhibit  
11:47:25

6           Share.  You can keep close Exhibit 9 for a second, but  
7           if you go back to Exhibit Share, I'd like you to open  
8           Exhibit 7 for a moment, go back and forth.

9           A.    Exhibit 7.  Got it.

10           MR. TRIVINO-PEREZ:  Hold on.  Mine is not open  
11:47:50

11           yet.  It's spinning.  I'll let you know when it opens.

12           Okay.  It's open.

13           BY MS. SILBERBERG:

14           Q.    Exhibit 7 is a document entitled Plaintiff  
15           Oscar de la Torre's Supplemental Responses to

11:48:21

16           Defendant's First Set of Special Interrogatories.  Do  
17           you see that?

18           A.    I do see that, yes.

19           (Exhibit 7 was marked for identification.)

20           Q.    Before we get to that I'm going to switch

11:48:30

21           really quick and we'll come back.

22           If you open Exhibit 5.

23           A.    Exhibit 5.  Yes.

24           MR. TRIVINO-PEREZ:  Mine is still not open.

25           Hold on.

11:48:45

Page 42

1 THE WITNESS: Yes, I see Exhibit 5.

2 MR. TRIVINO-PEREZ: I don't. Still not open  
3 on my end. I'm refreshing. Okay. I'm open.

4 BY MS. SILBERBERG:

5 Q. Mr. de la, Torre, you see Exhibit 5 is

11:49:13

6 entitled "Verification"?

7 A. Yes.

8 (Exhibit 5 was marked for identification.)

9 Q. Is that your signature at the bottom?

10 A. Yes.

11:49:20

11 Q. You understand this to be verifying the facts

12 in the supplemental interrogatory responses which is

13 Exhibit 7?

14 A. Yes.

15 Q. Let's go back to Exhibit 7.

11:49:29

16 I just want to note for the record because it

17 wasn't clear that we marked as Exhibit 5 the document

18 entitled "Verification de la Torre, et al. Versus City

19 of Santa Monica?"

20 MR. TRIVINO-PEREZ: I'm having trouble opening

11:49:44

21 it up again so I'll let you know when it's open on my

22 end. Okay. I'm open.

23 BY MS. SILBERBERG:

24 Q. Mr. de la Torre, if you turn to Page 13 of

25 that document which might be Page 14 of the PDF.

11:50:19

Page 43

1 MR. TRIVINO-PEREZ: Objection. Calls for  
2 legal contention.

3 MS. SILBERBERG: I would say,  
4 Mr. Trivino-Perez, this is his factual statement.

5 MR. TRIVINO-PEREZ: It's appropriate for an  
11:52:58

6 interrogatory because he has the benefit of counsel.  
7 It's not appropriate for a deposition question.

8 MS. SILBERBERG: I disagree. So I will ask it  
9 again.

10 Q. What do you understand "preliminary legal  
11:53:09

11 advice" to mean in line 7 of Exhibit 7 on Page 13?

12 A. I would say that I was very upset and I made a  
13 call, you know, to friends who probably might have --  
14 might be able to give me, you know, their input, you  
15 know, on the matter.

11:53:36

16 Q. So is it your understanding that quote  
17 "preliminary legal advice" is input?

18 A. Or feedback, you know. When you call someone  
19 and say "Can you believe this happened? I can't believe  
20 these people." The city attorney is saying I have a

11:53:53

21 conflict of interest even though I ran advocating for  
22 district-based elections and I'm -- obviously I was part  
23 of the Pico Neighborhood Association. I'm not hiding  
24 anything in terms of my position in support of  
25 district-based elections. So I felt that Mr. Cardona

11:54:12

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1 was following, you know, the marching orders of the  
2 majority on the city council that did not support  
3 district-based elections and was trying to find a way to  
4 exclude me from any deliberations, and so I was  
5 obviously upset at that.

11:54:36

6 Q. That doesn't answer my question, sir.

7 Do you know what it means here to receive  
8 "preliminary legal advice"? Did you get preliminary  
9 legal advice from Mr. Shenkman?

10 MR. TRIVINO-PEREZ: Objection. Privileged.

11:54:51

11 BY MS. SILBERBERG:

12 Q. Did you -- okay.

13 Do you believe you had an attorney/client  
14 relationship with Mr. Shenkman in December of 2020 --

15 A. No.

11:55:01

16 Q. -- when you received this preliminary legal  
17 advice?

18 A. No.

19 Q. Then how many communications did you have with  
20 Mr. Shenkman at this time?

11:55:09

21 A. I can't recall, but, you know, I just remember  
22 being upset and, you know, you call friends, you would  
23 call a friend if somebody was doing something that you  
24 thought was unfair. So it was more a venting session.  
25 I didn't see it as a direct sort of legal session. I

11:55:28

Page 47

1 saw it more as a venting session, you know, me being  
2 upset at what had occurred.

3 Q. Did Mr. Shenkman provide you with legal advice  
4 regarding conflict of interest?

5 A. No, not at that moment. He just, you know, he  
11:55:46

6 just said "It doesn't sound right. I mean, you ran on  
7 district-based elections. Why would they say that you  
8 have a conflict?"

9 Q. At some point in time did he give you legal  
10 advice on conflict of interest?

11:56:04

11 A. No.

12 Q. Did you provide Mr. Shenkman with any  
13 confidential information when seeking advice?

14 MR. TRIVINO-PEREZ: Objection. I want to  
15 discuss privilege with my client on this. Can we go on  
11:56:16

16 hold for a second?

17 MS. SILBERBERG: Well, we have been going  
18 about an hour. Would you like to take a 10-minute break  
19 and then we can come back?

20 MR. TRIVINO-PEREZ: That sounds perfect.

11:56:29

21 Thank you.

22 MS. SILBERBERG: We have to wait for the court  
23 reporter and the videographer to take us off the record.

24 THE VIDEOGRAPHER: This is the end of media  
25 number one in the deposition of Oscar de la Torre.

11:56:39

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1 We are off the record at 11:56 a.m.

2 (Recess taken.)

3 THE VIDEOGRAPHER: This is the beginning of  
4 media two in the deposition of Oscar de la Torre.

5 We are on the record at 12:09 a.m.

12:09:11

6 MR. TRIVINO-PEREZ: Carol, when we broke for a  
7 break, I was having trouble with some of the questioning  
8 regarding Mr. de la Torre's discussion of confidential  
9 conversations with Kevin Shenkman when, as he put it,  
10 was preliminary, his attempt to seek preliminary

12:09:34

11 information or whatnot. That is attorney/client  
12 privileged under the plain meaning of what that is,  
13 therefore, I will instruct my client not to reveal any  
14 of the contents of any of those discussions with regards  
15 to his preliminary legal advice sought.

12:09:54

16 BY MS. SILBERBERG:

17 Q. Mr. de la Torre, are you going to take the  
18 advice of your counsel?

19 A. Yes.

20 Q. During the break, Mr. de la Torre, other than

12:10:13

21 talking to Mr. Trivino-Perez, did you have a  
22 conversation with anybody else?

23 A. No, just went to the bathroom.

24 Q. So when we go back and look at Exhibit 7 which  
25 is the Supplemental Responses to the First Set of

12:10:29

Page 49

1 A. No.

2 Q. Did you discuss the attorney general opinion  
3 cited in Exhibit 9 with him?

4 A. No.

5 Q. Did you discuss any theories as to how to  
12:15:37

6 oppose the concern that you had a conflict of interest?

7 A. No. Just I mentioned to him, I said, you  
8 know, "Doesn't the FPPC decide these things, like not  
9 the city attorney of Santa Monica but the FPPC?"

10 Q. What was his response?  
12:16:04

11 MR. TRIVINO-PEREZ: Objection. Privileged. I  
12 let this go on a bit, but it's continuing to come in to  
13 the attorney/client privilege which protects the essence  
14 of discussions actually had with an attorney. Whether  
15 my client understands it to be attorney/client

12:16:22  
16 communication or not, he did call it pre-lit  
17 fact-finding or advice, or whatnot, and at that point I  
18 am instructing my client not to respond to the content  
19 of any communications with Mr. Shenkman.

20 MS. SILBERBERG: So is it your position there  
12:16:41

21 was an attorney/client relationship at that time,  
22 Mr. Trivino-Perez?

23 MR. TRIVINO-PEREZ: My client indicated  
24 earlier he met with him as a pre-litigation --  
25 preliminary legal advice, so based on that I will

12:16:55

Page 52

1           A.    No.  I think that's all me telling him, and  
2           also there's been news reports as well.  I mean,  
3           potentially you could have got all this from the  
4           newspapers or from my web page as well.  I had a web  
5           page, so most of this information would have been on my

12:37:24

6           web page or in the newspaper.

7           Q.    We are going to load another document.

8                         While we are doing that, I may have misstated  
9           the Bates number when I was referencing the factual  
10          background section, but it should be P0265 of Exhibit

12:38:06

11          11.

12                        MS. GALLER:  Carol, just for the record, I  
13          believe Exhibit 11 the Bates range is 238 to 242.

14                        THE WITNESS:  That's what I read on mine.  It  
15          says Exhibit 11, P0238 is on Page 1.

12:38:25

16                        MS. SILBERBERG:  You are correct.  It's P238  
17          to P214.  Okay.  All right.

18                        So Exhibit 12 should have loaded now.

19                        THE WITNESS:  Exhibit 12, yes.

20          BY MS. SILBERBERG:

12:39:20

21          Q.    Can you open up Exhibit 12, please.

22          A.    Yes, it's open.

23          Q.    So Exhibit 12 is a letter with Bates number  
24          P0251 to P0256; is that correct?

25          A.    Yes, correct.

12:39:39

Page 66

1 (Exhibit 12 was marked for identification.)

2 MR. TRIVINO-PEREZ: All pages have not popped  
3 up -- okay. They have. I'm good.

4 BY MS. SILBERBERG:

5 Q. This is a letter dated November 30, 2020; is  
12:39:47

6 that correct?

7 A. Correct.

8 Q. And this letter is not signed; is that  
9 correct?

10 A. I believe I signed it. I know I wrote it and,  
12:39:57

11 yeah, but it's not signed it, correct, but I wrote it.

12 Q. Did you keep -- on the top of this it says via  
13 E-mail and U.S. Mail. Did you actually mail this to the  
14 FPPC?

15 A. I can't recall, but I think I did.  
12:40:19

16 Q. Did you keep a photocopy of the signed letter?

17 A. No, I didn't.

18 Q. So and I will represent that the letter sent  
19 to the FPPC, which we will get to in a second, was  
20 unsigned as well. But you don't have a signed copy of  
12:40:36

21 this letter; is that correct?

22 A. I'm not sure, but I'm thinking that I might  
23 have signed it and mailed it off.

24 Q. Who drafted this letter?

25 A. I did.

12:40:58

Page 67

1 Q. Did you have anyone review it for you?

2 A. Yes, I did.

3 Q. Who was that?

4 A. I believe Mr. Kevin Shenkman saw the letter.

5 Q. Did he see it before you sent it?

12:41:13

6 A. Yes.

7 Q. Did he provide revisions to the letter?

8 A. He gave me some feedback. But in terms of him  
9 actually manipulating the letter, no.

10 Q. What do you mean by "feedback"?

12:41:32

11 A. I showed him the letter as I finished it.

12 Q. Did you E-mail it to him?

13 A. No.

14 Q. How did you show it to him then?

15 A. I showed it to him in his office.

12:41:46

16 Q. So you met with him about this letter?

17 A. Actually, I was in a meeting in Malibu at the  
18 time and what I did is I called him up and he said -- he  
19 invited me to come over to the office to talk about it.  
20 I told him I wanted to write the letter and I felt

12:42:05

21 inspired to do it right then and there in his office.

22 Q. So you actually wrote this in his office?

23 A. Yes, correct.

24 Q. Did he contribute to the writing of this  
25 letter as you went along?

12:42:20

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1           A.   No.  He read it afterwards.  It was longer  
2           than what you see, more than six pages, maybe six  
3           and-a-half or seven, so it had more text and verbiage  
4           that he gave me some feedback on, and so he did give me  
5           some feedback.

12:42:43

6           Q.   So he makes some suggestions to how to edit  
7           the letter; is that correct?

8           A.   Correct.

9           Q.   Do you recall what any of those suggestions  
10          were?

12:42:56

11          A.   I don't.

12          Q.   Was this actually written on a computer at  
13          Shenkman and Hughes?

14          A.   Yes, it was.

15          Q.   And it was their computer?

12:43:03

16          A.   I borrowed I believe it was his wife's  
17          computer.

18          Q.   You indicated there were longer drafts of this  
19          letter; is that correct?

20          A.   Yeah, it was a little longer, I remember, and

12:43:16

21          after, you know, deleting some of it, it got a little  
22          shorter.

23          Q.   Do you recall what was deleted?

24          A.   No.  You know, I wrote a whole lot.  I put a  
25          bunch of stuff in it and, you know, Kevin gave me some

12:43:36

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1 ideas on how to narrow it down to make it more succinct.

2 Q. What other conversations did you have about  
3 the letter with Mr. Shenkman?

4 A. It was mainly that, mainly that, and also just  
5 letting him know, you know, about "Hey, I hope the FPPC

12:44:03

6 gives us guidance. I want guidance." Ultimately what I  
7 wanted to do is clarify with the FPPC the allegation  
8 that I had a common law conflict of interest.

9 Q. This letter is dated November 30, 2020. Does  
10 that indicate you wrote it on November 30?

12:44:28

11 A. Around that time. It's not exactly, but  
12 probably around that time.

13 Q. What do you mean "around that time"? Would it  
14 have been earlier or later?

15 A. It probably was -- no, not later. It was

12:44:41

16 around that time.

17 Q. But it may have been a few days earlier, is  
18 that what you're saying?

19 A. Yes, it could have been November 28, you know,  
20 potentially.

12:44:52

21 Q. Now, was the drafting of this letter on  
22 Shenkman and Hughes' computer something that you have  
23 done before?

24 A. No.

25 Q. Have you done it since that time?

12:45:39

Page 70

1 understand you are still under oath?

2 A. Yes.

3 Q. Is there anyone in the room with you at this  
4 time?

5 A. No.

13:49:03

6 Q. Throughout your testimony this morning was  
7 there anyone in the room with you at any time?

8 A. No.

9 Q. Did you have a conversation with counsel  
10 during the break?

13:49:14

11 A. Just --

12 Q. "Yes," "no," "I don't know." It's a "yes" or  
13 "no" question.

14 A. Yes.

15 Q. Was there anyone else participating in that

13:49:23

16 conversation other than you and Mr. Trivino-Perez?

17 A. No.

18 Q. Other than speaking with Mr. Trivino-Perez,  
19 did you speak with anyone else during the break?

20 A. Just the guy making my tuna melt sandwich.

13:49:36

21 Q. Okay. Fair enough.

22 Before we resume, I want to ask a quick  
23 question.

24 We spoke about the document we marked as

25 Exhibit 12 which was the letter you drafted to the FPPC

13:49:50

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1 that Mr. Shenkman drafted. Do you recall that?

2 A. Yes.

3 Q. And you testified previously Mr. Shenkman --  
4 about Mr. Shenkman's involvement with that letter. Do  
5 you recall that?

13:50:07

6 A. Yes.

7 Q. Did you compensate Mr. Shenkman financially  
8 for any of his assistance that day?

9 A. No, I didn't. Like I said, the suggestion to  
10 the edit was more -- was not really of a legal nature so

13:50:23

11 much, it was more just -- it's like, you know, I have  
12 friends, I write op ed pieces and I have people give me  
13 input, you know, and it was that type of interaction.

14 Q. So the answer was "no," you did not compensate  
15 him?

13:50:42

16 A. No.

17 Q. Before the break we were talking about the  
18 document -- the responses to the document requests in  
19 your searches, and you indicated you had some problems  
20 doing some searches, and I don't want to get into your

13:50:58

21 communications with Mr. Trivino-Perez, but did you raise  
22 those issues with him?

23 A. Yes, I told him I was having technical  
24 problems and for some reason -- it was just weird how it  
25 was problematic, and he said he would help me with it.

13:51:17

Page 84

1 Q. Did he end up helping you with it? Again, I'm  
2 not trying to get into your conversation.

3 A. Yes. He was able to find a creative way to  
4 answer all the questions that you had.

5 Q. Did he help you with your technical problem?

13:51:35

6 A. No.

7 Q. Other than searching the E-mails, and we  
8 talked about three of them, the city E-mail, the youth  
9 center E-mail and the Yahoo E-mail address, did you look  
10 for any document on any computers?

13:51:55

11 A. Mostly E-mails, and, yes, I did look for  
12 documents on my wife's computer. Let me rephrase that.  
13 I intended to -- I intended to search for documents on  
14 my wife's computer but she had taken it.

15 Q. Those documents that you're referencing are

13:52:31

16 actually the ones in response to the deposition  
17 subpoena -- strike that.

18 Those documents were actually in response to  
19 the deposition notice, and we talked about your trying  
20 to get a contract from her off that computer; correct?

13:52:46

21 A. Yes. Yeah, there's two contracts in regards  
22 to Holistic Strategies I was trying to obtain.

23 Q. Other than that did you look for documents on  
24 any other computers?

25 A. Just that computer.

13:53:05

Page 85

1 messages.

2 Q. Do you keep all your text messages on the  
3 phone or do you delete them?

4 A. You know what, it gets so packed that I have  
5 to delete stuff because I can't function with having all

13:56:02

6 that.

7 Q. I get made fun of for all my stuff.

8 How often do you delete your messages?

9 A. Every day.

10 Q. So would it be accurate to say since the

13:56:14

11 beginning of 2021 you delete your text messages every  
12 day?

13 A. Yeah, for the most part. When something is  
14 important I kind of save it more than others, but if I  
15 finish the job or finish a communication I usually

13:56:36

16 delete it.

17 Q. Would that include communications with  
18 Mr. Shenkman?

19 A. Yeah, I would include that.

20 Q. That you would delete those in the regular

13:56:45

21 course?

22 A. Yeah, he would be included as people that -- I  
23 mean, sometimes the text messages are just funny stuff  
24 or I get people send me random stuff, funny stuff,  
25 jokes, whatever.

13:57:05

Page 88

1 THE WITNESS: I can't recall exactly when the  
2 communication happened with Mr. Shenkman.

3 BY MS. SILBERBERG:

4 Q. So if you go back to Exhibit 7, please.

5 A. Exhibit 7?

14:04:47

6 Q. Yes. If you go to Page 6, it's numbered 6 at  
7 the bottom.

8 A. What page?

9 Q. Page 6. Numbered 6 at the bottom.

10 A. Number 6 it says.

14:05:11

11 MR. TRIVINO-PEREZ: Hold on, Oscar. I haven't  
12 found it yet. It's still spinning on my side.

13 MS. SILBERBERG: It might be Page 7 of the  
14 PDF, but it's number 6 at the bottom.

15 MR. TRIVINO-PEREZ: This file says "Cannot be

14:05:25

16 previewed, hit the download."

17 THE WITNESS: I'm on Page 7. And then you say  
18 go to line 6?

19 BY MS. SILBERBERG:

20 Q. At the bottom does it say "6" at the bottom or

14:05:37

21 "7" at the bottom?

22 A. At the bottom it says "7."

23 Q. So go up to Page 6 then.

24 A. Page 6.

25 Q. And on line -- about line number 9 is there a

14:05:46

Page 94

1 bullet point that starts "By telephone"?

2 A. "By telephone," yes.

3 Q. So if you read lines 9 through 14 it says that  
4 "We spoke by telephone with Kevin Shenkman in the  
5 afternoon or evening of January 23, 2021."

14:06:10

6 Does that refresh your recollection that you  
7 spoke to Mr. Shenkman shortly after receiving the E-mail  
8 from Mr. McLeod?

9 A. Yes. You know, yes, I did talk to him. The  
10 weekend before the city council meeting, that does

14:06:33

11 remind me. I just didn't remember if it was Chris or  
12 Kevin that sent me -- but I did talk to Kevin.

13 Q. So the next bullet point says that you spoke  
14 with him on the 24th as well; correct?

15 A. That's the day after the city council meeting.

14:06:53

16 Q. Well, the city council meeting is on the 26th;  
17 correct?

18 A. Okay. The council meeting is on the 26th.  
19 You're right, I'm sorry. The 23rd is when I learned  
20 about this issue and the 26th is when the meeting

14:07:11

21 happened.

22 Q. Right.

23 A. So that would be like a Sunday night maybe or  
24 Monday. Yeah, I definitely talked to him.

25 Q. There's no pending question so let's try to

14:07:23

Page 95

1 make this question and answer to make our record nice  
2 and clean, please.

3 Looking at Page 6 of Exhibit 7, is it accurate  
4 to say you spoke with Mr. Shenkman both on January 23  
5 and on January 24?

14:07:37

6 A. Yes.

7 Q. And you believe that to be accurate?

8 A. Yes.

9 Q. Okay. On January 23 how long did you speak  
10 with Mr. Shenkman?

14:07:49

11 A. You know, I can't remember the exact amount of  
12 time, but maybe 15, 20 minutes.

13 Q. What did you discuss?

14 MR. TRIVINO-PEREZ: Objection as it relates to  
15 any attorney/client communications.

14:08:02

16 BY MS. SILBERBERG:

17 Q. Mr. de la Torre, were you seeking legal advice  
18 from Mr. Shenkman at that time?

19 A. No, I was upset. I remember being very upset  
20 that I was surprised that he knew before I knew that

14:08:17

21 this was on the agenda.

22 Q. What did Mr. Shenkman say during that  
23 conversation?

24 MR. TRIVINO-PEREZ: I would ask that my client  
25 not reveal any contents of that communication.

14:08:30

Page 96

1 THE WITNESS: I can't recall the details of  
2 that conversation. But I'm sure looking at the timing  
3 of it that it had to do with the agenda item on the  
4 26th.

5 BY MS. SILBERBERG:

14:08:52

6 Q. During that conversation did Mr. Shenkman come  
7 up with a strategy to deal with the item on the 26th?

8 MR. TRIVINO-PEREZ: Objection, privilege. I  
9 would ask my client not to reveal any content of a  
10 communication with Mr. Shenkman if it relates to any

14:09:08

11 advice.

12 THE WITNESS: I'm taking the advice of my  
13 attorney.

14 BY MS. SILBERBERG:

15 Q. So if you stay on Exhibit 7 for me and go down

14:09:20

16 to Page 13 on the bottom.

17 A. Yes. I'm here, Page 13.

18 Q. If you look around line 12, 13 it says  
19 "Between January 23 and January 26, 2021 responding  
20 party received preliminary legal advice from Shenkman

14:09:46

21 and Hughes."

22 Did you receive legal advice from Mr. Shenkman  
23 during that time?

24 A. I don't think it was -- I don't know if you  
25 can characterize it as legal advice. For me it seemed

14:10:04

Page 97

1       like it was, again, just more like support, you know,  
2       more like a friend telling me that this was wrong, that  
3       it lacked -- it was wrong in part because we did not  
4       have the FPPC on the ruling on the matter, I recall that  
5       part of the conversation. The thing that I wanted most

14:10:36

6       was the FPPC guidance and we did not have it at that  
7       time so I remember that that was sort of the focus of  
8       the conversation.

9           Q.    Either on the 23rd or the 24th did you guys --  
10       strike that.

14:10:56

11                    Either on the 23rd or 24th of 2021 did you and  
12       Mr. Shenkman discuss conflict of interest cases?

13                    MR. TRIVINO-PEREZ:  Objection as it relates to  
14       attorney communications.  I would caution my client not  
15       to reveal the content of any communication with

14:11:12

16       Mr. Shenkman.

17                    THE WITNESS:  I'm taking the advice of my  
18       attorney, please.

19       BY MS. SILBERBERG:

20           Q.    During the course of those same conversations

14:11:21

21       did you discuss any attorney general opinions on  
22       conflicts of interest?

23                    MR. TRIVINO-PEREZ:  Can you repeat the  
24       question.

25                    MS. SILBERBERG:  Madam Court Reporter, can you

14:11:36

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1 read it back.

2 (Record read.)

3 MR. TRIVINO-PEREZ: The question is ambiguous  
4 and unintelligible. I don't understand it, so I would  
5 instruct my client not to unless it gets reworded

14:12:00

6 somehow so we can understand it.

7 BY MS. SILBERBERG:

8 Q. Do you understand the question,  
9 Mr. de la Torre?

10 A. I don't understand what "attorney general

14:12:08

11 opinion" means.

12 Q. Have you ever researched attorney general  
13 opinions before?

14 A. No.

15 Q. Have you ever read an attorney general opinion

14:12:17

16 before?

17 A. The one that Dan Ambrose provided in his  
18 letter, that's the only one that I was familiar with.

19 Q. But other than that you, yourself, haven't  
20 researched attorney general opinions?

14:12:30

21 A. No.

22 Q. Did you consider your communications with  
23 Mr. Shenkman on January 23 and 24, 2021 to be  
24 confidential?

25 A. No. I didn't really -- like I said, you know,

14:12:50

Page 99

1 I wasn't calling him and talking to him as an attorney  
2 on this matter, more as a friend giving me support, you  
3 know, during a very stressful time.

4 Q. So do you know why on Page 13 of Exhibit 7 it  
5 says that you received preliminary legal advice?

14:13:18

6 A. You know, that must have sort of just got past  
7 me because I don't recall it exactly like that, but I  
8 guess it can be characterized that way because he is an  
9 attorney, right, and we are talking about these issues,  
10 and I don't have all the information, you know,

14:13:47

11 regarding the allegations that Mr. Cardona was making,  
12 so I guess it's fair to characterize it as preliminary  
13 legal advice.

14 Q. Do you believe your statement in the  
15 interrogatories where it says it's preliminary legal

14:14:02

16 advice is accurate?

17 A. I think it sounds fair to say that. It's  
18 preliminary legal advice that happens to be coming from  
19 a friend who happens to be an attorney, yes.

20 Q. So it's accurate, you don't need to revise

14:14:17

21 your statement then?

22 A. No, I don't. I think it's fair. It's not  
23 really -- like I'm not engaging him like I'm engaging  
24 Dan Ambrose, it was a little different.

25 Q. Over the course of the weekend, and we will

14:14:33

Page 100

1           A.    I wouldn't say "substantial." I would say --  
2           you know what, I can't recall exactly percentages, and  
3           so forth, on the document. I just know that the ideas,  
4           you know, are mostly mine in terms of the thinking going  
5           into it.

14:27:00

6           Q.    So is it possible that he took your ideas and  
7           wrote a speech for you?

8           A.    You know, people tend to do that a lot with  
9           me, you know. I'm kind of like a big thinker guy  
10          sometimes and some people are better at writing

14:27:15

11          succinctly. I'm not. I write very broad. I sometimes  
12          go too far and so...

13          Q.    So is that possible here that you had some  
14          conversation with him about ideas and then he wrote the  
15          speech?

14:27:34

16          A.    I think that's fair to characterize it that  
17          way.

18          Q.    We are going to mark another exhibit. Should  
19          be Exhibit 17. Do you see it?

20          A.    Exhibit 17, let's see. Where do I find it? I

14:28:22

21          got Exhibit 16. Let me refresh. Okay. Exhibit 17, and  
22          I'm opening it right now.

23          Q.    I'm going to identify Exhibit 17 as an E-mail  
24          and attachment Bates labeled P1044, P1051.

25                    Do you recognize this document,

14:29:04

Page 108

1 Mr. de la Torre?

2 A. Yes, I do.

3 (Exhibit 17 was marked for identification.)

4 Q. Is there any reason to believe you never  
5 received it?

14:29:12

6 A. I remember receiving that document.

7 Q. Okay. So does this refresh your recollection  
8 that Mr. Shenkman drafted this statement?

9 A. Well, you know, I recall that in the  
10 conversation that I had with him, those are all my

14:29:30

11 words, but it looks like he typed it up, you know. And  
12 then the question -- there's two parts to it. So the  
13 questions are definitely a combination of mine and his,  
14 and then the statement is a statement that came from a  
15 conversation, and I know that he was typing away most

14:29:56

16 likely, you know.

17 Q. Did you discuss these questions or this  
18 statement with anyone other than Mr. Shenkman?

19 A. I did. I believe I met with Mr. Ambrose. I'm  
20 pretty sure I talked to him that weekend.

14:30:23

21 Q. Do you have a specific recollection of  
22 discussing Exhibit 17 with Mr. Ambrose?

23 A. No, but I'm assuming that that's probably what  
24 I did.

25 Q. That's an assumption; you have no specific

14:30:37

Page 109

1 recollection; correct?

2 A. Correct.

3 Q. Did you ask these questions of Mr. Cardona at  
4 the January 26, 2021 meeting?

5 A. I can't remember if I did.

14:30:51

6 Q. We can look at the transcript of that  
7 proceeding and that would confirm whether you did or  
8 not; is that correct?

9 A. That's correct.

10 Q. And then if you look at the last page, Page

14:31:02

11 1051, are you there?

12 A. Yes, I am.

13 Q. At the end of the first paragraph on 1051  
14 there's a little stage direction that says "Pause  
15 briefly." Do you recall if you did that during the

14:31:33

16 meeting?

17 A. I don't recall.

18 Q. But, again, that would be either in the  
19 transcript or the video of the meeting?

20 A. Correct, it should be.

14:31:42

21 Q. Did you disclose to the city council on  
22 January 6 -- strike that.

23 Did you disclose to the city council on  
24 January 26 that Mr. Shenkman had drafted this statement  
25 for you?

14:31:57

Page 110

1 similar.

2 Q. So is it your position now you dictated this  
3 statement to Mr. Shenkman?

4 A. You know, I think a part of it. It's fair to  
5 say part of it is dictating part of it, for sure.

14:33:35

6 Q. Part of it would be his work as well?

7 A. His creativity in some of it as well.

8 Q. During the January 26, 2021 meeting was  
9 Mr. Shenkman present at your home?

10 A. Yes, he was.

14:33:57

11 Q. Was he sitting near you during the meeting?

12 A. At one point, yes.

13 Q. At which point was he sitting near you?

14 A. During open session.

15 Q. And that was when?

14:34:11

16 A. When the item was called.

17 Q. When the city council was discussing your  
18 possible disqualification he was sitting near you?

19 A. Yes.

20 Q. How close was he?

14:34:25

21 A. I don't know. I can't remember exactly how  
22 close.

23 Q. But he is sitting three feet away on the  
24 couch?

25 A. No. He was in the kitchen -- I was in the

14:34:37

Page 112

1 kitchen, he was in the kitchen.

2 Q. Did you disclose his presence in your home to  
3 the city council during the meeting?

4 A. No, I didn't.

5 Q. Why not?

14:34:50

6 A. I have never heard of that rule. No one ever  
7 told me you have to disclose of whose in the room.  
8 Obviously, in closed session, yes, you should be the  
9 only one in the room, but during an open session with  
10 Zoom meetings, and so forth, no one has ever explained

14:35:07

11 that rule to me. I don't even know it exists.

12 Does that rule exist because I'm not aware of  
13 it?

14 Q. Isn't it true that when council member McLeod  
15 asked whether anyone on the dais had had conversations

14:35:19

16 about the recusal issue with attorney Shenkman you  
17 responded, quote, "that's privileged information"?

18 A. I'm pretty sure that -- you know, I can't  
19 recall that I said that.

20 Q. Did you disclose that you had conversations

14:35:35

21 with Mr. Shenkman about the recusal issue at that time?

22 A. No.

23 Q. Why not?

24 A. I can't recall. I can't recall even -- what  
25 was your question again? Did I disclose what?

14:36:04

Page 113

1 THE REPORTER: Madam court reporter, can you  
2 read it back.

3 (Record read.)

4 THE WITNESS: I can't remember if I was asked  
5 that question.

14:36:23

6 BY MS. SILBERBERG:

7 Q. I think it was the next question. You  
8 indicated you didn't disclose it, and my question was --  
9 you know what, strike that.

10 THE REPORTER: It was why not?

14:36:31

11 BY MS. SILBERBERG:

12 Q. Yeah, it was why not?

13 MR. TRIVINO-PEREZ: Do you understand the  
14 contents of the question?

15 MS. SILBERBERG: I'll repeat it.

14:36:44

16 Q. Mr. de la Torre, you indicated you didn't  
17 disclose that Mr. Shenkman -- strike that.

18 At that time of the January 26, '21 hearing  
19 you indicated you didn't disclose to the city council  
20 that you had conversations about the recusal issue with

14:37:00

21 Mr. Shenkman. And the question was why didn't you  
22 disclose it at that time?

23 A. I thought you said that my answer was that it  
24 was privileged.

25 Q. Your statement was that's privileged; right?

14:37:17

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1 So do you believe that's why you didn't disclose it?

2 A. If that's what I said then that's what I  
3 meant.

4 Q. Did Mr. Shenkman give you any advice as to  
5 whether or not his communications were privileged.

14:37:33

6 MR. TRIVINO-PEREZ: Objection --

7 THE REPORTER: I'm sorry, you're both talking  
8 at the same time.

9 MR. TRIVINO-PEREZ: Do you want to do your  
10 question over so I can object?

11 MS. SILBERBERG: Absolutely.

12 Q. Did Mr. Shenkman give you any advice as to  
13 whether his conversations with you about the recusal  
14 issue were privileged?

15 MR. TRIVINO-PEREZ: Objection. Privilege.

14:37:54

16 I'll instruct my client not to reveal any  
17 content of any conversation with Mr. Shenkman.

18 THE WITNESS: I'm following the advice of my  
19 attorney.

20 BY MS. SILBERBERG:

14:38:04

21 Q. After the vote did you try to participate in  
22 the closed session meeting about the CVRA action?

23 A. I can't remember.

24 Q. You don't recall one way or the other?

25 A. No.

14:38:22

Page 115

1 Q. When the city council went into closed  
2 session, did Mr. Shenkman remain in your home?

3 A. No.

4 Q. When did he leave?

5 A. He left -- well, I can't recall when he left,  
14:38:32

6 but I know for a fact that I'm very keen on protecting  
7 closed session discussions and keeping closed session  
8 discussions in closed session. That applies to everyone  
9 in my household and definitely to Mr. Shenkman.

10 Q. While the debate was going in open session,  
14:38:57

11 were you communicating with Mr. Shenkman?

12 A. Maybe not communicating but probably listening  
13 together.

14 Q. Did he give you any comments during that time  
15 or instruction?

14:39:13

16 A. No.

17 MR. TRIVINO-PEREZ: Objection as if -- if  
18 you're looking for him to reveal the content of any  
19 discussion then I would instruct him not to respond.

20 THE WITNESS: I'm following the advice of my

14:39:28

21 attorney.

22 BY MS. SILBERBERG:

23 Q. I think earlier we identified there were at  
24 least two other members of the city council that favored  
25 district-based elections; correct?

14:39:40

Page 116

1 A. Correct.

2 Q. Have they been disqualified from participating  
3 in closed meeting discussions in the CVRA action?

4 A. No.

5 Q. After the open session did you have a  
14:39:53

6 conversation with Mr. Shenkman?

7 A. No, because the meeting went on and I think he  
8 left at that point.

9 Q. Did you discuss it the next day?

10 A. I can't recall.

14:40:11

11 Q. But you may have?

12 A. You know, I can't remember.

13 Q. We are going to load Exhibit 18.

14 MR. TRIVINO-PEREZ: Would this be a good time  
15 to take a little break? We have been going about an

14:40:56

16 hour. I have to get to the restroom.

17 MS. SILBERBERG: Sure. Let's go off the  
18 record.

19 THE VIDEOGRAPHER: This is the end of media  
20 number three in the deposition of Oscar de la Torre.

14:41:07

21 We are off the record at 2:41 p.m.

22 (Recess taken.)

23 THE REPORTER: Mr. Trivino-Perez, are you  
24 ordering a copy of the transcript?

25 MR. TRIVINO-PEREZ: Yes, I am.

14:50:33

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1 combined made it very frustrating to work with the city  
2 E-mail.

3 Q. You then -- going back to Exhibit 19, you then  
4 forwarded it to Mr. Shenkman. And after this E-mail did  
5 you have a conversation with Mr. Shenkman about the FPPC

15:00:45

6 letter?

7 MR. TRIVINO-PEREZ: Objection. Privileged.

8 I'm instructing the client not to reveal any contents of  
9 any conversation, even what the topic was, with  
10 Mr. Shenkman.

15:01:00

11 THE WITNESS: I'm taking the advice of my  
12 attorney.

13 BY MS. SILBERBERG:

14 Q. At that point do you believe you had an  
15 attorney/client relationship with Mr. Shenkman?

15:01:05

16 A. Attorney/client relationship? I mean, I feel  
17 like these were sensitive matters and I needed some  
18 guidance for sure.

19 Q. Did you believe you were getting some  
20 confidential advice, legal advice, from Mr. Shenkman?

15:01:34

21 A. I think so. I mean, I would hope so that it  
22 would be confidential.

23 Q. I'm not asking what you hope. Is that what  
24 you understood it to be?

25 A. Yes.

15:01:48

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1 MS. SILBERBERG: I'm trying to understand what  
2 the protection is. Are you asserting a particular  
3 privilege?

4 MR. TRIVINO-PEREZ: Well, if my client was  
5 expecting confidentiality and believed that he was

15:05:17

6 getting some type of guidance, that is an  
7 attorney/client relationship at that point as limited as  
8 it is.

9 MS. SILBERBERG: What does that mean "as  
10 limited as it is"?

15:05:35

11 MR. TRIVINO-PEREZ: I think my client answered  
12 that.

13 BY MS. SILBERBERG:

14 Q. Mr. de la Torre, just to be clear, from  
15 January 23, 2021 through the date of this E-mail, for

15:05:49

16 example, February 4, 2021, you had a number of  
17 communications with Mr. Shenkman; correct?

18 A. I don't know about a number, like how many.

19 Q. We have discussed a handful at least; correct?

20 A. Correct.

15:06:12

21 Q. And you have asserted attorney/client  
22 privilege for a number of those communications; correct?

23 A. Correct.

24 Q. Did you compensate Mr. Shenkman for his work  
25 during this time?

15:06:28

Page 126

1 A. No.

2 MR. TRIVINO-PEREZ: Objection. That  
3 mischaracterizes my client and his attorney's  
4 representation, his work.

5 BY MS. SILBERBERG:

15:06:46

6 Q. Did you compensate Mr. Shenkman for anything  
7 during that time, for any actions that he took during  
8 that time?

9 A. There was never a discussion, you know. Like  
10 I said, you know, some of the work was my thinking, you

15:07:04

11 know, and his typing and his contribution, and it wasn't  
12 like I wasn't participating in a lot of the work, you  
13 know.

14 Q. My question is pretty simple. You didn't  
15 compensate him at all; correct?

15:07:23

16 A. I didn't write him any checks, no.

17 Q. Thank you.

18 We have just loaded another exhibit.

19 Actually, before we get to that, are you aware  
20 of the Public Records Act?

15:07:53

21 A. Yes.

22 Q. Have you ever been asked to look for documents  
23 in response to a Public Records Act?

24 A. Yes.

25 Q. Do you remember what the request was about?

15:08:03

Page 127

1 A. It was a request -- no, I can't recall  
2 exactly. I have been on the school board and I had  
3 requests then so I'm trying to remember exactly what it  
4 was.

5 Q. Well, let me be more clear.

15:08:21

6 Have you ever been asked to look for documents  
7 in response to a Public Request Act since you have been  
8 elected to the Santa Monica City Council?

9 A. I believe so, yes.

10 Q. Do you recall what that request was about?

15:08:32

11 A. No, I don't recall exactly.

12 Q. Let's go ahead and get the next exhibit then,  
13 Exhibit 21.

14 Do you have that up in front of you, sir?

15 A. Hold on. Let's see. I'm going to refresh

15:09:10

16 that. You said 21?

17 Q. Yes, sir.

18 A. Yes. Okay. Yes, I see it.

19 (Exhibit 21 was marked for identification.)

20 Q. Exhibit 21 is a four-page document, doesn't

15:09:36

21 have a Bates label. It is an E-mail chain. The top  
22 E-mail is from Stephanie Venegas to Oscar de la Torre  
23 dated Tuesday, February 23, 2021.

24 So you see that, sir?

25 A. Yes, I do.

15:09:52

Page 128

1 Q. Do you recognize this E-mail chain?

2 A. Yes. I remember now I do.

3 Q. Do you know who Stephanie Venegas is?

4 A. Yes, she works for the city.

5 Q. If you go back to the second page of the

15:10:04

6 E-mail there's an E-mail from a Jamie Wand. Do you see  
7 that?

8 A. I see that.

9 Q. Do you know who Jamie Wand is?

10 A. No.

15:10:23

11 Q. Does he or she work at the city? Do you know  
12 that?

13 A. I have seen he or she has an E-mail so I'm  
14 assuming they work at the city.

15 Q. And in the February 11 E-mail from 2021 there

15:10:33

16 is a statement that there was a public records request  
17 made for written communications between you and  
18 Mr. Shenkman for the period of December 8, 2020 to  
19 January 27, 2021. Do you see that?

20 A. Yeah, correct.

15:10:59

21 Q. Do you recall this Public Records Act request?

22 A. Vaguely, yes.

23 Q. Did you do a search of documents in response  
24 to the Public Records Act request?

25 A. I did.

15:11:12

Page 129



1 Q. Then there's a statement there. Did you draft  
2 that statement?

3 A. Yes, I did.

4 Q. Prior to responding in this E-mail did you  
5 have a communication with Mr. Shenkman about responsive

15:12:59

6 documents?

7 MR. TRIVINO-PEREZ: Objection,

8 attorney/client.

9 My client is instructed not to reveal the  
10 contents of any discussion or conversation with

15:13:17

11 Mr. Shenkman.

12 MS. SILBERBERG: I didn't ask for the  
13 contents.

14 Q. I'm asking if you consulted with him with  
15 respect to this --

15:13:26

16 MR. TRIVINO-PEREZ: Hold on, Oscar. Let her  
17 finish what she is saying.

18 I'm sorry, continue, Ms. Silberberg. What  
19 were you saying?

20 BY MS. SILBERBERG:

15:13:37

21 Q. After receiving this request did you consult  
22 Mr. Shenkman?

23 A. I can't recall.

24 Q. You may have, you may not have?

25 A. Yeah, I can't recall.

15:13:48

Page 131

1 Q. Do you know what the deliberative process is?  
2 A. It's my understanding of deliberative process  
3 is work product, you know. How would I say? Trying to  
4 explain. Yeah, the process of me coming up with work  
5 product that helps me do my job.

15:14:14

6 Q. And what is that understanding based on? Did  
7 somebody tell you that? Did you do research?

8 A. I did a little bit of research.

9 Q. Did you have a communication with any attorney  
10 to have an understanding of what that means?

15:14:32

11 A. I can't recall.

12 Q. You may have, you may not have?

13 A. Correct.

14 Q. You assert attorney/client privilege. Who was  
15 the attorney involved that you're asserting

15:14:43

16 attorney/client privilege about?

17 A. I'm assuming it was Kevin Shenkman.

18 Q. Do you know why you included marital spousal  
19 communication privileges?

20 MR. TRIVINO-PEREZ: Objection. Seeking legal

15:15:14

21 contention.

22 I would instruct my client not to answer that.

23 He is not an attorney.

24 MS. SILBERBERG: It's an improper objection.

25 Q. Mr. de la Torre, you said you wrote this

15:15:29

Page 132

1 statement; correct?

2 A. Correct.

3 Q. And in this statement you said that the  
4 documents would be exempt from disclosure basically and  
5 you included marital spousal communication privilege as

15:15:45

6 one of the reasons; correct?

7 A. It says it there, yes.

8 Q. Okay. Why did you include that?

9 A. It was just like boilerplate language.

10 Q. Where did you get the boilerplate language

15:15:57

11 from?

12 A. I must have read it in my research. You know,  
13 I can't recall exactly, but I remember doing research on  
14 deliberative process, and I remember attorney/client,  
15 you know, spousal communication, and so forth.

15:16:22

16 Q. Prior to being sworn in as a city council  
17 member you were an elected member of the Santa Monica,  
18 Malibu Unified School District?

19 A. Correct.

20 Q. And you understand when I say the "SMMUSD" I

15:16:46

21 mean the Santa Monica, Malibu Unified School District;  
22 correct?

23 A. Correct.

24 Q. You were sworn in as a city council member on  
25 December 8, 2020; correct?

15:16:55

Page 133

1

A. Yes.

2

Q. Upon being sworn in as a city council member,

3

did you resign your position as a board member from the

4

SMMUSD?

5

A. No.

15:17:07

6

Q. On December 17, 2020 did you attempt to attend

7

an SMMUSD meeting as a board member?

8

A. Yes.

9

Q. Are you familiar with the Doctrine of

10

Incompatible Offices?

15:17:23

11

A. I have heard of that, and my understanding is

12

that the school board president cannot kick you out of a

13

meeting, that only a judge or the attorney general's

14

office can make that determination.

15

Q. Where did you get that understanding from?

15:17:41

16

A. From my research on the matter.

17

Q. Did you have a conversation with Mr. Shenkman

18

about this issue?

19

MR. TRIVINO-PEREZ: Objection. Objection.

20

I'm instructing my client not to respond

15:17:52

21

regarding the content of any discussion with

22

Mr. Shenkman.

23

THE WITNESS: I can't even recall that if I

24

had a conversation.

25

////

15:18:02

Page 134

1 Q. Nobody typed it up for you?

2 A. No. This one I do recall typing it all up  
3 myself.

4 Q. And did you do any research to help prepare  
5 for or drafting this?

15:20:35

6 A. I remember my wife had done some research and  
7 I did some research as well.

8 Q. Do you recall consulting any attorneys to get  
9 their input on this letter?

10 A. I don't recall.

15:20:58

11 Q. You don't recall one way or the other?

12 A. No.

13 Q. Mr. de la Torre, if you could go up to  
14 Exhibit 6.

15 A. You said Exhibit --

15:21:23

16 Q. 6. We are going to scroll up.

17 A. Exhibit 6. Yes, I got it.

18 Q. Open that up.

19 A. Uh-huh.

20 Q. Exhibit 6 states "Plaintiff Oscar de la

15:21:37

21 Torre's Objections and Responses to Defendant's First  
22 Set of Interrogatories.

23 Do you see that?

24 A. Yes, I do.

25 (Exhibit 6 was marked for identification.)

15:21:45

Page 136

1 Q. Do you remember signing a verification with  
2 respect to this document?

3 A. Yes, I did.

4 Q. Did you review this document before you signed  
5 that verification?

15:21:53

6 A. Yes, I remember.

7 Q. If you turn to the bottom of Page 29 of the  
8 document.

9 A. Page 29, yes, I'm here.

10 Q. So special interrogatory 15 asks to "describe  
15:22:13

11 in detail the basis of every occasion in which you have  
12 recused yourself from an agenda item on the city council  
13 meeting since your being sworn in as a city council  
14 member on/or about December 8, 2020."

15 Do you see that?

15:22:31

16 A. What page is it again?

17 Q. 29, very top.

18 A. Right at the top of the page. Okay. Yes, I  
19 see that.

20 Q. So at the bottom is your response. Okay. The

15:22:41

21 very last line it says "Responding party responds as  
22 follows: Responding party has recused himself from  
23 matters pertaining to sexual abuse of children by Eric  
24 Uller and other employees of the City of Santa Monica."

25 Do you see that?

15:22:59

Page 137

1 A. Yes.

2 Q. Did you get legal advice from Mr. Shenkman  
3 during this time regarding the lawsuit?

4 A. Like I said, you know, it's a friend of mine,  
5 you know, letting me know some options, and I let him  
15:41:35

6 know that I had an attorney Dan Ambrose and -- but it's  
7 preliminary, I guess, so I guess you would call it  
8 preliminary legal advice, but, yes, that's what I  
9 received.

10 Q. Okay. Load another document. Load another  
15:41:58

11 exhibit here. You should be able to refresh and view  
12 the exhibit.

13 A. Which exhibit?

14 Q. We are on Exhibit 24.

15 A. Exhibit 24. Okay. Exhibit 24. Okay.  
15:42:33

16 MR. TRIVINO-PEREZ: I cannot read any of that.  
17 Is there a zoom feature on this?

18 MS. SILBERBERG: There should be zoom on the  
19 top, I believe.

20 MR. TRIVINO-PEREZ: Okay. Thank you.  
15:43:02

21 BY MS. SILBERBERG:

22 Q. Exhibit 24 is a one-page document Bates  
23 labeled P1130. Do you see that?

24 A. Yes.

25 (Exhibit 24 was marked for identification.)

15:43:10

Page 145

1 Q. I'll just represent the production that we  
2 received is hard to read too, but I think you can zoom  
3 in on it as well.

4 This appears to be a text conversation between  
5 a few people. At the top I believe there's an "OT." Do  
15:43:21

6 you see that?

7 A. Yes.

8 Q. And that's yourself, and I also believe  
9 Mr. Shenkman is on this chain; is that correct?

10 A. I'm not sure what "KS" is. I'm not sure.  
15:43:33

11 Q. Would that be reasonable to assume it's Kevin  
12 Shenkman?

13 A. I have more than 3,500 friends on Facebook so  
14 I'm not sure.

15 Q. Do you believe this is a Facebook post?  
15:43:46

16 A. It looks to me it's a Facebook post, yes.  
17 That's what it looks like to me.

18 Q. So at the bottom here I believe it's your  
19 communications on the left; is that correct?

20 A. Yes, correct.

15:44:14

21 Q. Okay. And at this point you said "Got ahold  
22 of attorney Will Trivino who is ready for action," and  
23 then it looks like Mr. Trivino's contact and then it  
24 says "Will Trivino."

25 Do you see that?

15:44:28

Page 146



1 A. Yes.

2 Q. And that appears to be on February 12?

3 A. Yeah, I believe so.

4 Q. I understand it's hard to read, but that's  
5 also what we received.

15:44:41

6 I guess I'm confused because to me this looks  
7 like a text communication because you have some on the  
8 right and some on the left.

9 Would you have posted Mr. Trivino's  
10 information online?

15:44:55

11 A. I don't know. It just looks weird. Like --  
12 it's just that post right there. Maybe, I don't know.  
13 I'm a little confused right now.

14 Q. Do you know where document P1130 came from?

15 A. Yeah, this is a text message. Yeah, I guess

15:45:13

16 what it is is -- the formatting is kind of weird, but it  
17 looks like a text message.

18 Q. That's what it looks like to me too.

19 Based upon your statement about getting ahold  
20 of attorney Will Trivino, is it reasonable to assume

15:45:34

21 "KS" is Kevin Shenkman?

22 A. I think so, yes.

23 Q. It indicates there's probably two more people  
24 on this chat. Do you see that?

25 A. I see there's Terry O'Day.

15:45:48

Page 147

1 Q. I think that's just a snapshot. You don't  
2 know who else is on this chat, do you?

3 A. No. It says two people right there, so that's  
4 one, two, that's "OT" and "KS"; right?

5 Q. Normally it's my understanding that if it has  
15:46:07

6 two people it would just have two and if there's more  
7 people in the conversation it would list them, but  
8 that's kind of irrelevant here. So -- strike that.

9 Based on this document it appears by about  
10 February 12, 2021 you were able to contact

15:46:24

11 Mr. Trivino-Perez; is that correct?

12 A. That's correct. I'm very aware that I needed  
13 to contact and find an attorney because everyone else  
14 could not take the case. And also I wanted someone who  
15 I trusted and was competent so I was glad Mr. Trivino

15:46:45

16 could take the case.

17 Q. When did you first meet Mr. Trivino-Perez?

18 A. I met Mr. Trivino back in, I want to say,  
19 2009, 2010. The Santa Monica Police Department had  
20 launched a sham investigation against me where they

15:47:07

21 alleged that I committed felony child endangerment and  
22 Mr. Trivino -- I hired Mr. Trivino to help me with that  
23 matter, and the OIR Group came in and found that the  
24 police officer was biased and did not follow a proper  
25 investigation in my case.

15:47:36

Page 148

1 Q. So you actually knew Mr. Trivino-Perez from a  
2 prior representation; correct?

3 A. Correct.

4 Q. Other than Mr. Ambrose, did you try to obtain  
5 any other attorneys before engaging with

15:47:49

6 Mr. Trivino-Perez?

7 A. I did talk to another friend of mine who could  
8 not help me as well.

9 Q. Who is that friend?

10 A. Joe Ibarra.

15:48:13

11 Q. If we turn back to our favorite Exhibit 7, we  
12 are going to go to Page 6 this time.

13 A. Exhibit 7?

14 Q. Yes, sir.

15 A. You said Page 6?

15:48:37

16 Q. Yes.

17 A. Okay.

18 MR. TRIVINO-PEREZ: Hold on. I'm not there  
19 yet.

20 THE WITNESS: Okay.

15:48:45

21 MR. TRIVINO-PEREZ: Okay. I'm there.

22 BY MS. SILBERBERG:

23 Q. On the bottom of Page 6 this is in response to  
24 a request seeking to identify communications between you  
25 and any member of the Shenkman Law Firm relating to this

15:49:14

Page 149

1 Q. Can you try to refresh and get Exhibit 25?

2 A. Exhibit 25. Here we go. Yes, I see it.

3 Q. For identification, Exhibit 25 is an E-mail  
4 and an attachment with Bates numbers P0901, P0902. It's  
5 an E-mail from Mr. de la Torre to Mr. Shenkman dated  
15:57:44

6 Friday, February 26, 2021.

7 Mr. de la Torre, do you recognize this  
8 document?

9 A. Yes.

10 (Exhibit 25 was marked for identification.)

15:57:56

11 Q. Do you remember sending this E-mail?

12 A. Yes.

13 Q. Okay. The E-mail indicates, it says "FYI,  
14 here is the verification I have provided my attorney  
15 Will Trivino-Perez."

15:58:10

16 Do you see that?

17 A. Yes.

18 Q. Attached is a verification. Do you see that?

19 A. Yes.

20 Q. Okay. And this is a verification for the

15:58:17

21 complaint in this case; correct?

22 A. Correct.

23 Q. And you signed it on February 17, 2021?

24 A. Correct.

25 Q. And that's what it says on P0902; correct?

15:58:30

Page 155

1 A. Yes.

2 Q. And did you review the complaint before you  
3 signed it?

4 A. Yes.

5 Q. And you sent this to Mr. Shenkman on  
15:58:41

6 February 26, 2021.

7 A. Yes.

8 Q. Why did you send this to Mr. Shenkman?

9 A. I had -- as you saw in the previous text  
10 message, I was excited that I had an attorney, and this  
15:58:59

11 was a continuation of, you know, my sort of my  
12 excitement. I'm sharing with Mr. Shenkman as a friend  
13 of mine that I have an attorney on this matter.

14 Q. Did you share this with anybody other than  
15 Mr. Shenkman?

15:59:22

16 A. No, not that I recall. Not sure. I'm sure --  
17 of course, me and my wife celebrated. I remember I was  
18 very happy because I made at least two requests and this  
19 was my third request and so I was very happy and I for  
20 sure had a little celebration dinner with my wife.

15:59:47

21 Q. Going to load the next exhibit which should be  
22 26.

23 A. 26. I'm here, yes.

24 Q. I'll identify this as a document entitled  
25 Verified Complaint for Declaratory Injunctive Relief.

16:00:45

Page 156

1 either way?

2 A. Correct. I could have, but I don't remember.

3 Q. So let's go to the next exhibit. We are at 30

4 now.

5 A. Yes, Exhibit 30.

16:20:16

6 Q. I'm going to identify Exhibit 30 as a 24-page  
7 document Bates stamped P0181 to P0204 entitled Santa  
8 Monica City Council Member Oscar de la Torre's  
9 Application in His Individual Capacity for Leave to File  
10 Amicus Brief.

16:20:45

11 Mr. de la Torre, do you recognize this  
12 document?

13 A. Yes, I do.

14 (Exhibit 30 was marked for identification.)

15 Q. I know a minute ago you indicated your amicus

16:20:53

16 brief application stated that it was in your individual  
17 capacity. Do you see that?

18 A. Yes, correct.

19 Q. If you were filing it in your individual  
20 capacity, why does it say "Santa Monica City Council

16:21:12

21 Member" before your name? Why doesn't it just say  
22 "Oscar de la Torre's Application in His Individual  
23 Capacity"?

24 A. Just for identification purposes only.

25 Q. What do you mean by "identification purposes"?

16:21:26

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1           how I'm submitting this letter.

2           Q.    Was it important for you to have your title on  
3           there?

4           A.    It's very important for me to acknowledge what  
5           the -- what I do in my community.  I'm a representative,

16:23:04

6           I represent people, and I'm very proud of that.

7           Q.    Did you review the brief before it was filed?

8           A.    Yes, I did.

9           Q.    Once it was drafted, did you discuss it with  
10          Mr. Shenkman?

16:23:25

11          A.    I don't recall having that conversation.

12          Mr. Bonder I remember was very busy and focused on  
13          helping me get this done and get it in.

14          Q.    Did you have a conversation with Mr. Parris  
15          about the brief itself?

16:23:43

16          A.    No, I don't recall.

17          Q.    Again, you don't recall one way or the other?

18          A.    Yeah, I don't remember talking to Mr. Parris  
19          about this brief.

20          Q.    Mr. de la Torre, who is Lana Negrete?

16:23:56

21          A.    She is a member of the city council.

22          Q.    She was appointed to the city council; is that  
23          correct?

24          A.    Yes.  I was one of the city council members  
25          who voted to appoint her.

16:24:29

Page 172

1 Q. Did you know her before she was appointed?

2 A. Yes.

3 Q. How did you know her?

4 A. She is a -- well, she used to hang out with my  
5 nephew.

16:24:41

6 Q. Before her being appointed, did you talk to  
7 her about the CVRA lawsuit?

8 A. Yes.

9 Q. How many times?

10 A. Maybe twice.

16:24:54

11 Q. What did you discuss with her?

12 A. I have talked to her about the merits of  
13 district elections and why it was important for the  
14 future of our city.

15 Q. Did you talk about the lawsuit specifically,

16:25:09

16 or were you just talking about the policy of  
17 district-based elections?

18 A. Mainly district-based elections and why  
19 district-based elections is important for the City of  
20 Santa Monica, in particular for people of color, in

16:25:24

21 particular for people of color living in the Pico  
22 neighborhood.

23 Q. So there is a difference between the lawsuit  
24 itself and the policy of district-based elections; is  
25 that true?

16:25:38

Page 173



1 A. I believe so.

2 Q. After she was appointed did you try to talk to  
3 her about the CVRA action?

4 A. I haven't had an opportunity to really talk to  
5 her about that.

16:25:50

6 Q. Did you talk to her about this action?

7 A. No. Honestly, I don't recall talking to her.  
8 I just remember when she voted with the majority it was  
9 a Zoom meeting so I didn't have an opportunity to talk  
10 to her.

16:26:19

11 Q. I have now marked Exhibit 31. Can you pull  
12 that up.

13 A. Exhibit 31 is -- yes, it's pulled up now.

14 Q. Exhibit 31 is a one-page E-mail with Bates  
15 number P0630.

16:26:54

16 You see that?

17 A. Correct.

18 (Exhibit 31 was marked for identification.)

19 Q. At the top of the E-mail is an E-mail from  
20 Kevin Shenkman to yourself dated Thursday, July 1, 2021;

16:27:03

21 is that correct?

22 A. Correct.

23 Q. Do you recognize this E-mail?

24 A. Yeah, I remember seeing it, I believe so.

25 Q. So at the top he says "Here are Surf Santa

16:27:17

Page 174

1 Monica articles relaying letters by Senator Polanco and  
2 Darren Parker."

3 And then he says "Here's a Surf Santa Monica  
4 article about amicus letters in support of the  
5 plaintiff's case."

16:27:43

6 And then a little bit further it says  
7 "Attached is the Los Angeles Superior Court final  
8 decision from 2019."

9 Do you see all that?

10 A. Yes.

16:27:51

11 Q. Under that he says "Let me know if this is  
12 what you had in mind to provide her."

13 What is Mr. Shenkman talking about there?

14 A. I'm not sure. I'm not sure who he is  
15 referring to. But, you know, typically people in the

16:28:07

16 community have questions about the voting rights case  
17 and I usually try to give them information, so it seems  
18 that Mr. Shenkman was providing me information that I  
19 could share with people who have questions about the  
20 lawsuit.

16:28:34

21 Q. But if you look on top it says "for CM  
22 Negrete." Doesn't that mean for Councilwoman Negrete?

23 A. Where is that at?

24 Q. At the very top of the E-mail.

25 A. Yeah, that could be it.

16:28:48

Page 175

1 Q. So you recall giving this information to  
2 Council Member Negrete?

3 A. No, I don't recall giving it to her, but it's  
4 likely that I did because she had a lot of questions and  
5 I didn't have all the answers and I wanted to give her  
16:29:05

6 as much information as I could so that she can feel more  
7 comfortable with where -- she has the information she  
8 needs to make her own determination.

9 Q. Mr. Shenkman says "Let me know if this is what  
10 you had in mind."

16:29:27

11 Did you have something in mind?

12 A. Just to provide as much information as  
13 possible.

14 Q. You believe you requested this information  
15 from Mr. Shenkman?

16:29:36

16 A. I might have. I don't recall, but I might  
17 have requested that information.

18 Q. This E-mail is dated July 1, 2021; is that  
19 correct?

20 A. Correct.

16:29:56

21 Q. Do you know when Council Member Negrete took  
22 her seat?

23 A. No.

24 Q. Was it at the end of June?

25 A. I can't remember. I know it was her birthday,

16:30:06

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1 but I don't remember what day.

2 Q. Did you have any in-person conversations with  
3 Ms. Negrete and Mr. Shenkman?

4 A. One time, yes, we had one.

5 Q. When was that?

16:30:22

6 A. I can't recall.

7 Q. Was it shortly after she was appointed?

8 A. I can't remember if it was before she was  
9 appointed or right after she was appointed.

10 Q. Where did you have this meeting?

16:30:37

11 A. We met in her office.

12 Q. Was this an arranged meeting?

13 A. Yes, it was. She had questions about  
14 Mr. Shenkman, and I thought it would be best for her to  
15 ask him the questions versus asking me the questions.

16:30:56

16 Q. What were her questions?

17 A. She wanted to know, you know, regarding  
18 polarized voting, if I recall, how that worked, like  
19 that whole issue, and she had questions about -- you  
20 know, I can't recall everything, the questions she had,

16:31:19

21 but I know that was one of them.

22 Q. How was that a question about Mr. Shenkman?

23 A. Just in terms of why he is doing what he is  
24 doing. You know, she heard rumors that this was all  
25 about, you know, a lawyer trying to make money,

16:31:40

Page 177

1 ambulance chasers, you know, like essentially that it  
2 lacked credibility, you know, that it was -- she had an  
3 assumption about intent, his intentions.

4 Q. Did you provide any information that supported  
5 the city's position in the lawsuit?

16:32:16

6 A. I can't recall. I can't recall if I provided  
7 that information to her.

8 Q. You don't know if you did or not?

9 A. No. But she had information. She had -- she  
10 was questioning based on conversations that she had had

16:32:35

11 with, I believe, Mr. Cardona.

12 Q. And it is true though that plaintiff filed an  
13 Application for Attorney's Fees and Costs of about \$23  
14 or \$24 million; correct?

15 A. I remember reading that, yes.

16:32:54

16 Q. And do you understand that Mr. Shenkman  
17 himself is seeking approximately \$12 to \$13 million in  
18 fees and costs?

19 A. I'm not aware of that.

20 Q. Yeah. You don't know how much Mr. Shenkman is

16:33:06

21 seeking in fees and costs?

22 A. No, I don't. What I do know is that he hasn't  
23 made any money yet while the attorneys for the city have  
24 been getting paid all along.

25 Q. Would you like to see him get paid?

16:33:23

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25

MR. TRIVINO-PEREZ: Objection.

THE WITNESS: Yeah, I can't recall.

BY MS. SILBERBERG:

Q. During the course of the meeting was there a discussion regarding the city's proposed stipulated

17:07:27

facts?

A. I can't remember that part of the conversation.

Q. May happen, may not have happened, you have no recollection?

17:07:41

A. Yeah, it's a while ago, you know.

Q. Was there a discussion about deliberative process privilege during this conversation?

A. I can't recall.

Q. Was there a discussion about an upcoming

17:07:52

meeting at the city attorney's office?

A. I can't recall.

Q. Did you take any notes at this meeting?

A. No.

Q. Why was your wife present at this meeting?

17:08:07

A. Because she's at this point the lead plaintiff in the case.

Q. Since your election to the Santa Monica City Council have you had numerous conversations about the CVRA action?

17:08:43

Page 193

1 A. Well, I wouldn't say "numerous," but I would  
2 say more than anybody else.

3 Q. How frequently do you discuss it on average?

4 A. I would say definitely once a month.

5 Q. What is your wife's employment?

17:08:59

6 A. Excuse me?

7 Q. What is your wife's employment?

8 A. My wife's employment, she works -- she owns  
9 her own business Holistic Strategies. She does mainly  
10 consulting work for nonprofit organizations and also

17:09:21

11 labor organizations, but mainly nonprofit organizations  
12 is what she has been doing with the contracts that she  
13 had, the most recent contracts.

14 Q. And she owns that company; correct?

15 A. Yeah, she started it. She is the founder.

17:09:40

16 Q. When did you marry Ms. Loya?

17 A. Well, let's see, my son is 15, so probably 16  
18 years ago.

19 Q. And do you have loyalty to your wife?

20 A. Of course, yes.

17:10:02

21 Q. I think you said right now your wife is the  
22 lead plaintiff in the CVRA lawsuit; correct?

23 A. Correct.

24 Q. Would you be proud of her if she won that  
25 lawsuit?

17:10:19

Page 194

1 A. Oh, yeah, I think so, I think.

2 Q. Has your wife invested a lot of time and  
3 effort in that lawsuit?

4 A. Yes. She has been a fighter for justice, an  
5 activist. That's how I met her. I met her -- she was

17:10:34

6 organizing college students at the University of Texas  
7 in Austin on environment justice issues in east Austin  
8 and she's been, like me, active. It's a lifetime  
9 commitment that we have made to advancing social,  
10 racial, economic and environmental justice.

17:10:52

11 Q. And you want to see her succeed by winning the  
12 lawsuit; correct?

13 A. Yes, I want to see the City of Santa Monica  
14 have more fair elections. So it's not really a personal  
15 thing for me, her, or anybody. I think it's a

17:11:08

16 collective effort, it's a collective victory. So it's  
17 not a victory for one person, it's a victory for a whole  
18 city.

19 Q. But you would like to see her win; correct?

20 MR. TRIVINO-PEREZ: Objection.

17:11:25

21 BY MS. SILBERBERG:

22 Q. Can you repeat your answer.

23 A. I would like to see us all win.

24 Q. That includes your wife as the lead plaintiff;  
25 correct?

17:11:38

Page 195



1 A. Correct.

2 Q. Are you aware that Mr. Trivino-Perez and  
3 Mr. Shenkman have been communicating throughout this  
4 case?

5 A. No.

17:11:51

6 Q. You have no understanding of that?

7 A. Well, that they communicate I'm sure, but when  
8 you say that they have been "communicating," I don't  
9 know how many -- like on a weekly basis, a daily basis,  
10 I don't know the specifics of that.

17:12:09

11 Q. Are you aware that Mr. Trivino-Perez generally  
12 would forward all the filings, rulings, and E-mail  
13 communications of counsel to him?

14 A. I wouldn't be surprised. I typically forward  
15 anything that comes up about voting rights to

17:12:24

16 Mr. Shenkman as well.

17 Q. Do you know why Mr. Trivino-Perez is  
18 forwarding these documents?

19 MR. TRIVINO-PEREZ: Calls for speculation.

20 THE REPORTER: Wait. You're talking over each

17:12:40

21 other. I can't hear your objection.

22 MR. TRIVINO-PEREZ: Calls for speculation.

23 BY MS. SILBERBERG:

24 Q. Mr. de la Torre, you shook your head. Can you  
25 provide a verbal answer, please.

17:12:48

Page 196

1 It's been quite a while now. We are in January. Yeah,  
2 it's been quite a while.

3 Q. This references a declaration. Do you  
4 remember signing a declaration?

5 A. A declaration? I have signed so many

17:14:56

6 declarations, I can't even keep up, you know. Yeah, I  
7 mean, I know I have signed declarations, and what's the  
8 other term, verifications, yes.

9 Q. Mark Exhibit 36. Should be able to pull that  
10 up.

17:15:40

11 A. You said 36?

12 Q. Yes, 36.

13 A. 36. Hold on. Yes, I'm looking at this now,  
14 Superior Court, this is a Declaration of Oscar de la  
15 Torre in Support of Opposition to Motion to Compel.

17:16:02

16 (Exhibit 36 was marked for identification.)

17 Q. I'm going to mark as Exhibit 36 the  
18 Declaration of Oscar de la Torre in Support of  
19 Opposition to Motion to Compel.

20 If you look at the second to last page of the

17:16:31

21 document, do you see is that your signature?

22 A. Second to last page, yes.

23 Q. Do you know who drafted this declaration?

24 A. Yeah, I believe Will had sent it to me so...

25 Q. Do you know if he drafted it?

17:16:55

Page 198

1 to this because I did it wrong.

2 Q. So we should have -- we are going to -- we are  
3 going to skip 38 for one minute. Okay.

4 If you go down to Exhibit 39, skip 38 for one  
5 minute. Do you have that open?

17:30:24

6 A. Yeah, I have it open, yeah.

7 (Exhibits 38 and 39 were marked for  
8 identification.)

9 Q. I'm going to mark as Exhibit 37 (sic) another  
10 California Form 700 which is from July 2021 which is an

17:30:44

11 Amended Form 700.

12 MS. GALLER: You meant Exhibit 39. I think  
13 you misspoke.

14 MS. SILBERBERG: Exhibit 39. Sorry. Marking  
15 as Exhibit 39 California Form 700 from July 2021,

17:31:04

16 Amended Form 700, correct.

17 Q. Do you recognize this document?

18 A. Yes, I do.

19 Q. You said you filed an amendment; correct?

20 A. Correct.

17:31:20

21 Q. Why did you file an amendment?

22 A. Because there was a complaint filed by Chris  
23 Hardy in Santa Monica, and I talked to the FPPC  
24 representative and they -- and I asked for their advice  
25 on how to do the form correctly, and they told me how to

17:31:41

Page 207

1 do it correctly and they said to do the amendment and do  
2 it the way that I submitted it.

3 Q. Like the original one you verified the  
4 contents under penalty of perjury; correct?

5 A. Yes, correct.

17:31:56

6 Q. If you look at the first page of the document.

7 A. Yes.

8 Q. In the Schedule Summary this one has Schedule  
9 A-2, B and C; is that correct?

10 A. Correct.

17:32:10

11 Q. This one checks out A-2 which was not on  
12 Exhibit 37, the original Form 700; correct?

13 A. Correct.

14 Q. Still on this one, there's no Schedule D  
15 checked off; correct?

17:32:29

16 A. Correct.

17 Q. So if we look at Schedule C, you, again, have  
18 Pico Youth and Family Center. Do you see that?

19 A. Yes.

20 Q. Were you performing the same services for the

17:32:53

21 Pico Youth and Family Center?

22 A. Yes.

23 Q. On the right side you now see Holistic  
24 Strategies?

25 A. Correct.

17:33:05

Page 208

1 Q. There it says the income is over \$100,000. Do  
2 you see that?

3 A. That's true, yes.

4 Q. How frequently do you get paid from Holistic  
5 Strategies?

17:33:17

6 A. It's not a frequent thing. It's not like  
7 every week or every month. There isn't sort of a set  
8 schedule to receive that payment.

9 Q. What is that based on then? When do you get  
10 paid?

17:33:43

11 A. I get paid -- when do I get paid? I get paid  
12 when my wife -- when I tell my wife I need funding to  
13 pay for the basics in my life, you know, but she is  
14 the -- she manages the finances.

15 Q. You get paid when your wife decides when you

17:34:09

16 get paid?

17 A. I guess. I don't know. I get paid when I  
18 need money, how about that.

19 Q. I'm going to have you look at Exhibit 38 now.

20 A. Exhibit 38. Yes.

17:34:31

21 Q. In Exhibit 38 is, I believe there's five  
22 pages. It is Bates marked P1121 P1125. There are a  
23 series of checks.

24 Do you recognize the checks that are part of  
25 Exhibit 38, Mr. de la Torre?

17:35:03

Page 209

1 A. Yes. Those are all checks written to me from  
2 Holistic Strategies.

3 Q. The signatures on those checks, is that your  
4 wife's signature?

5 A. Yes, it is.

17:35:15

6 Q. I will represent to you in addition to these  
7 five checks we had one other document indicating a  
8 payment of \$10,000.

9 A. Yeah.

10 Q. But when I look at the checks we have, that

17:35:27

11 doesn't exceed \$100,000.

12 So are there additional checks or payments  
13 that haven't been represented in the checks that we  
14 received?

15 A. No. The checks that I receive here is the

17:35:45

16 full amount that I receive.

17 Q. So from May 2020 until December 2021, putting  
18 aside a one \$10,000 payment, you received \$50,000?

19 A. Approximately in that period, yes.

20 Q. So then on Exhibit 39 under Schedule C for

17:36:13

21 Holistic Strategies why did you check over \$100,000?

22 A. Because that's the full amount of the contract  
23 from Cal Racing Cares.

24 Q. The contract pays Holistic Strategies over  
25 \$100,000 via the contract?

17:36:36

Page 210

1 Q. I'm going to identify, we've marked Exhibit 41  
2 which states it's a Demand For Account and it has Bates  
3 number P1120.

4 Mr. de la Torre, do you recognize this  
5 document?

18:01:22

6 A. Yes, I do.

7 Q. What is it?

8 A. My bank, they gave me copies of all the  
9 checks. When I asked for all the checks from 2019 to  
10 the present they said that for 2019 that their computer

18:01:35

11 system couldn't generate the copy of the check but they  
12 can generate what they gave me. So I guess their  
13 system, it's a little older, they don't have the copy  
14 but they have the documentation.

15 Q. At the very top there's something redacted.

18:01:57

16 It says "Demand Statement for Account" blank. I'm not  
17 asking actually what specifically has been redacted. Do  
18 you know generally what the information is that's been  
19 redacted?

20 A. That's all my account. That's my personal

18:02:11

21 account.

22 Q. Is that an account number or is that a name?

23 A. It's an account name and number.

24 Q. To the left do you know what was redacted in  
25 the bigger box?

18:02:24

Page 217

1 A. No, I don't remember what was there, but it's  
2 probably the bank name.

3 Q. We are going to mark Exhibit 42.

4 A. Exhibit, 42, I'm on it.

5 Q. So Exhibit 42, we marked as Exhibit 42 a

18:03:30

6 document entitled Declaration of Oscar de la Torre in  
7 Support For Motion For Summary Judgment. You see that?

8 A. Yes, I see it.

9 (Exhibit 42 was marked for identification.)

10 Q. Do you recognize this document?

18:03:43

11 A. I do.

12 Q. Is your signature on the last page?

13 A. Yes, it is. Yes.

14 Q. Do you know who actually drafted this  
15 document?

18:03:57

16 A. Yes. Again, going back, Will submitted it to  
17 me, and my understanding is that he put this document  
18 together.

19 Q. What is that understanding based on?

20 A. Based on him sending it to me.

18:04:16

21 Q. So, again, like the other declaration you  
22 don't know whether he drafted it or not, you just know  
23 that he sent it to you; correct?

24 A. Well, more than that, he talked about it to  
25 me, explained it to me passionately, so I'm very

18:04:30

Page 218



1           A.   Well, the people that control the city council  
2 members.

3           Q.   Is it your position that all city council  
4 members are controlled?

5           A.   I think many of the city council members that  
18:09:43

6           were a part of the old city council were controlled by  
7 the political elite of the city that have very powerful  
8 special interests, resources, you know, a lot of money  
9 in elections, they have very much the influence in the  
10 city.

18:10:08

11           Q.   Are you concerned if you brought it to a vote  
12 you wouldn't have enough votes?

13           A.   Yes.  But more importantly, the people in  
14 power want to maintain themselves in power and they  
15 perceive district-based elections as something that

18:10:33

16           would make it hard for them to maintain a majority on  
17 the city council.

18           Q.   So you have not placed district-based  
19 elections on the agenda as a 13 Item; correct?

20           A.   No, not since I have been elected to the city

18:10:52

21 council.

22           Q.   Have you discussed this option with  
23 Mr. Shenkman?

24           MR. TRIVINO-PEREZ:  Objection.  When?  When

25 would he have discussed this, before his election or

18:11:04

Page 222

1 against what I have been trying to advocate for. The  
2 issue of district-based elections is inextricable, you  
3 know, with the CVRA case, I think. I don't know. I  
4 mean, unless you know better than me. If you think I  
5 would get the votes for it, I would be open.

18:19:09

6 Q. I'm not asking you, sir, if you can get the  
7 votes. I'm just asking on a procedural basis you have  
8 an ability to put things on as a 13 Item; correct?

9 MR. TRIVINO-PEREZ: Objection. Asked and  
10 answered.

18:19:28

11 THE WITNESS: Correct.

12 BY MS. SILBERBERG:

13 Q. Has anybody expressly told you that the  
14 disqualification would keep you from putting a 13 Item  
15 on the agenda regarding district-based elections?

18:19:41

16 A. I never -- I haven't heard that, but until you  
17 mentioned this right now I haven't even thought that  
18 that would be a possibility.

19 Q. And based on your statement, you haven't tried  
20 to put a 13 Item on the agenda and been rejected; is

18:20:06

21 that correct?

22 A. No, I haven't tried, and I feel the dynamics  
23 are so hostile I feel it would be a waste of my time,  
24 but I don't know, maybe I'm wrong.

25 Q. Moving back to Exhibit 42.

18:20:26

Page 228

1 A. Yes.

2 Q. You signed your declaration under penalty of  
3 perjury; correct?

4 A. Yes, correct.

5 Q. So it's your position that everything stated

18:24:59

6 in the declaration is true?

7 A. Yes.

8 Q. Mr. de la Torre, do you know what the Santa  
9 Monica Democratic Club is?

10 A. Yes.

18:25:43

11 Q. What is it?

12 A. It's a club of liberal democrats.

13 Q. Are you a member of the Santa Monica  
14 Democratic Club?

15 A. Yes, I am.

18:25:54

16 Q. Do you regularly attend its meetings?

17 A. No.

18 Q. Do you recall if the Santa Monica Democratic  
19 Club asked you to give a presentation on district-based  
20 elections in April of 2021?

18:26:08

21 A. Yes.

22 Q. We are going to -- we should have Exhibit 43  
23 up. Do you have that up?

24 A. Exhibit which one?

25 Q. Exhibit 43.

18:26:45

Page 232

1 A. Exhibit 43. Exhibit 43, here we go. Yes, I  
2 see it.

3 Q. We marked as Exhibit 43 a three-page E-mail  
4 string with Bates numbers P0896 to P0898. The last  
5 E-mail in the string which is on top is from

18:27:18

6 Mr. Shenkman to Mr. de la Torre dated March 4, 2021.

7 Mr. de la Torre, do you recognize this E-mail  
8 string?

9 A. I do.

10 (Exhibit 43 was marked for identification.)

18:27:32

11 Q. Do you recall receiving this E-mail?

12 A. I believe so. I know that John Katz was  
13 organizing us to participate in a meeting of the  
14 Democratic Club so I remember this.

15 Q. Who is John Katz?

18:27:50

16 A. He is the president of the Democratic Club.

17 Q. If you look at the E-mail at the bottom of  
18 897.

19 A. Uh-huh.

20 Q. He writes to you and your wife; correct?

18:28:04

21 A. Yes.

22 Q. He says "I wanted to let you know that I'm  
23 working on a presentation for SMDC of various ways that  
24 Santa Monica might consider reforming its governance  
25 structure."

18:28:26

Page 233

1                   And then he continues that he wants to, quote,  
2           "include a fair discussion of district elections."

3                   Do you see that?

4           A.    Yes, correct.

5           Q.    Then he says "We want to keep the discussion

18:28:34

6           around why this policy could be good for Santa Monicans  
7           and something that more people should consider rather  
8           than get into specifics of the existing lawsuit and  
9           casting blame about past actions."

10                  Do you see that?

18:28:57

11           A.    I do see that.

12           Q.    So was it your understanding at the time that  
13           the purpose of the April 28 meeting was to have a policy  
14           discussion on district-based elections?

15           A.    Yes.

18:29:09

16           Q.    And not about the merits of the lawsuit?

17           A.    Correct.

18           Q.    And at that time you agreed to be a presenter  
19           on district-based elections?

20           A.    Correct, yes.

18:29:18

21           Q.    And Mr. Katz' original E-mails with you did  
22           not extend an invitation to Mr. Shenkman; is that  
23           correct?

24           A.    I don't remember.

25           Q.    Do you see him copied on any of these E-mails

18:29:36

Page 234

1 the record.

2 A. It was my decision, yes.

3 Q. We are going to mark Exhibit 45. Do you have  
4 Exhibit 45 up?

5 A. Exhibit 45, and here we go. Yes.

18:41:50

6 Q. So I'm going to mark as Exhibit 45 a  
7 three-page document with an E-mail and an attachment  
8 with Bates numbers P0743 and P0745. The E-mail is from  
9 Mr. Shenkman to Mr. de la Torre and Ms. Loya dated  
10 April 26, 2021.

18:42:20

11 Do you recognize this document?

12 A. Yes, I do.

13 (Exhibit 45 was marked for identification.)

14 Q. Do you recall receiving it?

15 A. I don't remember -- you know, I don't

18:42:31

16 remember. It's been a while, but...

17 Q. What was this outline for? Was it for the  
18 Santa Monica Democratic Club meeting we were just  
19 discussing?

20 A. Yes. We did have a discussion on what should

18:42:48

21 be presented, and based on that discussion we did an  
22 outline.

23 Q. If you look at the next page, that would be  
24 the outline; correct?

25 A. Correct.

18:43:06

Page 241

1 Q. Would you say that the outline was an amalgam  
2 of efforts between you, Ms. Loya and Mr. Shenkman?

3 A. Correct.

4 Q. In your outline -- strike that.

5 In the outline under "Oscar" under the fourth

18:43:32

6 bullet point, dark bullet point, there's three non-solid  
7 circles. Do you see that?

8 A. Yes.

9 Q. That last bullet point is about the CVRA  
10 litigation; correct?

18:43:53

11 A. Correct.

12 Q. The outline states there "The clock is  
13 ticking. The California Supreme Court is going to tell  
14 SM that it has to have district-based elections. If SM  
15 wants a slightly different system or any change in the

18:44:10

16 map, that needs to be negotiated before the California  
17 Supreme Court decides the case. After the case is  
18 decided there will be no reason for the plaintiffs to  
19 negotiate anything."

20 Do you see that?

18:44:26

21 A. I do, yes.

22 Q. Did you make that point at the Santa Monica  
23 Democratic Club meeting?

24 A. The outline is a guide and sometimes you  
25 follow it and sometimes you don't, but that's my

18:44:43

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1 understanding exactly of what -- of the possibilities  
2 that either we agree on a different system or we let the  
3 judge render a decision and force upon the city a  
4 certain model or certain map. I mean, we lose control  
5 at that point.

18:45:07

6 Q. Would it surprise you if I represented to you  
7 that on the video of that meeting you did make this  
8 point, the point being you discussed the CVRA  
9 litigation?

10 A. It wouldn't surprise me because it's in the

18:45:23

11 outline, but I don't always follow everything in an  
12 outline, you know. Sometimes you speak and you adjust  
13 your talking points to new information that comes up. I  
14 mean, depending on when you speak, maybe you have to  
15 answer allegations or confront sort of a debate with a

18:45:42

16 previous speaker. So this is definitely a guide, but I  
17 wouldn't be surprised if I made that point.

18 Q. Was it your decision or Mr. Shenkman's  
19 decision to include information regarding the CVRA  
20 litigation?

18:46:06

21 A. That was our decision -- it was collective. I  
22 mean, we knew that Santa Monica Democratic Club didn't  
23 want to talk about sort of the -- some of the history of  
24 marginalization, they sort of wanted to whitewash some  
25 of that history and we wanted to make sure that we

18:46:26

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1 talked about it.

2 Q. So you got into the merits of the litigation  
3 even though the president of the Santa Monica Club had  
4 asked you to focus on policy; is that correct?

5 MR. TRIVINO-PEREZ: Objection. Misstates his  
18:46:39

6 testimony altogether.

7 BY MS. SILBERBERG:

8 Q. You can answer.

9 A. I'm a proud Democrat, I'm a proud progressive  
10 Democrat, and one principle in the Democratic party, I

18:46:53

11 believe, is that we respect minority voices, so for the  
12 president to sort of try to corral my voice or silence  
13 my voice on matters that I think are critical to this  
14 issue, I wouldn't abide by that. Sort of similar to  
15 what's happening in this case that brings me before you

18:47:19

16 today is people are trying to silence my voice, trying  
17 to keep me out of the room, you know, kick me to the  
18 curb.

19 Q. But you do agree that the president's  
20 perspective is he wanted you to focus on policy

18:47:34

21 regardless what your point of view was on that issue;  
22 correct?

23 A. I don't know if the president is really in  
24 control, you know. Maybe there's other people in his  
25 ear.

18:47:51

Page 244

1 Q. Let's put it this way, did Mr. Katz express to  
2 you that he wanted to focus the presentation on just the  
3 policy of district-based elections?

4 A. He wanted to narrow the conversation on that,  
5 yes. I just don't think -- it's almost like, you know,

18:48:08

6 how -- yeah.

7 Q. You answered my question.

8 A. Thank you.

9 Q. Are you aware of a petition to establish  
10 trustee areas for the Santa Monica, Malibu Unified

18:48:29

11 School District scored election?

12 A. Yes.

13 Q. Are you involved in that petition?

14 A. Initially I was and then I decided to not be a  
15 part of the signors on the initial petition. I pulled

18:48:51

16 out of that.

17 Q. When did you initially get involved?

18 A. I can't recall, but once I heard that there  
19 was legislation that was passed, that opened up the  
20 opportunity. I know there was a series of discussions

18:49:19

21 and I participated in at least one or two of them.

22 MR. TRIVINO-PEREZ: I need to go to the  
23 restroom. Can we take a quick break?

24 MS. SILBERBERG: Yeah, let's go off the  
25 record.

18:49:34

Page 245

1 Q. Just going back again to Page 6, and there is  
2 a time span here from basically January 23 to  
3 November 11; correct?

4 A. Correct.

5 Q. If you look at the dates, during that time did  
19:18:49

6 you ever pay any compensation to Mr. Shenkman?

7 A. No.

8 Q. Would that be true as of today?

9 A. Yes.

10 Q. I'm going to load our next exhibit. We  
19:19:00

11 have -- hang on a second. Okay. We now have  
12 Exhibit 46. Pull that up.

13 A. Okay. I have Exhibit 46. Yes, it's opened.

14 (Exhibit 46 was marked for identification.)

15 BY MS. SILBERBERG:

19:20:38

16 Q. Exhibit 46 is a one-page document with Bates  
17 numbers P1126.

18 A. Yes.

19 Q. And at the very top -- strike that.

20 Mr. de la Torre, does this appear to be a text

19:20:54

21 message exchange to you?

22 A. Yes.

23 Q. At the very top there's an ML and OT. Do you  
24 understand that to be Maria Loya and yourself?

25 A. Yes.

19:21:09

Page 252

# Exhibit 2

1  
2  
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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

---

OSCAR DE LA TORRE and ELIAS  
SERNA,

Plaintiffs,

v.

Case No.

CITY OF SANTA MONICA and DOES 1  
through 10, inclusive,  
Defendants.

21STCV08597

---

VIDEOCONFERENCE DEPOSITION OF  
MARIA LOYA

DATE: Tuesday, January 25, 2022

TIME: 9:46 a.m.

LOCATION: Remote Proceeding

2039 1/2 Stewart Street

Santa Monica, CA 90404

REPORTED BY: Frank Martinez, Notary Public

JOB NO.: 5047543

1 A P P E A R A N C E S

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P R O C E E D I N G S

THE REPORTER: Good morning. My name is Frank Martinez; I am the reporter assigned by Veritext to take the record of this proceeding. We are now on the record at 9:46 a.m.

This is the deposition of Maria Loya taken in the matter of Oscar de la Torre vs. City of Santa Monica, CA 5047543, on January 25, 2022, at remote via Zoom.

I am a notary authorized to take acknowledgements and administer oaths in California. Parties agree that I will swear in the witness remotely, outside of her presence.

Additionally, absent an objection on the record before the witness is sworn, all parties and the witness understand and agree that any certified transcript produced from the recording virtually of this proceeding:

- is intended for all uses permitted under applicable procedural and evidentiary rules and laws in the same manner as a deposition recorded by stenographic means; and
- shall constitute written stipulation of such.

1                   At this time will everyone in attendance  
2 please identify yourself for the record, starting with  
3 the witness.

4                   MS. LOYA: Maria Loya.

5                   MR. BERRY: This is Robert Berry. I am  
6 counsel for the City of Santa Monica.

7                   MR. TRIVINO-PEREZ: Wilfredo Trivino-  
8 Perez, Plaintiffs' attorney.

9                   MR. SHENKMAN: Kevin Shenkman, counsel  
10 for the witness.

11                  THE REPORTER: Thank you. Hearing no  
12 objections, I will now swear in the witness.

13                   Please raise your right hand.

14 WHEREUPON,

15                                   MARIA LOYA,  
16 called as a witness, and having been first duly sworn to  
17 tell the truth, the whole truth and nothing but the  
18 truth, was examined and testified as follows:

19                   THE REPORTER: You may begin.

20                                   EXAMINATION

21 BY MR. BERRY:

22                   Q     Good morning, Ms. Loya. My name is Robert  
23 Berry. And, as I said, I am an attorney for the City of  
24 Santa Monica in the case that we're here to take a  
25 deposition on today.

1 A No.

2 Q Who is Oscar de la Torre?

3 A He is my husband.

4 Q Has Mr. de la Torre -- I suppose I should call  
5 him "Oscar" to you -- has Mr. de la Torre -- to me,  
6 anyway -- ever been in the room with you while you were  
7 communicating with Mr. Shenkman?

8 A No. Like --

9 Q Have you ever had a conversation with your  
10 attorney Mr. Shenkman when your husband, Mr. Oscar de la  
11 Torre, was present?

12 A You mean any conversation?

13 Q Start with that.

14 A Yeah.

15 Q Okay. And have you ever had a conversation  
16 with Mr. Shenkman where your husband, Oscar de la Torre,  
17 was in the room on any issues related to the CVRA  
18 litigation?

19 MR. SHENKMAN: And that's a yes or no  
20 question.

21 A Yes.

22 Q Okay. And when were those conversations?

23 A When we were dealing with the -- the case.

24 Q And "the case," there, means the CVR  
25 litigation to you?

1 else understands pretty commonly?

2 A Yes.

3 Q Okay. So we don't need to spell it, I  
4 suppose.

5 A No.

6 Q Okay. Anything else?

7 A I'm trying to remember what other groups that  
8 I've been part of. You -- you know, I think that's --  
9 that's what I remember.

10 Q Okay. Nothing else jumps out at you as you  
11 sit here right now?

12 A Yeah.

13 Q Maybe more, but we don't know.

14 A Right.

15 Q You mentioned the Pico Neighborhood  
16 Association. If I refer to that as the "PNA," will that  
17 be clear to you?

18 A Yes.

19 Q What is your role at the PNA today?

20 A I'm the acting treasurer.

21 Q And is that a board level -- no -- that's an  
22 executive-level position. Are you on the board of the  
23 PNA as well?

24 A Yes, I am.

25 Q How long have you been acting treasurer of the

1 PNA?

2 A I believe since, well -- since 2018.

3 Q Okay. That's a long time to act.

4 A Well, I became -- in 2020, there was another  
5 board member that was selected to be the -- the  
6 treasurer. But he wasn't able to -- to fulfill the  
7 duties because, you know, he had to -- he was working a  
8 lot.

9 Q Okay.

10 A So then that's where I became the acting.

11 Q Got it.

12 A And --

13 Q And how long have you been on the board of the  
14 PNA?

15 A I've been on the board of the PNA, I believe,  
16 since 2002, 2003? It's been a long time.

17 Q And what position do you currently hold on the  
18 board?

19 A Well, I'm a board member. I'm a board member.

20 Q Have you ever served as chairman of the board?

21 A Yes.

22 Q Okay. When was that?

23 A I don't recall the -- the exact years. I  
24 don't exact the exact years. Maybe -- I don't know. I  
25 don't want to give you any inaccurate information, so I

1 Q Now, if my recollection is correct, the PNA's  
2 website either referred or refers -- I forget exactly  
3 when -- to you as the communications officer. Is that a  
4 position you've ever held?

5 A Well, that's mainly -- I -- I'm the one that  
6 sends out the e-mails to our membership.

7 Q When they call you the communications  
8 officer -- is that an appointed position or just de  
9 facto? You're the one communicating, so they call  
10 you --

11 A It's de facto. It's de facto. It's not  
12 necessarily an official position based on our bylaws.

13 Q Okay. Somebody has to do it, and it's just  
14 you. So they call that the communications officer?

15 A Yeah.

16 Q Is that how it works?

17 A That's correct.

18 Q Is there anything else you do in your role as  
19 a member of the board or as acting treasurer of the PNA?

20 A No. That's pretty much what I do. What I  
21 just mentioned.

22 Q And how long have you been a member? Not of  
23 the board, but a member of the PNA itself?

24 A I was a member before I became a -- a board --  
25 a board member. So I'd say about a year.

1 Q And at the time of the trial --

2 A The CVRA trial?

3 Q Yes, ma'am. And I'm pausing because I want to  
4 get it right. So at the time of the CVRA litigation  
5 trial, was your husband, Mr. Oscar de la Torre, a member  
6 of the board of the PNA?

7 A During the time of the CVRA trial, yes, he was  
8 a member of the PNA board.

9 Q And is it your recollection that your husband,  
10 Mr. Oscar de la Torre, was the representative of the PNA  
11 in the CVRA litigation in 2018?

12 A Yes.

13 Q And is it your understanding that he was the  
14 representative of the PNA in that litigation from the  
15 beginning of the litigation, until he substituted out  
16 around the time he was elected to the City Council?

17 A Yes.

18 Q Do you have an understanding of what his role  
19 was as the representative of the PNA in that litigation?  
20 Just your understanding?

21 A Well, he was representing the -- the  
22 organization and its members in the litigation.

23 Q Back in that time, during the trial and  
24 before, did you talk to your husband about the CVRA  
25 litigation?

1           A     Yes. Well, it's the only place I've been  
2 registered; so --

3           Q     Did you use a lawyer to register the LLC with  
4 the California Secretary of State?

5           A     No. I -- I used one of the websites.

6           Q     So when you set it up --

7           A     Yeah.

8           Q     -- you did it yourself. You didn't have a  
9 lawyer do it; correct?

10          A     Right. Right, right.

11          Q     Have you ever had a lawyer do any of the  
12 registrations or filings with the state --

13          A     No.

14          Q     -- on behalf of the LLC?

15          A     No.

16          Q     Do you have an ownership interest in the LLC?  
17 Do you own it?

18          A     Yeah. I'm the founder.

19          Q     And do you own 100 percent of Holistic  
20 Strategies?

21          A     Yes.

22          Q     Has anyone else ever had an ownership interest  
23 in Holistic Strategies?

24          A     No.

25          Q     You're a member of Holistic Strategies as



1 well; is that correct?

2 A Yes.

3 Q Are there any other members of Holistic  
4 Strategies?

5 A My husband is -- is also a member.

6 Q And has he been a member since its founding?

7 A No. He -- he came on board once he  
8 transitioned out of executive director from the PYFC.

9 Q And when did that happen to the best of your  
10 recollection?

11 A You know, I don't remember. I don't remember  
12 exactly when that happened.

13 Q Was it before or after he joined the Santa  
14 Monica City Council?

15 A Before.

16 Q Other than your salary from Holistic  
17 Strategies, are you compensated in any other way by that  
18 entity? For example, an owner's draw or anything like  
19 that?

20 A No. No. It's a small operation.

21 Q Do you get any benefits from Holistic Strategy  
22 LLC [sic]? For example, insurance or transportation  
23 stipends, that sort of thing?

24 A No.

25 Q How many hours a week do you work for Holistic

1 Q Okay. Was your business growing into 2019?  
2 The work you'd had as a sole proprietor -- was it  
3 expanding at that time?

4 A The -- the reason that I chose to -- it was  
5 more aspirational, you know.

6 Q Okay.

7 A Seeing that that's what I wanted to do. I  
8 wanted to grow and, you know.

9 Q Okay. I've loaded up into your document share  
10 page Exhibit 51, which is a printout of the About Us  
11 page on your website. Would you pull that up for me,  
12 please?

13 (Exhibit 51 was marked for  
14 identification.)

15 A Hold on.

16 Q Hopefully it's there.

17 MR. SHENKMAN: That's a nice picture.

18 THE WITNESS: Oh. Yeah.

19 BY MR. BERRY:

20 Q Do you see it?

21 A Yes.

22 Q Okay. And so have you seen this before?

23 A Yes.

24 Q What is it?

25 A Well, it talks about who's -- who's on my

1 team. And it's just my -- myself and my husband. Yeah.

2 Q Okay. And your husband, again, is Mr. de la  
3 Torre; correct?

4 A Yes.

5 Q All right. So if we're reading through  
6 this -- I mean, I thought this would be a good way for  
7 me to better understand your business by how you're  
8 presenting it.

9 So at the top, it says that: Holistic  
10 Strategies Consulting LLC Inc. [sic] "is a coaching and  
11 consulting firm." Do you see that?

12 A Yes.

13 Q Can you explain to me what it means to be a  
14 coaching and consulting firm here? What does that tell  
15 me?

16 A Well, I divide my business into two areas.  
17 One is consulting for nonprofits, labor unions, or  
18 businesses. And I do coaching -- life coaching as well.

19 Q Can you just generally help me understand what  
20 that means? What a life coach is?

21 A Yes. I've been certified to be a life coach,  
22 to -- to help individuals that are looking to break into  
23 a new career, they -- or people that feel stuck, people  
24 that are feeling somehow blocked or -- or, you know,  
25 something's holding them back and, you know -- or they

1 want just to get more deeply connected with themselves  
2 and the people around them, you know.

3 So it's really talking to people through --  
4 and through dialog, really helping them figure out the  
5 solutions to their issues.

6 Q Okay. And the next sentence, sort of the next  
7 paragraph under that -- it says, "We employ a holistic  
8 approach." I know what "holistic" means. But what are  
9 you referring to here as a "holistic approach"?

10 A Well, that whatever issues that we take on,  
11 we -- we want to employ an approach that includes not  
12 just addressing issues, but that also takes into account  
13 the mind, body, and spirit in everything that we do.

14 Q Okay. And you say, "whatever issues that we  
15 take on." What kind of issues are those?

16 A Mainly social justice issues, issues, yeah,  
17 socioeconomic issues.

18 Q Anything else?

19 A That's mainly my -- my concentration and my  
20 niche.

21 Q And can you give me some specific examples of  
22 the social justice and socioeconomic issues that  
23 Holistic Strategies has taken on for its clients?

24 A Absolutely. Working with immigrant rights  
25 groups, working with -- with labor unions around worker

1 Q And it's a little small, I know. I think you  
2 probably can enlarge it. There's ways to do that if  
3 it's difficult.

4 But it says, "Holistic Strategies will help  
5 your organization advance innovative campaigns, provide  
6 issue specific solutions and share winning strategies."  
7 Do you see that?

8 A Yes.

9 Q Help me understand what "winning strategies"  
10 is, here. What are you conveying to your website  
11 readers?

12 A I'm mainly conveying that whatever public  
13 policy campaign -- really helping the organization have  
14 a successful public policy campaign.

15 Q Okay.

16 A Right? So when -- when an organization is  
17 able to achieve their goals in making their public  
18 policy campaign into a city ordinance, that is what I  
19 consider to be a winning strategy -- that they were able  
20 to win their -- win in -- in putting into act -- or  
21 enacting the public policy that they were striving for.

22 Q Okay. And, I guess, as folks come to you,  
23 they're seeking help on strategic planning and for  
24 public policy initiatives they want to win. Is that  
25 kind of your general understanding of your clients?

1           A     Yeah. They want to -- they want to make sure  
2     that their campaign, their public policy campaign is  
3     successful in becoming a local ordinance.

4           Q     And so if you go down under "Maria Loya," you  
5     see a very nice picture there. And to the right of  
6     that, there's a second paragraph. Do you see that?

7           A     Mm-hmm.

8           Q     And in that second paragraph, referring to  
9     you, I believe, Ms. Loya, it says, quote, "Her coaching  
10    and community organizing experience has assisted many  
11    social and economic justice groups in achieving  
12    transformative justice work," period, close quote. Do  
13    you see that?

14          A     Yes.

15          Q     As I read that -- and you can correct me if  
16    I'm wrong -- that seems to be conveying to the readers  
17    of this website and potential clients that you've helped  
18    people win in the past. Is that what that's telling me?

19          A     Yes. That we -- that I've been successful  
20    in -- in putting into action the public policies that --  
21    that organizations were advocating for.

22          Q     And did you write the website? Did you put  
23    those words together?

24          A     Yes. I -- I worked with my web designer or --

25          Q     Okay. And just why did you think it was

1 important to tell potential customers that you are a  
2 winner, that you've been successful in achieving  
3 transformative justice work? Does that matter to the  
4 people who are hiring you?

5 A Yeah. To demonstrate that -- that I have  
6 experience with this line of work, that -- that I  
7 have -- that I've had successful campaigns -- public  
8 policy campaigns.

9 Q So, I guess, in short -- not to put too fine a  
10 point on it -- winning on social justice issues is good  
11 for your business; is that correct?

12 A Yeah. Yes.

13 Q Okay. If you go down to the next paragraph,  
14 it says you're "the Founder and CEO of Holistic  
15 Strategies Coaching and Consulting." Do you see that?

16 A Mm-hmm.

17 Q Okay. So as the CEO, what are your specific  
18 roles and responsibilities?

19 A Well, I manage the contracts. I -- I mainly  
20 focus on marketing --

21 Q Okay.

22 A -- marketing our business, trying to grow our  
23 business. Yeah.

24 Q Okay. And then who does the coaching? Is it  
25 primarily you?

# Exhibit 3



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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

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OSCAR DE LA TORRE AND ELIAS  
SERNA,

Plaintiffs,

v.

CASE NO.

CITY OF SANTA MONICA, AND DOES  
1 THROUGH 10, INCLUSIVE,  
Defendants.

12STCV08597

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VIDEOCONFERENCE DEPOSITION OF  
KEVIN SHENKMAN, ESQ.

DATE: Thursday, January 27, 2022  
TIME: 9:11 a.m. Pacific Standard Time  
LOCATION: Remote Proceeding  
28905 Wight Road  
Malibu, CA 90265  
REPORTED BY: Frank Martinez, Notary Public  
JOB NO.: 5047549

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A P P E A R A N C E S

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P R O C E E D I N G S

THE REPORTER: Good morning. My name is Frank Martinez; I am the reporter assigned by Veritext to take the record of this proceeding. We are now on the record at 9:11 a.m.

This is the deposition of Kevin Shenkman taken in the matter of Oscar de la Torres [sic] v. City of Santa Monica [sic], CA5047549, on January 27, 2022 at remote via Zoom.

I am a notary authorized to take acknowledgements and administer oaths in California. Parties agree that I will swear in the witness remotely, outside of his presence.

Additionally, absent an objection on the record before the witness is sworn, all parties and the witness understand and agree that any certified transcript produced from the recording virtually of this proceeding:

- is intended for all uses permitted under applicable procedural and evidentiary rules and laws in the same manner as a deposition recorded by stenographic means; and
- shall constitute written stipulation of such.

1                   At this time, will everyone in attendance  
2 please identify yourselves for the record, starting with  
3 our witness?

4                   MR. SHENKMAN: Good morning. Kevin  
5 Shenkman.

6                   MR. BERRY: Good morning. This is Robert  
7 Berry for the City of Santa Monica.

8                   MR. TRIVINO-PEREZ: Good morning.  
9 Wilfredo Trivino-Perez on behalf of Plaintiff.

10                  MS. GALLER: Kirsten Galler, also on  
11 behalf of the City of Santa Monica.

12                  THE REPORTER: Thank you. Hearing no  
13 objections, I will now swear in our witness. Please  
14 raise your right hand.

15 WHEREUPON,

16                                   KEVIN SHENKMAN,  
17 called as a witness, and having been first duly sworn to  
18 tell the truth, the whole truth and nothing but the  
19 truth, was examined and testified as follows:

20 THE REPORTER: You may begin.

21                                   EXAMINATION

22 BY MR. BERRY:

23           Q     Good morning, Mr. Shenkman. As I said, my  
24 name is Robert Berry, and I represent the defendant,  
25 City of Santa Monica, in this case. Can you please

1 attorney relationships or clients you've had that are  
2 the basis for any attorney-client privilege or work  
3 product objection you made in Exhibit 55 other than what  
4 you've already testified to?

5 A Same answer.

6 Q Where are you currently employed, Mr.  
7 Shenkman?

8 A I am employed by Shenkman & Hughes PC.

9 Q What, if any, ownership interest do you have  
10 in Shenkman & Hughes?

11 A I believe I'm a shareholder.

12 Q And how long have you been a shareholder of  
13 Shenkman & Hughes PC?

14 A Since its inception.

15 Q What is your currently hourly billing rate?

16 A You know, it -- it -- it changed recently.  
17 I -- I -- it is between eight and 900. I -- it -- I  
18 can't recall exactly right now.

19 Q What about Ms. Hughes' or Ms. Alarcon's? Do  
20 you recall their hourly rate?

21 A Similarly, I believe that Ms. Hughes' hourly  
22 rate is between seven and 800, but that, too, had  
23 changed recently and I'm not sure of the exact number.  
24 Ms. Alarcon, I believe her hourly rate is between six  
25 and 700, but similarly that changed recently, and I'm

1 not sure of the exact number.

2 Q Is your personal compensation for your work at  
3 Shenkman & Hughes PC in any way dependent on the results  
4 of your cases?

5 A I -- I -- I don't -- I don't know how to  
6 answer that. At -- we -- Shenkman & Hughes PC, most of  
7 our cases we take on contingency. If we win, we get  
8 paid; if we lose, we don't. So I -- I don't know  
9 what -- what to add beyond that.

10 Q I don't know. I thought you understood and  
11 answered it pretty well, Mr. Shenkman.

12 A Well, thank you.

13 Q Have you or your firm ever made any donations  
14 to the Pico Youth & Family Center?

15 A I have donated some money to the Pico Youth &  
16 Family Center.

17 Q How much?

18 A I don't know exactly. My guess is that it's  
19 at or less than -- than \$1,000 over the course of  
20 several years. And -- and that number is the aggregate.

21 Q Have you or your firm ever made donations to  
22 the Cal Racing Cares organization?

23 A No.

24 Q Have you ever represented Cal Racing Cares?

25 A No, I don't think they'd want me to.

1 appreciate that from you, Mr. Shenkman. But my next  
2 question would be have you been compensated ever for any  
3 reason or has mister -- let me phrase it this way.

4 A I'm glad you like my answer.

5 Q Yeah. No, it was very careful. I did like it  
6 quite a bit. So let me ask you this.

7 A I try to be careful.

8 Q Has Mr. de la Torre --

9 A Don't you want me to be careful in this  
10 deposition and give you the -- the -- the truthful  
11 answers carefully?

12 Q Well, frankly, Mr. Shenkman, it's the reason  
13 I'm taking it.

14 A Great, we're all on the same page.

15 Q We understand each other then. The question  
16 that I'm asking is at any point has Mr. de la Torre ever  
17 paid anything of value to you or your law firm?

18 A Not that I can recall.

19 Q Has Mr. de la Torre ever promised to pay  
20 anything of value to you or your law firm for any  
21 purpose?

22 A Not that I can recall, no.

23 Q Do you know who is paying Mr. Trivino-Perez's  
24 legal fees in this case?

25 A I don't know.

1 here -- let's see here. It's going to be the  
2 Declaration of Kevin Shenkman in Support of Plaintiffs'  
3 Motion for Award of Attorneys' Fees and Expenses filed  
4 in the CVRA litigation. It's big, so it'll just take a  
5 second.

6 A It was a lot of work.

7 MR. BERRY: Let's go off the record for a  
8 second, Frank.

9 THE WITNESS: Why are we going off the  
10 record?

11 THE REPORTER: Stand by. Going --

12 BY MR. BERRY:

13 Q Because we're having a technical difficult  
14 loading, Mr. Shenkman.

15 A Yeah. But no, we -- we don't go off the  
16 record.

17 Q All right. So we're going to count this time  
18 against your seven hours. Is that what you want to do?

19 THE REPORTER: Mine just showed up right  
20 now, Exhibits 7, 54, 55, 56. It just loaded.

21 MR. BERRY: All right. Okay.

22 BY MR. BERRY:

23 Q So it should be Exhibit 56.

24 (Exhibit 56 was marked for  
25 identification.)



1           A     Okay.

2           Q     Do you have that in front of you, sir?

3           A     I -- I do.

4           Q     Do you recognize this document?

5           A     So it's been quite a while, but it appears to  
6     be my declaration in support of plaintiffs' motion for  
7     an award of attorneys' fees and expenses in the CVRA  
8     case.

9           Q     Yeah, and I will purport to you that it is  
10    your declaration but only Exhibit L is attached. The  
11    other exhibits, just for size purposes, are not  
12    attached. Do you understand that?

13          A     Okay.

14          Q     Did you make this declaration in the regular  
15    course of your business as an attorney?

16          A     Yeah, I suppose. I mean --

17          Q     And it's your usual practice in cases where  
18    you submit attorney's fees declarations to prepare a  
19    declaration to submit to the court?

20          A     Sure, and -- and you know, if -- if you're  
21    trying to authenticate this as a business record, I  
22    would just say that to the extent that it's been filed  
23    in the LA Superior Court, you know, it's subject to  
24    judicial notice at least as to its existence and its  
25    content.

1 Q And you are the person with knowledge of the  
2 contents of this declaration?

3 A I believe so, yeah.

4 Q And did you prepare it and sign it at or  
5 around the time it was submitted into the court in the  
6 County of San Bernardino?

7 A Yeah, I mean, it -- it -- it took a -- it took  
8 some work to put this together. So you know, it wasn't  
9 just a -- a -- a one-day kind of thing. But yeah, I  
10 mean it's my declaration. I'm responsible for it.

11 Q And if you turn to page 15 of the declaration,  
12 I just want you to confirm that that's your signature.

13 A Yes, that is my signature.

14 Q If you'll turn, please, to paragraph 19 of the  
15 declaration?

16 A Okay.

17 Q There is some billing rates listed in here.  
18 Can you confirm that the billing rates listed in the  
19 first sentence of paragraph 19 are correct as of the  
20 time of the declaration?

21 A Yes, as of the time of the declaration, that  
22 was correct.

23 Q And then if you go down a little further,  
24 there's a number listed as a blended rate of \$715 per  
25 hour. Do you see that?

1 action?

2 A I don't know. I haven't thought about it,  
3 that -- but no. No, there's no way to guarantee  
4 anything.

5 Q Have you considered that the best way or the  
6 most likely way to obtain your attorneys' fees in the  
7 CVRA action would be for a settlement to be reached with  
8 the City of Santa Monica?

9 Q I have not considered that. And in fact,  
10 that's not the way I think.

11 Q How do you think?

12 A We are fortunate enough to not have to think  
13 in those kinds of terms: always chasing a buck. I  
14 carry out my job, my -- my profession, representing my  
15 clients, their interests, trying to do good for the  
16 voters particularly minority voters in the communities  
17 in which we work, including Santa Monica. Well, we work  
18 very hard to get fair and legal elections and undo the  
19 harm caused by unfair and unlawful elections. And I've  
20 found that over the course of the last decade of my  
21 career that when we have that singular focus of focusing  
22 a -- the singular focus on substantive voting rights,  
23 the money comes. And by not worrying about the money in  
24 the course of our work, we maintain our professional  
25 integrity and we probably do better financially in the

1 end any way.

2 Q Do you recall how much in attorneys' fees you  
3 requested in the CVRA litigation?

4 A I don't recall exactly.

5 Q Do you recall whether it was in excess of \$23  
6 million?

7 A I don't know. And are you asking whether that  
8 is for me personally, Shenkman & Hughes PC --

9 Q All plaintiffs lawyers.

10 A Or --

11 Q All plaintiffs lawyers.

12 A So it -- so we're talking about Shenkman &  
13 Hughes PC, the Parris Law Firm, Law Office of Milton  
14 Grimes, the law office of Robert Rubin, and then of  
15 course Goldstein, Borgen, Dardarian & Ho has worked with  
16 us on the appellate proceedings. Yeah, I -- I -- I  
17 don't know what the total number requested was, you  
18 know, and -- and -- and again, that was back in -- I  
19 believe that motion was filed in -- sometime in 2019.

20 Q And you don't recall whether it was in excess  
21 of \$23 million?

22 A So my recollection is that when you total up  
23 the -- all of the firms' hourly billing and apply the  
24 lodestar multiple that we requested which I believe was  
25 a -- was somewhere in the two or two-and-a-half range,

1 la Torre in this case?

2 A I -- I don't recall seeing any discovery.

3 Q And would that include document requests?

4 A Yeah, I don't recall seeing any document  
5 requests.

6 Q Do you recall seeing any tentative orders from  
7 the Court in this case?

8 A I -- I recall seeing a -- at least one, maybe  
9 more, tentative rulings by Judge Fruin in this case,  
10 yes.

11 Q I'm going to bring up what is going to be  
12 marked at Exhibit 56.

13 A I think you're -- you're on 57, aren't you?

14 THE REPORTER: 57.

15 BY MR. BERRY:

16 Q I am on 57, yeah. Thank you. It'll just take  
17 one second to load. I don't know why they're loading  
18 slow. And as soon as you get it, I'm going to start  
19 asking you some questions. But I'm going to preload a  
20 bunch of -- maybe the next three or four of them as  
21 well. So --

22 (Exhibit 57 was marked for  
23 identification.)

24 THE REPORTER: Mine has refreshed and  
25 came up.

1 //

2 BY MR. BERRY:

3 Q All right. Do you have it now, Mr. Shenkman?

4 A Not yet. Oh, there we go.

5 Q All right. Do you recognize this document,  
6 sir?

7 A So I'm looking at the first page of an 18-page  
8 document, and it appears to be an email from Mr.  
9 Trivino-Perez to me dated December 16, 2021.

10 Q And that's at 3:08 Pacific Standard Time,  
11 right?

12 A That's what it says.

13 Q And it appears to be forwarding an email below  
14 from the LA Courts to Mr. Trivino-Perez at 3:04 p.m. Do  
15 you see that?

16 A That's what it looks like.

17 Q And then if you go back to the rest of the  
18 document, it is a tentative ruling of Judge Fruin; is  
19 that correct?

20 A Starting at the -- on page 3, it says, "#4  
21 TENTATIVE RULING," and it says "10:00 a.m., Friday,  
22 December 17, 2021."

23 Q Correct, all right. If you'll go back to the  
24 front cover, please? Mr. Trivino-Perez is sending his  
25 3:08 email to an address, shenkman@sbcglobal.net; is

1       that correct?

2           A       That's correct.

3           Q       Is that your email address?

4           A       It is.

5           Q       Is that your work email address?

6           A       So I -- I -- I actually have a few email  
7 addresses, But so I -- I have  
8 kshenkman@shenkmanhughes.com,  
9 kishenkman@shenkmanhughes.com, and -- but both of those  
10 get forwarded to my shenkman@sbcglobal.net account. So  
11 I end up using shenkman@sbcglobal.net for work stuff as  
12 well as other matters.

13          Q       Do you know why Mr. Trivino-Perez was  
14 forwarding you this tentative order four minutes after  
15 receiving it?

16          A       I -- I can't get into Mr. Trivino-Perez's  
17 head.

18          Q       Did you have a conversation with Mr.  
19 Trivino-Perez about this tentative order?

20          A       It -- not that I can recall.

21          Q       Did you provide Mr. Trivino-Perez with any  
22 advice relating to this tentative order?

23          A       Specifically relating to this tentative  
24 ruling, I -- I -- I don't recall any.

25          Q       You think you didn't? Or you might have, you

1 might have [sic], you just don't recall? Or you think  
2 you didn't do it?

3 A Well, I don't recall that I did. So beyond  
4 that I would be guessing.

5 Q Do you recall seeing earlier versions of this  
6 tentative ruling?

7 A I -- I -- I didn't know I -- I have no idea  
8 whether there -- there are or -- or are not earlier  
9 versions of a tentative ruling. I've never -- well, no,  
10 I -- it -- it -- in my experience, there generally is  
11 not multiple tentative rulings.

12 Q And again, looking at Exhibit 57, you  
13 recognized this as an email between you and Mr.  
14 Trivino-Perez forwarding the tentative ruling sent by  
15 the Court at 3:04; is that correct?

16 A That's what it looks like.

17 Q And if you'll go to 58, please, and tell me if  
18 you've seen this email before?

19 (Exhibit 58 was marked for  
20 identification.)

21 A Oh, is this another exhibit?

22 Q It is.

23 A Okay. Oh, there it is. Okay. This -- this  
24 also looks like an email from Mr. Trivino-Perez to me.

25 Q Dated December 13, 2021 at about 9:28 a.m.?



1 issues of the conflict of interest or the  
2 disqualification of Mr. de la Torre in preparation for  
3 the January 26th meeting?

4 A Not that I can recall.

5 Q Did you provide Mr. de la Torre with any  
6 authority related to the relevant law for the conflict  
7 of interest or disqualification issues to be discussed  
8 at the January 26, 2021 City Council meeting?

9 A So I -- I don't think I had to because Mr.  
10 Ambrose had already prepared an opinion.

11 Q But did you do it?

12 A Oh, not that I can recall.

13 Q I'm going to load up a document that we're  
14 going to mark as Exhibit 60.

15 THE REPORTER: Is that 6-0, Counsel?

16 MR. BERRY: 6-0, yes.

17 THE REPORTER: Okay. Thank you.

18 (Exhibit 60 was marked for  
19 identification.)

20 BY MR. BERRY:

21 Q And my question, first, is have you seen this  
22 before?

23 A Probably.

24 Q Is this an email from you to Oscar de la Torre  
25 dated January 23, 2021?

1 A That's what it appears to be.

2 Q Now, the first sentence says, "Below is a link  
3 to the Santa Monica [sic] council rules." Do you see  
4 that?

5 A Yes.

6 Q And then below that first paragraph is an  
7 underlined "R-11106 Council Rules.pdf (smgov.net)." Do  
8 you see that?

9 A I do.

10 Q All right. So you were sending Mr. de la  
11 Torre links to the rules that would govern the  
12 disqualification and conflict-of-interest issues at the  
13 January 26, 2021 meeting; is that correct?

14 A I -- I don't know. I would have to take a  
15 look at those rules and -- and also the agenda item  
16 to -- to know what those rules were about.

17 Q Did you send him the links to the Santa Monica  
18 Council rules on January 23rd?

19 A I -- I sent him a link to Santa Monica Council  
20 rules, yes.

21 Q And then in your email you say, "Cardona  
22 references Rule 18, and claims that means you should not  
23 be allowed to vote regarding whether you have a  
24 conflict." Do you see that?

25 A That's what it says.

1 Q Why did you tell him that?

2 A I -- sitting here today, I don't know why I  
3 told him that, but probably because the rules do not say  
4 that he should not be allowed to vote regarding whether  
5 he has a conflict.

6 Q And in fact, the next sentence in this email  
7 says, "It says no such thing." Do you see that?

8 A I see that.

9 Q Is that legal advice, Mr. Shenkman?

10 A I would not characterize it as legal advice.

11 Q How would you characterize the summarization  
12 and a description of what happens in a statute or  
13 ordinance?

14 A Well, so this is not a statute or an  
15 ordinance, first of all, but nice -- nice trying to  
16 switch those two up. I would characterize this as  
17 political.

18 Q You would not characterize the analysis of the  
19 Council's rules as a legal issue?

20 A I don't think this is the analysis of the  
21 Council's rules.

22 Q "It says no such things," is not --

23 A Yeah, I don't --

24 Q Is not analysis?

25 A I don't need -- look, I -- I read this email,

1 and -- and if you asked me does it say that -- that  
2 purple elephants fly in space; no, it doesn't say any  
3 such thing. I don't need to do an analysis of the email  
4 to know that. I just can -- I just read it, and I can  
5 tell you it doesn't say that.

6 Q Do lawyers read rules and statutes and tell  
7 their clients what they mean?

8 A Lawyers do a lot of things.

9 Q Do lawyers read rules and statutes and tell  
10 their clients what they mean?

11 A Lawyers do all sorts of things --

12 Q Well, do they do --

13 A And --

14 Q They --

15 A And -- and -- and legislators also read rules  
16 and statutes and work on amending them or drafting them  
17 or you know, whatever. Every -- every legislative staff  
18 person up in Sacramento that I've ever worked with reads  
19 statutes, figures out what they say, what they mean.  
20 And in my experience, the vast majority of them are not  
21 attorneys.

22 Q Do lawyers read rules and statutes and tell  
23 their clients what they mean?

24 A I -- I imagine probably some lawyers do.

25 Q The last sentence says, "It also does not

1 provide that the council can declare that one of its  
2 members has a conflict of interest." Do you see that?

3 A I see where it says that, yes.

4 Q And are you conveying by that that the Council  
5 rules referenced immediately above do not provide that  
6 the Council can declare that one of its members has a  
7 conflict of interest?

8 A It means what it says. I meant what I said.

9 Q And you meant this; is that correct?

10 A That's what it says.

11 Q Why is --

12 A And by the way, it doesn't take a lawyer to  
13 figure that out.

14 Q Why is Cris removed from this email? Or why  
15 is Cris not on this email when he was on the email we  
16 looked at ago [sic], Exhibit 15?

17 A I have no idea.

18 Q Did you have a conversation with Mr. de la  
19 Torre about the Council's rules?

20 A I -- I don't recall.

21 Q You might have, you might not have, you just  
22 don't remember?

23 A I don't remember having any such conversation.

24 Q I'm going to pull up, please, a document that  
25 we've loaded. It's previously marked at Exhibit 17. Do

1 you have that in front of you?

2 (Exhibit 17 was previously marked for  
3 identification.)

4 A I do.

5 Q What is Exhibit 17?

6 A It appears to be an email from me to Mr. de la  
7 Torre dated January 25th.

8 Q And attached to that email is a document  
9 entitled Questions for Cordova. Do you see that?

10 A I believe it says Cardona.

11 Q Cardona, yes, I apologize. Do you see that?

12 A Well, I -- I -- I see there appears to be an  
13 attached document entitled "Questions for Cardona and  
14 Statement re conflict of interest."

15 Q And if you open to the next page through the  
16 end of -- if you scroll down to the next page of Exhibit  
17 17, through the end of the document, do you see a  
18 document starting on page 1045 entitled Questions for  
19 Cardona?

20 A I see that page.

21 Q And if you scroll further to 1048 Bates  
22 number, there is a document entitled Statement.

23 A Okay. I see that.

24 Q Did you draft these documents, sir?

25 A I think I probably typed them. And I'd have

1 to go through it more -- in more detail, but my  
2 recollection is that this was an effort to be something  
3 of a, I don't know want to say stenographer, but trying  
4 to consolidate a number of thoughts.

5 Q Whose thoughts?

6 A Mainly Mr. de la Torre.

7 Q When you say "mainly," are there others whose  
8 thoughts are in there?

9 A Well, I -- I'd have to go through, you know,  
10 each one to -- to say.

11 Q Well, that's fine, we can do that. Are there  
12 any thoughts in here that are attributable to you?

13 A You want me to read through all of them?

14 Q Well, I'd like to know if there are thoughts  
15 in here that are attributable to you?

16 A Okay. I mean, look, it's your time. I'm  
17 happy to do it if you'd like me to -- to just read  
18 through for the next however long it takes and figure  
19 out if I can remember if any of these were attributable  
20 to me.

21 Q Well, let's start backwards and see if we can  
22 end up short-circuiting that a little bit. There are  
23 references throughout the Questions for Cardona and in  
24 the statements to the legal authority BreakZone  
25 Billiards vs. City of Torrance. Are those yours, or is

1 that Mr. de la Torre on his own?

2 A I don't see that.

3 Q Start at page 1046, second paragraph from the  
4 bottom. The suggested question, "Have you read the  
5 BreakZone case cited in Mr. Ambrose's legal opinion?"

6 A Okay. I see where it says, "Have you read the  
7 BreakZone case cited in Mr. Ambrose's legal opinion  
8 letter? (If not -- don't you think that you should have  
9 done that before rendering an unqualified legal opinion  
10 to this Council?)"

11 Q Is that your addition or Mr. De la Torre's?

12 A Oh, I -- I don't know. It -- but you -- you  
13 know, look, I -- I -- he -- he had Mr. Ambrose's legal  
14 opinion. I can only assume that he read it and that he  
15 understood it.

16 Q And if you turn to page 1047, there's a  
17 reference to "Government Code Section 91003." Do you  
18 see that?

19 A Where is that?

20 Q On Bates label 1047, fourth paragraph from the  
21 bottom, single line.

22 A "Are you familiar with Government Code Section  
23 91003?"

24 Q Is that your addition, or is that Mr. de la  
25 Torre's?



1           A     Oh, I -- I don't -- I don't know. You know,  
2           again, I -- I -- my recollection, you know, just from  
3           yesterday seeing the Dan Ambrose opinion, I -- I believe  
4           that government code section is referenced in that  
5           opinion.

6           Q     So when you say -- and I don't think you said  
7           "scriveners." What word did you use to describe your  
8           role in the preparation of this document?

9           A     Yeah, you know, I think I -- I said -- I said  
10          stenographer, but I -- I thought that probably wasn't  
11          a -- also wasn't a fair characterization. "Scrivener"  
12          maybe is a little bit better.

13          Q     Where was it written? Were you sitting  
14          together at a computer?

15          A     I don't remember.

16          Q     Would it have been on the phone?

17          A     I don't remember.

18          Q     Would it have been a Zoom meeting?

19          A     I don't remember. I'm not sure that I was  
20          really all that good at Zoom back then.

21          Q     Is there any portion of this letter that you  
22          believe is attributable to you?

23          A     Do you want me to go through the whole thing?

24          Q     I do.

25          A     Okay. And by attributable to me, I mean, I --

1 I believe I typed --

2 Q And when you there -- and let me be clear on  
3 that. You testified that you were serving solely as a  
4 scrivener and writing down what Oscar de la Torre said  
5 to you?

6 A That's not my testimony.

7 Q What is your testimony?

8 A It's exactly what I said before.

9 Q Which was what?

10 A Which is not consistent with what you said.

11 Q What is a scrivener, Mr. Shenkman?

12 A I -- I don't know that I could define that  
13 term.

14 Q What does a stenographer do, Mr. Shenkman?

15 A You know, I -- I think of a stenographer as  
16 being sort of clerical. And I suppose my understanding  
17 of the word "scrivener" is probably informed by my work  
18 in patent law. There is -- in fact, there's a -- a  
19 phrase called a -- "a scrivener's error" in patent law.

20 Q Did you change the words Mr. de la Torre spoke  
21 to you when you wrote them on this page?

22 A I -- it -- yeah, I -- I don't -- I don't know.  
23 It -- I -- I'm not suggesting that what is written here  
24 was simply Mr. de la Torre dictating something to me  
25 which I typed. That -- that's what I would think of as

1 stenography. I -- I -- by scrivener, I think, you know,  
2 I think of using that term to describe taking thoughts  
3 and converting them onto a piece of paper which is not  
4 simply word for word.

5 Q Mr. de la Torre -- well, let me ask you this.  
6 If Mr. de la Torre described these Questions for Cardona  
7 and Statement as collaboratively having been written  
8 with you, would that have been a fair statement?

9 A I don't know. Is that what he said?

10 Q Yes.

11 A Okay. You know, it -- his memory may be  
12 better than mine. You know, I -- I won't take issue  
13 with it.

14 Q I'm going to mark a document that has been --  
15 well, actually, I'm going to bring it up. It's  
16 previously marked as Exhibit 18, Mr. Shenkman.

17 (Exhibit 18 was previously marked for  
18 identification.)

19 A Okay. More emails.

20 Q Have you seen this document before?

21 A Yeah, probably.

22 Q At the top, does this appear to be a true and  
23 accurate copy of a document that you forwarded to Mr. de  
24 la Torre -- or an email you sent to Mr. de la Torre on  
25 January 26, 2021?

1 not speak to authentication of any documents. But all  
2 right. Well, then, let's keep going.

3 MR. BERRY: Okay.

4 BY MR. BERRY:

5 Q Did Mr. Trivino-Perez call you after the  
6 meeting?

7 A I -- I don't recall that happening, no.

8 Q I'm going to bring up a document that I think  
9 this one is a new document to be marked. I believe  
10 it'll be Exhibit 64. And ask if you have seen this  
11 before.

12 (Exhibit 64 was marked for  
13 identification.)

14 A So it appears to be an email from Mr.  
15 Trivino-Perez to me.

16 Q Dated July 23, 2021; is that correct?

17 A Right. It -- it doesn't appear to have any  
18 text.

19 Q Correct. But do you understand by looking at  
20 this that Mr. Trivino-Perez was forwarding you the  
21 tentative ruling he received from the Court on July 23,  
22 2021 at 8:38 in the morning?

23 A That's what it looks like. And the thing that  
24 sticks out to me about this is that Sue Himmelrich is  
25 also being sent it -- this tentative ruling by the

1 Court. It seems little bit odd.

2 Q Why did Mr. Trivino-Perez -- well, why is it  
3 odd, by the way?

4 A Because Ms. Himmelrich is not counsel on this  
5 case as far as I know.

6 Q Why did Mr. Trivino-Perez send you the Court's  
7 tentative ruling on July 23, 2021?

8 A I don't know. That's a question for Mr.  
9 Trivino-Perez.

10 Q Did you talk to Mr. Trivino-Perez about the  
11 tentative ruling?

12 A I'm just trying to -- you know, I don't recall  
13 the date of our dinner and whether it was before or  
14 after July 23rd --

15 Q Did you have a conversation with Mr. Perez  
16 prior to the time he appeared to argue at the hearing  
17 where the tentative ruling would be at issue?

18 A Well, that -- that would be impossible based  
19 on the timestamps that are shown on this document.

20 Q So is that no?

21 A Well, I certainly don't recall it. And what  
22 I -- what I'm pointing out is that it looks like this is  
23 a tentative -- well, at least according to the subject  
24 line on the first page, it appears to be a tentative  
25 ruling corresponding to a hearing at 9:15 a.m. on July

1 (Exhibit 65 was marked for  
2 identification.)

3 A Trying to confuse me.

4 Q Do you have that in front of you, sir?

5 A Not yet. Okay.

6 Q Is this an email from Mr. Trivino-Perez to  
7 you, Mr. Shenkman, dated October 12, 2021?

8 A That's what it appears to be.

9 Q Do you recall receiving this email?

10 A Not specifically, but I'm sure I did.

11 Q And it attaches an email from a Ms. Kirsten  
12 Galler of the City of Santa Monica and some related  
13 documents or some other documents related to the  
14 lawsuit. Do you see that?

15 A It looks like Ms. Galler, I hope I'm  
16 pronouncing that correctly, says, "Will, Attached please  
17 find the City's Initial Draft Statement of Undisputed  
18 Facts for Purposes of the October 19, 2021 Status  
19 Conference." So I suppose Mr. Trivino-Perez was  
20 probably forwarding that to me.

21 Q And it looks like, from the timestamps on the  
22 first page, Mr. Trivino-Perez forwarded these to you  
23 within six minutes of receiving them from Ms. Galler; is  
24 that correct?

25 A I -- I guess. I don't know.

1 A Oh, okay. So then what was the question?

2 Q Did Mr. Trivino-Perez tell you about a meeting  
3 he had with the City's Attorneys about stipulated facts  
4 in this matter?

5 A I -- I don't recall any such conversation.

6 Q I'm going to bring up, please, next email,  
7 which I think will come up, I believe, let's see, as 68.

8 (Exhibit 68 was marked for  
9 identification.)

10 A Okay.

11 Q Do you have that in front of you?

12 A I do.

13 Q Is this an email from Mr. Trivino-Perez to you  
14 on November 9, 2021?

15 A That's what it appears to be.

16 Q And it doesn't have any text specific from  
17 him, but he is forwarding an email from Ms. Silberberg  
18 dated November 7, 2021 just six minutes before it was  
19 forwarded. Do you see that?

20 A On November 9th, yes.

21 Q Why was Mr. Trivino-Perez sending you this  
22 correspondence in this case?

23 A I -- I don't know. You'd have to ask Mr.  
24 Trivino-Perez.

25 Q Did you respond to Mr. Trivino-Perez about his

1 Q Have you seen this document before?

2 A Yeah, I think I saw it in the -- the Maria  
3 Loya deposition a couple days ago.

4 Q Is this a communication from you, Kevin  
5 Shenkman, to Mr. de la Torre and Ms. Loya dated on or  
6 about -- or dated on Monday April 26, 2021?

7 A I believe it is.

8 Q And there is an attachment that when you read  
9 on the first page, the attachment is the "sm dem club  
10 presentation outline." Do you see that

11 A Yes.

12 Q So what is the SM Dem Club?

13 A I believe it's the -- that is the Santa Monica  
14 Democratic Club.

15 Q Did you make a presentation with Mr. de la  
16 Torre and Ms. Loya to the Santa Monica Dem Club?

17 A Yes.

18 Q If you turn to the exhibits attached, who  
19 prepared this outline?

20 A So I -- I -- I certainly typed it, and this  
21 was my effort to combine the ideas that -- that had been  
22 discussed and organize them as well.

23 Q So did you talk to Mr. de la Torre and Ms.  
24 Loya about the contents of the outline?

25 A Certainly at some point I -- I believe I did.



1 Q And did you have a meeting with them to talk  
2 about a presentation to the Santa Monica Dem Club prior  
3 to the creation of this outline?

4 A I -- I'm not sure one way or the other.

5 Q Did you ultimately deliver these talking  
6 points at a meeting at the Santa Monica Dem Club?

7 A So my recollection is that Oscar and Maria  
8 both delivered remarks. I think they touched on some  
9 but not all of the -- the points here. And I also  
10 delivered remarks, and I think I -- I think I had  
11 adhered to this outline at -- at -- at least to a  
12 significant extent.

13 Q Was the presentation to the Santa Monica Dem  
14 Club by Zoom?

15 A Well, it -- it -- it was certainly by  
16 videoconference.

17 Q And where were you sitting when you did the  
18 videoconference?

19 A I was at the home of Maria Loya and Oscar de  
20 la Torre.

21 Q Did you read the deposition transcripts of  
22 Oscar de la Torre before coming to your deposition  
23 today? His deposition in this case.

24 A No.

25 Q Who is Maria Loya?

1           A     We have not, are not, and will not pay -- be  
2     paying Mr. Trivino-Perez.

3           Q     I'm going to bring up the next exhibit, which  
4     I believe should be 72. Do you have it in front of you,  
5     sir?

6           A     And I have a question.

7           Q     Yes?

8           A     Are you being compensated by Gibson, Dunn &  
9     Crutcher --

10          Q     Well, if you ever get me on the stand, I'll  
11     be --

12          A     For your work on this --

13          Q     If you ever get me on the stand, I'll be happy  
14     to answer you that question, Mr. Shenkman.

15          A     Maybe we'll have to do that.

16          Q     Is Exhibit 72 in front of you?

17                     THE WITNESS: What about Ms. Galler? Are  
18     you -- do you attend Gibson, Dunn & Crutcher alumni  
19     events?

20     BY MR. BERRY:

21          Q     Mr. Shenkman, Exhibit 72.

22                     (Exhibit 72 was marked for  
23                     identification.)

24          A     That's what I thought.

25          Q     Do you have Exhibit 72 in front of you?

1 A I do.

2 Q Is this a communication from Will  
3 Trivino-Perez to you, Mr. Kevin Shenkman, on December  
4 23, 2021 at 4:07 p.m.?

5 A That's what it appears to be.

6 Q And if you go further down in the email trail,  
7 this is Mr. Trivino-Perez sending you an email that he  
8 received from Ms. Silberberg wanting to discuss  
9 deposition dates. Do you see that?

10 A Yeah, I mean, it's -- I -- I see that there  
11 are deposition dates discussed in Ms. Silberberg's  
12 email.

13 Q Did you have a conversation with Mr.  
14 Trivino-Perez about deposition dates in this case?

15 A I don't remember if I had a conversation with  
16 Mr. Trivino-Perez. You know, I -- I -- I imagine he was  
17 sending this to me, you know, for -- because there's --  
18 there's a discussion at the end of the first page. "Mr.  
19 Shenkman: please let us know" -- wait a second. Oh,  
20 yeah. "Mr. Shenkman: please let us know a) if you will  
21 agree to accept service of a deposition subpoena on his  
22 behalf; b) if he is available on the following dates:  
23 January 13, 14, or 18, 2022; or c) if we need to contact  
24 him directly for his availability and service issues."  
25 So you know, I took this to -- as the forwarding of this

1           A     I mean, look, trying to piece it together,  
2           there was the -- the list of purported facts was being  
3           circulated around that time. But I -- I can't say for  
4           certain.

5           Q     I'll have you look at Exhibit 74. Is that in  
6           front of you, sir?

7                     (Exhibit 74 was marked for  
8                     identification.)

9           A     I see it.

10          Q     Is this a communication from Mr. Wilfred  
11          Trivino-Perez to you, Mr. Shenkman, on October 6, 2021?

12          A     That's what it appears to be.

13          Q     And what is it attaching and sending to you?

14          A     Well, if it -- going to the second and third  
15          pages, it appears to be a minute order.

16          Q     Have you seen this before?

17          A     Well, it was sent to me, and so probably yes.

18          Q     And this is a minute order from an Oscar de la  
19          Torre v. City of Santa Monica case from September 30,  
20          2021; is that correct?

21          A     That's what it appears to be.

22          Q     Did you ask Mr. de la Torre to send this to  
23          you?

24          A     I do not recall asking.

25          Q     Why did he send it to you?

1 A Yup.

2 Q Is this an email from you, Mr. Shenkman, to  
3 Mr. Trivino-Perez copying Mr. de la Torre on September  
4 30, 2021?

5 A I believe this is email -- the email that I  
6 referenced earlier in the deposition.

7 Q And when you say referenced earlier in the  
8 deposition, what do you mean by that?

9 A I believe I said that I recalled responding to  
10 Mr. Trivino-Perez with a thumbs up about something.

11 Q And right.

12 A And I --

13 Q And this is the three thumb --

14 A I believe this is that -- I believe this is  
15 that email. Apparently it got three thumbs up, not just  
16 one. It was excellent reasoning by the Court.

17 Q Did you ask Mr. Trivino-Perez to send you the  
18 order that you gave three thumbs up to?

19 A I don't recall asking Mr. Trivino-Perez, no.

20 Q Do you know why he sent it to you?

21 A You'd have to ask Mr. Trivino-Perez.

22 Q All right. If we can go to, what I believe,  
23 is going to be 76. Let me know when you're there.

24 (Exhibit 76 was marked for  
25 identification.)

1 A Okay.

2 Q Is this an email from Mr. Trivino-Perez to  
3 you, Mr. Shenkman, dated December 30, 2021 -- virtual  
4 connectivity interruption -- Exhibit 76 says tentative  
5 ruling --

6 THE REPORTER: Counsel, I'm so -- I'm so  
7 sorry, but you cut out.

8 MR. BERRY: Sorry.

9 THE REPORTER: Yeah.

10 BY MR. BERRY:

11 Q If you look at the attachments to Exhibit 76,  
12 it appears to be a tentative ruling in this case  
13 relating to a September 30, 2021 hearing. Is that what  
14 you're seeing?

15 A Yup.

16 Q Do you know why Mr. Trivino-Perez sent this to  
17 you?

18 A You'd have to ask him.

19 Q Did you ask him why he sent it to you?

20 A I have not asked him to -- at least not that I  
21 can recall have -- have -- have I asked him why he sent  
22 this to me.

23 Q And I'm going to go to an exhibit, 77, please.

24 A I -- I appreciate that he did send it to me.

25 It was a --

1           A     I -- the -- the one thing that comes to mind  
2     is I believe Mr. Trivino-Perez filed the notice of  
3     related case. Other than that, I -- I don't believe  
4     there has been any involvement in the CVRA action by Mr.  
5     Trivino-Perez.

6           Q     We are going to load up a document that we  
7     will, I believe, designate as Exhibit 79.

8                     (Exhibit 79 was marked for  
9                     identification.)

10          A     I have a 78 but not a 79.

11          Q     Yeah, it's still coming. It's a little bit  
12     bigger. It should be there now for you, Mr. Shenkman.

13          A     Okay.

14          Q     Is this a true and accurate copy of your  
15     declaration filed in support of the oppositions of  
16     motions to compel in this case?

17          A     If you say so.

18          Q     Well, I'm asking you.

19          A     I mean, I -- I -- I guess. I --

20          Q     Do you remember signing a declaration in  
21     support of Mr. de la Torre's oppositions to the motion  
22     to compel?

23          A     Yeah, vaguely.

24          Q     Paragraph 3, please, if you would read that  
25     for me? You could read it to yourself. And just, well,

1 but I don't -- I don't recall specifics.

2 Q Who drafted this declaration?

3 A I'm sorry?

4 Q Who drafted your declaration?

5 A Well, it's my signature, so I'm responsible  
6 for it. And I don't --

7 Q No, I understand you're responsible. I  
8 understand that. Who drafted it?

9 A Yeah, I don't -- I don't recall. You know,  
10 it -- it -- it may have been -- yeah, I -- I -- I don't  
11 recall.

12 Q Did you submit a declaration in connection  
13 with a motion for summary judgment filed by Mr. de la  
14 Torre in this case?

15 A I signed a declaration in support of a motion  
16 for summary judgment in this case.

17 Q Whose idea was it to prepare that declaration?

18 A I -- I don't know. I don't remember.

19 Q Was it yours, sir?

20 A Was it my idea? I --

21 Q Yeah.

22 A I mean, Mr. Trivino-Perez is the attorney for  
23 the plaintiffs in this case. He's responsible for case  
24 strategy and figuring out what evidence he wants to  
25 present in -- in -- in support of the summary judgment



1 motion that -- that he filed. Yeah, that's -- that's  
2 his responsibility.

3 Q No, I understand whose responsibility it is.  
4 Whose idea was it?

5 A I -- I don't know.

6 Q Do you know how long it took you to draft this  
7 declaration?

8 A Which declaration?

9 Q The Declaration of Kevin Shenkman in Support  
10 of the Motion for Summary Judgment.

11 A Yeah, I don't --

12 MR. TRIVINO-PEREZ: Misstates --

13 A I -- I don't recall --

14 THE WITNESS: Go ahead, Mr.

15 Trivino-Perez. I'm sorry.

16 MR. TRIVINO-PEREZ: I said it misstates  
17 his testimony as far as drafting the declaration.

18 BY MR. BERRY:

19 Q Go to Exhibit 80 if you can, please.

20 (Exhibit 80 was marked for  
21 identification.)

22 A Okay. I'm looking at Exhibit 80.

23 Q Is this your declaration in support of the  
24 motion for summary judgment in this case?

25 A It appears to be.

1 Q Looking at it now, do you know who drafted  
2 this declaration?

3 A Yeah, I -- I don't recall the specifics of who  
4 drafted and revised, whatever. That is my signature at  
5 the bottom of the third page of this exhibit, and I take  
6 full responsibility for the testimony in this  
7 declaration.

8 Q Were you compensated for the drafting of this  
9 declaration?

10 MR. TRIVINO-PEREZ: Objection, misstates  
11 the testimony.

12 MR. BERRY: Thank you, Mr. Trivino-Perez.  
13 Let me rephrase that.

14 BY MR. BERRY:

15 Q Were you compensated for working on this  
16 declaration? Referring specifically to Exhibit 80.

17 A I have not been yet.

18 Q And what does that mean?

19 A Well, I -- I think that there may be an  
20 argument in the future that this work is related enough  
21 to the CVRA action that even my time here today could  
22 perhaps be compensated in an award in the CVRA case.  
23 I'm not sure about that.

24 Q Are you saying that it is possible that -- let  
25 me phrase it this way. Are you saying it's possible

1 that someone other than Mr. de la Torre will be paying  
2 for the work that you've provided to Mr. de la Torre in  
3 this case?

4 A Not someone other than Mr. de la Torre, the  
5 City of Santa Monica.

6 Q And when you say the City of Santa Monica, you  
7 mean as a result of an attorneys' fees application you  
8 might make in the CVRA litigation; is that correct?

9 A Correct.

10 Q And would that be true for sort of any of the  
11 work you've done related to this case? You think it  
12 would all be swept up potentially in the CVRA attorneys'  
13 fee award?

14 A I have not researched the issue, and I am not  
15 sure.

16 Q But either way, Mr. de la Torre is not paying  
17 it, correct?

18 A Well, except to the extent that Mr. de la  
19 Torre is a Santa Monica taxpayer. But you know, the  
20 City of Santa Monica doesn't seem to care about that.

21 Q I'm going to pull up what I think is going to  
22 be Exhibit 81.

23 (Exhibit 81 was marked for  
24 identification.)

25 A Okay.

1        meant by "by April it may be pointless." Is that  
2        correct?

3            A        I -- I -- I don't know what I meant there.  
4        I'm sure I meant something, but I -- I just -- sitting  
5        here today I can't think of what it was.

6            Q        All right. So I have a series of things, and  
7        we're moving along here despite the lack of a  
8        stipulation from earlier. And I got one more round of  
9        sort of those emails I want to go through in a moment,  
10       but I'm not trying to short-circuit something else  
11       quickly. And I think we've had some conversations, or  
12       I've asked some questions to you, Mr. Shenkman, about  
13       your involvement in the preparation of various documents  
14       in connection with this litigation. And I can introduce  
15       those documents and I can show them to you, and I'm  
16       happy to do that. But what I want to do in advance just  
17       to see if you have any clarity on the issue before I do  
18       it, if we don't need to refresh you lection [sic] that's  
19       okay, you can tell me whether you had nothing to do with  
20       it or not based on it. And if we look at it, we'll look  
21       at it. Does that sound fair?

22           A        How about I just don't answer those questions  
23       at all?

24           Q        Have you seen the opposition to the demurrer  
25       to Plaintiffs' first amended complaint filed in this

1 case?

2 A Maybe.

3 Q Were you involved in anyway of the preparation  
4 of the opposition to the demurrer to the first amended  
5 complaint in this case?

6 A I don't know.

7 Q Have you seen Plaintiffs' opposition to  
8 Defendants' request for judicial notice filed September  
9 30, 2021 --

10 A Okay. You know what? Look, this deposition  
11 has been going on for, let's see here, three, six -- six  
12 hours and 49 minutes less the -- less the breaks, so  
13 probably about six hours. This is a deposition of  
14 opposing litigation counsel. If you don't have  
15 something relevant, then we're done.

16 Q Were you involved in the preparation of  
17 Plaintiffs' opposition to Defendant's request for  
18 judicial notice filed September 30, 2021?

19 A Next question.

20 Q Are you not going to answer my question?

21 A Next question. Do you have any other  
22 questions? Do you have any questions that are relevant?

23 Q Were you involved in the preparation of the  
24 second amended complaint filed in this action?

25 A Do you have any relevant questions?

1 Q Are you going to answer my question?

2 A Next question.

3 Q Were you involved in the preparation of the  
4 opposition to demurrer to Plaintiffs' second amended  
5 complaint --

6 A Okay.

7 Q Filed on September 30, 2021?

8 THE WITNESS: Mr. Trivino-Perez, I -- I'm  
9 ready to leave. I -- I find this entire line of  
10 questioning to be insulting and harassing.

11 If the point that you're trying to make  
12 is that Mr. Trivino-Perez is not capable of representing  
13 his clients and litigating this case as the attorney for  
14 the plaintiffs, I -- I wonder why it is in your mind or  
15 in the mind of the racist City of Santa Monica that  
16 could be. Why is it that they think and that you think  
17 that Mr. Trivino-Perez is apparently incapable of  
18 litigating this case?

19 MR. TRIVINO-PEREZ: I am --

20 BY MR. BERRY:

21 Q The point I'm trying --

22 MR. TRIVINO-PEREZ: I am used --

23 BY MR. BERRY:

24 Q The point I'm trying to --

25 MR. BERRY: But go ahead, Mr.

1 Trivino-Perez.

2 MR. TRIVINO-PEREZ: Santa Monica doing  
3 this. I am so used to it. And they're trying to  
4 silence the only Latino bullies, so I am so used to  
5 this. It's appalling, but at the same time this is the  
6 world we live in. And Santa Monica, under the guise of  
7 being the most liberal city, it's a sham.

8 BY MR. BERRY:

9 Q Well, the point I'm trying to make is, Mr.  
10 Shenkman, were you in anyway involved in the opposition  
11 to the demurrer to Plaintiffs' second amended complaint  
12 filed on September 30, 2021?

13 A That's not a point.

14 Q Well, that's my question.

15 A That may be your question, but we are beyond  
16 the point of harassing and insulting. And -- and --

17 Q Are you going to answer --

18 A And by the way, your repetition of my last  
19 name, is that supposed to be referring to the end of my  
20 last name ending in M-A-N?

21 Q Well, that's supposed to refer to you, Mr.  
22 Shenkman. I have no problem with people calling me Mr.  
23 Berry. I don't have any concern.

24 A Yeah, and --

25 Q Are you going to answer the question I asked,

1 sir?

2 A And -- and you're apparently also tone deaf.

3 Q Are you going to answer my question, sir?

4 A Your questions have turned -- well, they --  
5 no, they didn't turn. I think they frankly started as  
6 insulting and harassing. We are way beyond what could  
7 potentially, even conceivably, be allowed of a  
8 deposition of opposing litigation counsel. So I am  
9 asking you if you have any more relevant questions. If  
10 not, then we'll call it a day.

11 Q I do have more relevant questions, sir

12 A Great. Please ask them.

13 Q Were you involved in the preparation of Mr. de  
14 la Torre's objections and responses to Defendants' first  
15 set of document requests?

16 A Try again.

17 Q Are you going to answer my question?

18 A Try again.

19 Q Were you involved in the plainer [sic] Oscar  
20 de la Torre's objections and responses to Defendants'  
21 first set of special interrogatories?

22 A You know, I'm not even paying attention to  
23 your questions now. You're just repeating --

24 Q Do you understand my question?

25 A You're just repeating the same nonsense for



1 the purpose of harassment.

2 Q Are you going to answer my question, sir?

3 A I think I just did.

4 Q Were you in anyway involved with the  
5 opposition to motion to compel further responses to the  
6 document requests served by Mr. de la Torre in this  
7 case?

8 A I don't even know what documents you're  
9 talking about.

10 Q Were you involved with the responses related  
11 to the document requests served by Mr. de la Torre? Do  
12 you understand my question, sir?

13 A No, I kind of lost interest. And that's what  
14 happens. I -- when -- when I get harassed, I sort of  
15 shut down.

16 MR. TRIVINO-PEREZ: Mr. Berry?

17 MR. BERRY: Yes.

18 MR. TRIVINO-PEREZ: Given that Sue  
19 Himmelrich was cc'd on some of the orders in the case,  
20 was she involved in the creation of any of these  
21 questions? Does she have a special interest? That's  
22 how pathetic this sounds. This is very harassing.

23 MR. BERRY: I understand you disagree --

24 MR. TRIVINO-PEREZ: Hold on. Well,  
25 don't --

1 MR. BERRY: Or want to make something --

2 MR. TRIVINO-PEREZ: I was speaking, sir.

3 I was speaking. I don't think Judge --

4 MR. BERRY: Turn your video on, Mr.

5 Trivino-Perez.

6 MR. TRIVINO-PEREZ: I --

7 MR. BERRY: That would be helpful.

8 MR. TRIVINO-PEREZ: I do not think that  
9 Judge Fruin will be okay with this line of questioning.  
10 It's ridiculous.

11 BY MR. BERRY:

12 Q Were you involved with any discovery responses  
13 in this case, Mr. Shenkman?

14 A Do you think that Mr. Trivino-Perez is  
15 incapable of litigating this case because his name ends  
16 in a Z and it must be done by an attorney whose name  
17 ends in M-A-N or B-E-R-G?

18 Q Well, I'm asking you what your involvement was  
19 and nothing else.

20 A Yeah, and -- and I think I am trying to  
21 explain to you why this constant questioning is both  
22 insulting and harassing and inappropriate particularly  
23 in light of the -- of the, quote, severely restrictive  
24 nature of any deposition of opposing counsel.

25 Q I'm going to put up as an exhibit, sir, I

1           A     I believe it's a little bit over four years.  
2     And she's capable of litigating cases, too.

3           Q     Who is Stanley Epstein?

4           A     I believe Stanley Epstein is a resident of  
5     Santa Monica.

6           Q     There are a series of other emails that were  
7     produced in this case between you and Mr. Trivino-Perez  
8     and you and Mr. de la Torre forwarding various documents  
9     related to this litigation. We can go through those,  
10    and it'll take some time. My question is will your  
11    answer be the same that you don't know why Mr.  
12    Trivino-Perez is sending you documents related to -- for  
13    any document he's sent you in this case?

14          A     I don't know why anyone does anything. You  
15    would have to ask that person why they do or don't do  
16    something.

17          Q     And do you recall specifically asking Mr.  
18    Trivino-Perez or Mr. de la Torre to send you any  
19    documents related to this case?

20          A     I don't recall asking anyone to send me  
21    anything.

22          Q     And if mister --

23          A     That's not to say that it didn't happen, but I  
24    certainly don't recall it sitting here today.

25          Q     Now, if Mr. Trivino-Perez produced to us in

1 this litigation an email document between you and  
2 himself or Mr. de la Torre, is there any reason you can  
3 think of why that document would not be authentic?

4 A I have no idea.

5 Q Yeah. And by that I mean, you provided Mr.  
6 Trivino-Perez with the emails that you searched for and  
7 found, correct?

8 A Yes.

9 Q And when you conducted the search of the  
10 emails that you produced to Mr. Trivino-Perez to produce  
11 to us, you believed the emails you were providing to Mr.  
12 Trivino-Perez to be actual emails that you had received  
13 from either him or Mr. de la Torre; is that correct?

14 A I guess.

15 Q Did any of the emails you provided to your  
16 counsel in this case seem to you like they were not  
17 authentic emails you have received or sent?

18 A So my counsel in this case is Shenkman &  
19 Hughes PC.

20 Q My apologies. That you provided to Mr. de la  
21 Torre's counsel in this case.

22 A Okay. I -- I forgot the question.

23 Q Okay. When you provided emails to Mr.  
24 Trivino-Perez in this case for production after you'd  
25 done your review, did you see, in looking at any of the

1 emails you sent him, any reason to think they were not  
2 authentic emails that you had sent or received?

3 A I -- I -- I don't understand your question.

4 Q And I'm trying to short-circuit some time. We  
5 had additional emails that relate to communications that  
6 Mr. Trivino sent you forwarding documents. And my  
7 question is is for any such email that you gave to Mr.  
8 Trivino-Perez to give to us, do you have any reason to  
9 believe those were not authentic emails you received in  
10 the ordinary course of your business?

11 A I -- I -- I'm not really sure how to answer  
12 that.

13 Q Did you search for emails to produce in this  
14 case?

15 A I searched for emails.

16 Q And you provided emails to Mr. Trivino-Perez,  
17 correct?

18 A That is correct.

19 Q Did you give any emails to Mr. Trivino-Perez  
20 that you thought were fakes?

21 A Were fakes?

22 Q Sure, something that not that you faked it,  
23 but that you think is an inauthentic document.

24 A No.

25 Q And I'm just trying to get us out of here a

1 little quicker, Mr. Shenkman, without keeping us from  
2 going through all of them. We've gone through a bunch.  
3 If there's an email that Mr. Trivino provided to me in  
4 this case that's to you or from you, do you agree that  
5 there's confidence that that is an authentic email that  
6 came to you or from you as indicated on the document?

7 A Yeah, except that I don't know what Mr.  
8 Trivino-Perez did or didn't provide.

9 Q Did you provide Mr. Trivino-Perez with any  
10 documents, any emails, that you believed were not  
11 authentic emails that were either to you or from you?

12 A No, I didn't forge any documents.

13 Q I'm not asking you if you forged it. I just  
14 wanted to know if you had any questions about their  
15 authenticity, sir.

16 A No.

17 Q So if we receive an email with your name on  
18 it, a to/from for you, from Mr. Trivino-Perez in this  
19 case, you don't question the authenticity of that  
20 document?

21 A Well, again, I don't know what Mr.  
22 Trivino-Perez provided you, but I have no reason to  
23 doubt Mr. Trivino-Perez or his candor, honesty.

24 MR. BERRY: All right. Mr. Shenkman,  
25 that's all I have for today. Thank you.

# Exhibit 4

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

OSCAR DE LA TORRE and )  
ELIAS SERNA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CITY OF SANTA MONICA and )  
DOES 1 through 10, inclusive )  
 )  
Defendants. )  
\_\_\_\_\_ )

CASE NO. 21STCV08597

VIDEO-CONFERENCE DEPOSITION OF  
ELIAS SERNA  
Santa Monica, California  
Friday, January 21, 2022

Job No. 5041253  
Reported by:  
Damon M. LeBlanc  
CSR No. 11958  
Pages 1 - 100



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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

OSCAR DE LA TORRE and )  
ELIAS SERNA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CITY OF SANTA MONICA and )  
DOES 1 through 10, inclusive )  
 )  
Defendants. )  
\_\_\_\_\_ )

CASE NO. 21STCV08597

Video-conference deposition of ELIAS SERNA,  
taken remotely via Zoom Web conference on behalf of the  
defendant, with the witness appearing in Santa Monica,  
California, beginning at 9:38 p.m. and ending at  
12:04 p.m., Friday, January 21, 2022, before  
Damon M. LeBlanc, Certified Shorthand Reporter,  
Number 11958.

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APPEARANCES OF COUNSEL:

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I N D E X

THE WITNESS:

ELIAS SERNA

Examination by:	Page
MR. BERRY:	5, 94
MR. TRIVINO-PEREZ:	94

E X H I B I T S

Exhibit	Description	Page	Marked
Exhibit 26	VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF	54	
Exhibit 27	VERIFIED FIRST AMENDED COMPLAINT	54	
Exhibit 28	VERIFIED SECOND AMENDED COMPLAINT	54	
Exhibit 48	DEFENDANT CITY OF SANTA MONICA'S NOTICE OF DEPOSITION OF PLAINTIFF ELIAS SERNA	11	

WITNESS INSTRUCTED NOT TO ANSWER

Page	Line
62	15

1 Santa Monica, California, Friday, January 21, 222

2 9:38 a.m. - 12:04 p.m.

3  
4 ELIAS SERNA,

5 having been first duly sworn by the certified shorthand  
6 reporter, was examined and testified as follows:

7  
8 EXAMINATION

9 BY MR. BERRY:

10 Q Good morning, Mr. Serna. My name is  
11 Robert Berry. I represent the City of Santa Monica in  
12 the litigation pending before the Superior Court of the  
13 State of California, County of Los Angeles,  
14 Oscar De La Hoya, Elias Serna versus City of  
15 Santa Monica.

16 A De La Torre.

17 Q What did I say?

18 MR. TRIVINO-PEREZ: De La Hoya. That's the  
19 boxer.

20 MR. BERRY: I knew I was going to do it. I'm  
21 glad I did it first.

22 BY MR. BERRY:

23 Q De La Torre versus the City of  
24 Santa Monica. Are you familiar with that case, sir?

25 A Yes.

Page 5

1 A Absolutely.

2 Q Is there any injury that happened to  
3 just you and not to voters in general? Did you  
4 understand my question, Mr. Serna?

5 A Yes.

6 Q Did you answer? I didn't hear.

7 A I didn't yet.

8 MR. TRIVINO-PEREZ: I would like to interject  
9 that we allow Mr. Serna time to process through the  
10 question. He requires that time. And if we're  
11 prompting to respond before he is ready, I think that  
12 is a disservice to his testimony.

13 MR. BERRY: Thank you, Mr. Trivino-Perez. I  
14 appreciate that.

15 BY MR. BERRY:

16 Q Mr. Serna, you can have all the time you  
17 want, whether I prompt you or otherwise.

18 A Can you repeat the question?

19 MR. BERRY: Can you read it back, please,  
20 Damon?

21 (The record was read by the certified  
22 shorthand reporter as follows:

23 "Q Is there any injury that  
24 happened to just you and not to voters  
25 in general?"?)

1 THE WITNESS: No. I think it happened to  
2 voters in general and specifically Black and Brown  
3 voters in the Pico neighborhood and throughout  
4 Santa Monica?

5 BY MR. BERRY:

6 Q Mr. Serna, have you ever attended a City  
7 Council meeting?

8 A Several.

9 Q And I mean specifically a Santa Monica  
10 City Council meeting?

11 A Numerous.

12 Q Were you at the January 26, 2021 Zoom  
13 meeting of the City Council?

14 A I can't remember.

15 Q If it helps you, this would be the  
16 meeting where Mr. De La Torre was asked to recuse  
17 himself. And ultimately there was a vote on his  
18 disqualification. Does that help remind you whether  
19 this is a meeting you attended by Zoom or not?

20 A I can't remember.

21 Q When did you first find out that  
22 Mr. De La Torre was disqualified from closed meetings  
23 about the CVRA litigation based upon the conflict of  
24 interest?

25 A Around the time it happened.

# Exhibit 5

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

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PICO NEIGHBORHOOD ASSOCIATION)	)		
and MARIA LOYA,	)		
	)		
Plaintiffs,	)		
	)	Case No. BC616804	
vs.	)		
	)		
CITY OF SANTA MONICA,	)		
CALIFORNIA; and DOES 1-100,	)		
inclusive,	)		
	)		
Defendants.	)		
-----	)		

VIDEOTAPED DEPOSITION OF OSCAR DE LA TORRE  
Los Angeles, California  
Wednesday, May 9, 2018  
Volume I

Reported by:  
KATHLEEN E. BARNEY  
CSR No. 5698  
Job No. 2907635  
PAGES 1 - 413



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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

_____	)	
PICO NEIGHBORHOOD ASSOCIATION)	)	
and MARIA LOYA,	)	
	)	
Plaintiffs,	)	
	)	No. BC616804
vs.	)	
	)	
CITY OF SANTA MONICA,	)	
CALIFORNIA; and DOES 1-100,	)	
inclusive,	)	
	)	
Defendants.	)	
_____	)	

Videotaped deposition of OSCAR DE LA TORRE,  
Volume I, taken on behalf of Defendants, at 333  
South Grand Avenue, Los Angeles, California,  
beginning at 9:43 a.m. and ending at 6:48 p.m. on  
Wednesday, May 9, 2018, before KATHLEEN E. BARNEY,  
Certified Shorthand Reporter No. 5698.

1 Veritext Legal Solutions, and I am the videographer.  
2 The court reporter is Kathy Barney from the firm  
3 Veritext Legal Solutions.

4 I'm not related to any party in this action,  
5 nor am I financially interested in the outcome. 09:45:19

6 Counsel and all present in the room and  
7 everyone attending remotely will now state their  
8 appearances and affiliations for the record. If  
9 there are any objections to proceeding, please state  
10 them at the time of your appearance, beginning with 09:45:35  
11 the noticing attorney.

12 MR. MCRAE: Go ahead. You're the plaintiff.  
13 Make your appearance.

14 MR. SHENKMAN: Kevin Shenkman for plaintiffs.

15 MR. GORDON: Ellery Gordon for the 09:45:47  
16 plaintiffs.

17 MR. MCRAE: Marcellus McRae, here also with  
18 Helen Galloway, of Gibson Dunn & Crutcher, appearing  
19 on behalf of the defendant.

20 Swear in the witness, please. 09:45:57

21  
22 OSCAR DE LA TORRE,  
23 having been administered an oath, was examined and  
24 testified as follows:

25 ////

1 THE VIDEOGRAPHER: Thank you. You may  
2 proceed.

3

4 EXAMINATION

5 BY MR. MCRAE:

6 Q Sir, can you state your full name for the  
7 record.

8 A Oscar De La Torre.

9 Q Have you ever been known by any names other  
10 than Oscar De La Torre? 09:46:19

11 A No.

12 Q What is your address, sir, your residence  
13 address?

14 A 2039 1/2 Stewart Street, Santa Monica  
15 California 90404. 09:46:29

16 Q Are you represented by counsel here today?

17 A Yes, I am.

18 Q Who is that?

19 A Kevin Shenkman.

20 Q Is that in your individual capacity that  
21 you're represented by counsel? 09:46:36

22 Do you understand the question?

23 A Yes. Well, I'm --

24 MR. SHENKMAN: We represent Mr. De La Torre.

25 THE WITNESS: Correct. I'm a member of the 09:46:45

1 Pico Neighborhood Association.

2 BY MR. MCRAE:

3 Q That's what I'm trying to parse as a  
4 distinction.

5 Is he representing you in a representative 09:46:49  
6 capacity because of your affiliation with the Pico  
7 Neighborhood Association or is he individually your  
8 attorney in your individual capacity?

9 MR. SHENKMAN: We represent Mr. De La Torre  
10 individually as well. 09:47:01

11 MR. MCRAE: I'm asking the witness whether  
12 he's represented --

13 THE WITNESS: Yes.

14 MR. MCRAE: -- as an individual --

15 THE WITNESS: For both. For personal and --

16 BY MR. MCRAE:

17 Q Do you have any other counsel in this action  
18 other than Mr. Shenkman?

19 A Not present here.

20 Q And other than the people whose names appear 09:47:09  
21 on the pleadings in this matter representing the  
22 plaintiffs, do you have any other counsel in this  
23 matter?

24 A No one beyond the pleadings.

25 Q Okay. Have you ever been deposed before? 09:47:21

Page 12

1 A No.

2 Q Any alcohol in the last 24 hours?

3 A No.

4 Q Okay. What is your date of birth, sir?

5 A 9/8/1971. 09:49:10

6 Q And where were you born?

7 A Los Angeles, California.

8 Q And other than the address that you just gave

9 me a few moments ago, have you resided anywhere else

10 in Santa Monica in the last ten, fifteen years? 09:49:22

11 A No.

12 Q How long have you lived at that address that

13 you gave me as your residence address?

14 A Approximately since 1998, '99.

15 Q You're married to one of the plaintiffs in 09:49:33

16 this case?

17 A Yes, I am.

18 Q And who is that?

19 A Maria Loya.

20 Q How long have you been married to Ms. Loya? 09:49:39

21 A About 12 years.

22 Q And what is your current occupation?

23 A I'm the director of the Pico Youth and Family

24 Center.

25 Q Do you have any other titles with the Pico 09:49:48

Page 15

1 you met him, Rex Parris?

2 A Rex Parris, the first time I met him was  
3 probably in the last year, year and a half.

4 Q And Mr. Robert Rubin?

5 A Mr. Robert Rubin, I probably met him 09:54:05  
6 approximately the same time, about a year, year and  
7 a half ago.

8 Q Now, if you know the answer to this -- and  
9 I'm asking you if you know -- do you know if as  
10 between the two of you, you and your wife, whether 09:54:17  
11 your wife met Mr. Shenkman before you?

12 A Highly unlikely.

13 Q Okay. You believe you met Mr. Shenkman  
14 before your wife did?

15 A Yes. 09:54:29

16 Q And do you know when -- and, again, this is a  
17 date, I'm not asking for the substance of  
18 communications -- when your wife first retained any  
19 lawyers in this case to represent her?

20 A In terms of a date? 09:54:46

21 MR. SHENKMAN: Don't guess. If you know,  
22 answer, but don't guess.

23 THE WITNESS: Yeah. Well, I'm trying to  
24 remember when the first complaint letter was filed.

25 ////

1 McKeown. We've -- we've gone to city council to  
2 speak. We were treated differently by city council  
3 members than the white -- than the white residents  
4 who spoke before us. We have been treated with  
5 total disrespect by city council members. 10:29:16

6 There have been police investigations that  
7 were politically motivated against me. We've had  
8 racial hate letters. I mean, I can give you a long  
9 list of why my basis is that there is an intent not  
10 just to prevent Latinos from voting, you know, 10:29:36  
11 and -- and having more of an influence, let's say,  
12 on that vote, but a deliberate attempt to  
13 marginalize, disenfranchise, to de-fund, to hurt, to  
14 create social conditions in a community, you know,  
15 where Latinos are going to continue to live with 10:29:58  
16 higher crime and less city services and police  
17 abuse, and you name it. I mean, I can give you a  
18 long list of that, you know.

19 So it's beyond just the election system.  
20 It's also -- it's also the impact that lack of 10:30:11  
21 political representation has on our community.

22 Q Do you have any further answer to my specific  
23 question?

24 A No.

25 Q Okay. Did you have a role in preparing the 10:30:22

1 first amended complaint?

2 A Yes.

3 Q What was your role?

4 A My role was to give guidance on some of the  
5 history that is found in the complaint and just, you 10:30:36  
6 know, some of the -- mainly on the historical aspect  
7 of the complaint.

8 Q Would that be the same with respect to the  
9 original complaint, that you had the same role?

10 A Yes. 10:30:53

11 Q And do you know whether you supplied any of  
12 the information contained in the first amended  
13 complaint?

14 A I think I probably led counsel to look into  
15 certain things that allowed us to get the 10:31:13  
16 information. So I didn't have first source  
17 information, but I knew that, you know, we could  
18 look here and find that information.

19 Q Do you have in mind any particular  
20 allegations in the first amended complaint that you 10:31:26  
21 think you are the source of? And I'm not asking you  
22 to read the whole thing.

23 A Yeah, it's --

24 Q If you tell me, look, I don't remember or I  
25 don't have it off the top of my head, that's fine. 10:31:31



1 A Yeah, I don't have it off the top of my head.

2 Q Do you know, apart from counsel, whether  
3 there were others who had a role in drafting the  
4 first amended complaint?

5 A Yes. I believe there's -- there are others, 10:31:46  
6 other attorneys that are involved.

7 Q Other than counsel, other than attorneys, is  
8 there anyone else that you know of who you  
9 understand to have contributed to the complaint?

10 A No. 10:31:58

11 Q And have you -- you've read the first amended  
12 complaint?

13 A Yes.

14 Q Did you read it before it was filed?

15 A Yes. 10:32:04

16 Q Do you know if your wife read the first  
17 amended complaint before it was filed?

18 A Yes.

19 Q And did she?

20 A Yes. 10:32:10

21 Q And did you, sir, confirm the accuracy of  
22 each of the allegations in the first amended  
23 complaint before it was filed?

24 A Yes.

25 Q How did you do that? 10:32:21

1 A By reading it. If I would have found  
2 something that was very wrong or inaccurate, I  
3 probably would have flagged it.

4 Q Apart from reading the first amended  
5 complaint, did you take any other steps to confirm 10:32:34  
6 the accuracy of the allegations in the first amended  
7 complaint?

8 A No.

9 Q Did you confirm the accuracy of the original  
10 complaint before it was filed? 10:32:45

11 A Yes.

12 Q And apart -- is your answer the same, that  
13 the way that you confirmed the accuracy of the  
14 allegations in the original complaint was to read  
15 it? 10:32:56

16 A Yes.

17 Q Did you take any steps, other than reading  
18 the original complaint, to confirm the accuracy of  
19 the allegations in it before it was filed?

20 A No. 10:33:07

21 Q And you mentioned to me the California Voting  
22 Rights Act.

23 A Correct.

24 Q And do you know what that is?

25 A Yes. 10:33:12

Page 60

1 Q Has he ever been a member of PNA?

2 A No.

3 Q Is he a member of PYFC?

4 A Yes.

5 Q Is he on the board of PYFC?

6 A Yes.

7 Q How long has he been on the board of PYFC?

8 A Probably about eight months. He recently  
9 joined.

10 Q Okay. And has he ever volunteered to work at 06:11:23  
11 PYFC?

12 A He's volunteered in the past.

13 Q In the past, what, five years, ten years?

14 A I would say since inception, since 2002.

15 Q Has he been a financial supporter of PYFC? 06:11:31

16 A He's usually broke, so no.

17 Q Okay. Were you present at the deposition of  
18 Terry O'Day?

19 A I was.

20 Q Do you recall any testimony at Mr. O'Day's 06:11:41  
21 deposition regarding his attendance at an event  
22 celebrating Mr. Vazquez's term as mayor when  
23 Dr. Serna approached him?

24 A Yes.

25 Q And did you ever discuss that with him? 06:11:57

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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: 5/16/2018



KATHLEEN E. BARNEY

CSR No. 5698

# Exhibit 6

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

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	)
PICO NEIGHBORHOOD	)
ASSOCIATION and MARIA LOYA,	)
	)
Plaintiffs,	)
	)
vs.	) No. BC 616804
	)
CITY OF SANTA MONICA and	)
DOES 1-100,	)
	)
Defendants.	)

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VIDEO-RECORDED DEPOSITION OF OSCAR DE LA TORRE  
AS THE PERSON MOST QUALIFIED FOR  
PICO NEIGHBORHOOD ASSOCIATION  
Los Angeles, California  
Friday, May 11, 2018  
Volume I

Reported by:  
LORI SCINTA, RPR  
CSR No. 4811  
Job No. 2907646  
  
PAGES 1 - 272

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

---

	)
PICO NEIGHBORHOOD	)
ASSOCIATION and MARIA LOYA,	)
	)
Plaintiffs,	)
	) No. BC 616804
vs.	)
	)
CITY OF SANTA MONICA and	)
DOES 1-100,	)
	)
Defendants.	)

---

Video-recorded deposition of OSCAR DE LA TORRE, as the Person Most Qualified for Pico Neighborhood Association, Volume I, taken on behalf of Defendants, at 333 South Grand Avenue, 54th Floor, Los Angeles, California, beginning at 10:07 A.M. and ending at 3:56 P.M. on Friday, May 11, 2018, before LORI SCINTA, RPR, Certified Shorthand Reporter No. 4811.

1 anything, to prepare to testify as the person most  
2 qualified for PNA on all of the topics identified in  
3 Exhibit 234?

4 A I reviewed the bylaws. I reviewed our  
5 membership lists. I reviewed the California Voting 10:20:04  
6 Rights Act and talked with board members of the Pico  
7 Neighborhood Association.

8 Q Did you do anything else?

9 A That was mostly what I did.

10 Q Okay. You say "mostly." Is there anything 10:20:25  
11 else that you did to prepare to testify as the  
12 person most qualified for PNA today?

13 A No.

14 Q And, sir, what is your role, if any, with  
15 the Pico Neighborhood Association? 10:20:37

16 A I'm the current co-chair of the Pico  
17 Neighborhood Association.

18 Q By "co-chair," meaning there's another  
19 chair?

20 A Yes. 10:20:44

21 Q Is there only two chairs in total that  
22 share the title "co-chair"?

23 A Yes.

24 Q Who is the other co-chair?

25 A Cris McLeod. 10:20:50



1 Q And, sir, what are your duties as the  
2 co-chair of PNA?

3 A To fill in for the chair when the chair is  
4 not present and also to assist with the governance  
5 of the monthly meetings. We have monthly meetings; 10:21:07  
6 to assist with the planning of any events that we're  
7 coordinating and to deal with any issues with the  
8 City of Santa Monica; to attend meetings that are  
9 important for our membership when the board makes a  
10 decision to represent the organization in any -- in 10:21:29  
11 front of any governing body in regards to the City  
12 of Santa Monica's governance.

13 Q Have you told me to the best of your  
14 ability what your responsibilities are as co-chair  
15 of PNA? 10:21:44

16 A Yes.

17 Q Do you have any other responsibilities with  
18 PNA?

19 A I think that's the majority of my  
20 responsibilities. 10:21:53

21 Q Sir, is it your understanding that under  
22 PNA's bylaws that the chairperson or co-chairperson  
23 is designated as the chief executive officer of PNA?

24 A I believe the chair might be the chief  
25 executive officer but I don't -- I don't recall 10:22:10

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Q Amidst who?

A Amidst, well, various calls that I made, so it was to Cris McLeod, Berenice Onofre, and Gina de Baca --

Q Uh-huh.

10:27:08

A -- and Maria Loya.

Q And was the decision unanimous amongst the people that you have described, including yourself, that you would be the person most qualified for PNA?

A Yes.

10:27:18

(At this time, Kevin Shenkman, Esquire, withdrew from the deposition room.)

BY MR. McRAE:

Q And has PNA ever been a party in any other litigation?

10:27:26

A Not to my knowledge.

Q Okay. Now, what is PNA, sir?

A The PNA is one of Santa Monica's oldest neighborhood associations --

MR. McRAE: I'm sorry to interrupt you.

10:27:41

Just for the record --

MR. GORDON: Mr. Shenkman --

MR. McRAE: -- Mr. Shenkman's left the room, but I'm assuming since there are two other attorneys here that we're fine to proceed.

10:27:48

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1 the City of Santa Monica's Pico neighborhood.

2 So those are examples of the type of  
3 advocacy that we have done.

4 And, usually, it's about forums so that we  
5 educate the public, educate the residents about what 10:35:27  
6 is going on in the city.

7 And -- and we speak before the city  
8 council. We write documents and letters that we  
9 submit to the city council to advocate our position  
10 on certain issues regarding development and city 10:35:43  
11 policies.

12 Q How many board members does the Pico  
13 Neighborhood Association have?

14 A There's 13.

15 Q And are there -- how many officers does the 10:35:53  
16 Pico Neighborhood Association have?

17 A There would be the chair, the co-chair.  
18 There would be the secretary. There would be the  
19 treasurer. I believe there was --

20 Q That would be four? 10:36:03

21 A Four, uh-huh.

22 Q How many employees, if any, does the Pico  
23 Neighborhood Association have?

24 A We have no employees.

25 Q And does anyone within the Pico 10:36:09

1 the last board member listed is no longer a member  
2 of our board.

3 Q Has Mr. or Mrs. Schloss been replaced?

4 A Yes.

5 Q And who replaced him? 10:50:36

6 A I believe it's Jeff Blake.

7 Q Okay. Any other inaccuracies in  
8 Exhibit 237?

9 A Let me see.

10 I believe there's -- there's another board 10:50:58  
11 member that's missing.

12 Q Sir, how long have you been co-chair of  
13 PNA?

14 A For the past -- from the last election, so  
15 last year. 10:51:09

16 Q And which board member do you think is  
17 missing?

18 A Marcos Marin I believe just joined the  
19 board either in the last two or three months.

20 Q Any other inaccuracies in Exhibit 237? 10:51:18

21 A I think that's pretty much it.

22 Q Is co-chair the only position that you've  
23 ever held in PNA?

24 A No.

25 Q What other positions have you held? 10:51:27

1 A I held the position of chair.

2 Q Okay. And when was that?

3 A Probably three, four years ago.

4 Q Let me show you some other documents here  
5 and see if you recognize these. 10:51:44

6 (Discussion off the record.)

7 MR. McRAE: Sir, let me ask you -- this is  
8 going to be Exhibit 238 -- if you recognize this  
9 document titled, "Articles of Incorporation" of the  
10 Pico Neighborhood Association. 10:52:07

11 (Exhibit 238 was marked for  
12 identification by the court reporter  
13 and is attached hereto.)

14 THE WITNESS: Yes, I'm familiar with it.

15 BY MR. McRAE: 10:52:12

16 Q And, to your knowledge, is this document a  
17 complete and accurate production of the articles of  
18 incorporation of the Pico Neighborhood Association?

19 A I'm not sure if there were any -- any -- I  
20 know there were some changes to it, so I'm not sure 10:52:25  
21 if this document captures the changes that were  
22 made.

23 Q Okay. To your knowledge, would at least  
24 the current and correct articles of incorporation --  
25 should they be on file with the State of California? 10:52:37

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1 should know that we reviewed the historical records  
2 looking at the issues that were faced when the Pico  
3 Neighborhood Association was first organized back in  
4 the late '70s, early '80s.

5 Q Yep. 11:03:33

6 A And some of those problems that were  
7 articulated back then, we are still articulating  
8 many of those problems in the present.

9 Q Such as?

10 A Such as lack of political representation; 11:03:41  
11 social neglect by the city council and many of its  
12 commissions and governing boards; lack of diversity  
13 in hiring; lack of public investment in areas that  
14 we feel are important to our quality of life.

15 And so a review of those historical records 11:04:00  
16 brought us to the point that we must do something  
17 that will create systemic change to ensure that we  
18 have a voice at the table and that our -- we are in  
19 the best position to improve the -- the social  
20 conditions of our residents. 11:04:18

21 Q Any other reasons why PNA brought the suit?

22 A That's in a nutshell the main reasons.

23 Q Do you know whether anyone on PNA's behalf  
24 undertook steps to verify the accuracy of the  
25 allegations in the complaint before it was filed? 11:04:32

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1 A Yes.

2 Q Who?

3 A Me.

4 Q Okay. And what did you do?

5 A I reviewed the -- the complaint and the -- 11:04:37  
6 the documentation in terms of the amended complaint.

7 Q What do you mean, "the documentation in  
8 terms of the" --

9 A So whatever letters are going to the city  
10 government on our behalf, anything being filed with 11:04:56  
11 the court in relation to this lawsuit, we have  
12 reviewed.

13 Q When you say, "we have reviewed," you said,  
14 "I have reviewed" --

15 A I reviewed. 11:05:06

16 Q Who is "we"?

17 A We the people, the executive committee of  
18 Pico Neighborhood Association.

19 Q There is an executive committee that is  
20 comprised of which individuals? 11:05:14

21 A Of the board chair, the co-chair, the  
22 treasurer, and the secretary.

23 Q And is it your understanding that each of  
24 those individuals reviewed every filing on behalf of  
25 the Pico Neighborhood Association in this case 11:05:24

1 before it was filed?

2 A I don't know about every filing, but at  
3 least I know from my -- on my behalf, I reviewed  
4 those documents.

5 Q Getting back to the complaint and the first 11:05:38  
6 amended complaint, apart from reviewing the first  
7 amended complaint and the complaint, did you do  
8 anything else on behalf of PNA to verify the  
9 accuracy of the allegations in those meetings?

10 MR. GORDON: Objection. This is still 11:05:51  
11 improper under Rifkind. You're asking him to  
12 determine whether or not the allegations have legal  
13 sufficiency? Is that what your question is?

14 MR. McRAE: You can --

15 MR. GORDON: That's improper under Rifkind. 11:06:00

16 I'm going to instruct him not to answer.

17 And we can take a break and you can go read Rifkind  
18 because you don't know it --

19 (Instruction not to answer.)

20 BY MR. McRAE: 11:06:06

21 Q Did you understand the question?

22 A I'm going to follow my counsel's advice.

23 Q So here was my question.

24 A Uh-huh.

25 Q The accuracy, the truth -- 11:06:14

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1 A Probably four.

2 Q Do you know the names of those individuals?

3 A I can't remember all of them, but Crystal  
4 Anderson is one that comes to mind.

5 And I'm trying to remember who was before 01:23:39  
6 her, but it doesn't come to mind right now.

7 Q Okay. Can you tell me the names of any  
8 other secretaries of PNA in the last 10 years other  
9 than the one you mentioned?

10 A I mean, I know more board members, but I 01:23:54  
11 don't exactly know who was holding that position  
12 in -- in that time period.

13 Q Now, does PNA have a bank account?

14 A Yes.

15 Q And has it had that bank account since at 01:24:05  
16 least you've been involved in that time period?

17 A Yes.

18 Q And is there someone who's primarily  
19 responsible for maintaining the bank account of PNA?

20 A Yes. 01:24:16

21 Q And who would that be?

22 A The treasurer.

23 Q Okay. And has PNA had the same treasurer  
24 for the last five years?

25 A Probably the last two years. 01:24:23

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1 Q Who is that person?

2 A Maria Loya.

3 Q Okay. And prior to Ms. Loya being

4 treasurer of PNA, do you know who PNA's treasurer

5 was, assuming it had one? 01:24:33

6 A Most likely it would have been Griselda

7 Garces.

8 Q I'm sorry. Say that name again.

9 A Griselda Garces.

10 Q Garces? 01:24:43

11 A Uh-huh.

12 Q Okay. Is Ms. Garces still affiliated in

13 any way with PNA?

14 A No.

15 Q And as far as this bank account, with 01:24:49

16 whatever books and records that are incident to that

17 bank account, would those also to your understanding

18 have been maintained by the treasurer of PNA?

19 A Yes. Correct.

20 Q Those are records that PNA has? 01:25:03

21 A Yes.

22 Q Okay. And in addition to the documents

23 that we've described and discussed here, does PNA

24 also keep a membership list?

25 A Yes. 01:25:15

1       flaws in the at-large election system.

2                   And speaking as the person most qualified  
3       for PNA in this action, I'm trying to understand  
4       what is it that -- if anything -- that PNA is  
5       advocating be in lieu of or a substitute for that       01:36:44  
6       at-large system?

7                   MR. SHENKMAN:   And I'm going to instruct  
8       not to answer because it is calling for a contention  
9       of law that's inappropriate.   It's also an expert  
10      issue, and this witness doesn't have sufficient       01:36:58  
11      knowledge about the remedies that are available and  
12      the relative effectiveness of those remedies.

13                   THE WITNESS:   And aside from what our  
14      attorney has -- has stated, it would be  
15      inappropriate because our board of directors would       01:37:12  
16      have to vote and make a collective decision on those  
17      remedies.

18       BY MR. McRAE:

19                   Q     Sir, are you following your counsel's  
20      instruction in not answering that question?       01:37:22

21                   A     Yes.

22                   Q     Have you personally ever gone out in any  
23      context and advocated in favor of district-based  
24      elections in Santa Monica?

25                   A     Me, personally?                               01:37:35

1 Q Yes.

2 A Yes.

3 Q Why?

4 A Because I've seen in other cities the  
5 positive impact that it's had. I know that a 01:37:43  
6 citywide race is more expensive than a districtwide  
7 race. So taking money, you know, and special --  
8 and, you know, and the deep pockets of special  
9 interests out of -- or not out of but diminishing,  
10 you know, the -- the money and the deep pockets of 01:38:05  
11 special interests in any election cycle enhances  
12 democracy, expands democracy.

13 And so that's why I believe that, you know,  
14 my advocacy for district-based elections is in line  
15 with -- with strengthening our democratic principles 01:38:26  
16 in our community.

17 Q Are there any other reasons you're in favor  
18 of district-based elections in Santa Monica?

19 MR. GORDON: Same objections. This is --  
20 these are -- 01:38:38

21 THE WITNESS: Yeah.

22 MR. GORDON: -- calling for a law-to-fact  
23 application, and they're just improper under  
24 Rifkind.

25 You keep asking the same questions. Do you 01:38:45

1 manager was hired, his name was Lamont Yuell.

2 He -- he promised us that he would correct  
3 that, and he kept his word, so funding -- funding  
4 was allocated to ensure that we would build the -- I  
5 think it was like \$12 million that was invested to 03:05:07  
6 build the Pico Branch Library at Virginia Avenue  
7 Park.

8 Q So, forgive me, because you told me the  
9 year that you were born. And I'm sorry. I don't  
10 want to mess it up. 03:05:19

11 Did you say you were '71?

12 A '71.

13 Q Okay. Were you in any way involved in the  
14 Pico Neighborhood Association in 1988, 1989?

15 A I was -- I was. 03:05:33

16 Q In what capacity?

17 A I was a young volunteer. I -- I  
18 participated in a summer community cleanup that  
19 would happen every year, and I was also student body  
20 president in '89 and '90. 03:05:46

21 Q At Santa Monica High?

22 A At Santa Monica High.

23 And I received an award from the Pico  
24 Neighborhood Association. So I have very fond  
25 memories of the Pico Neighborhood Association even 03:05:59

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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were duly sworn; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; that the foregoing transcript is a true record of the testimony given.

Further, that if the foregoing pertains to the original transcript of a deposition in a Federal Case, before completion of the proceedings, review of the transcript [ ] was [ ] was not requested.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: May 15, 2018



LORI SCINTA, RPR

CSR No. 4811

# Exhibit 7

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

----- )  
PICO NEIGHBORHOOD ASSOCIATION) )  
and MARIA LOYA, ) )  
) )  
Plaintiffs, ) )  
) )  
vs. ) No. BC616804  
) )  
CITY OF SANTA MONICA and DOES )  
1-100, ) )  
) )  
Defendants. ) )  
----- )

VIDEOTAPED DEPOSITION OF MARIA LOYA  
Los Angeles, California  
Tuesday, May 15, 2018  
Volume I

Reported by:  
Melissa M. Villagran, RPR  
CSR No. 12543  
Job No. 2907649  
PAGES 1 - 291



1 was elected in 2003 again to be part of the board.

2 Q Three or '13?

3 A I'm sorry. 2013. Sorry. 2013 when my son  
4 was three years old.

5 Q What is your current title at the PNA? 03:39:19

6 A The treasurer.

7 Q What does that mean? What are your job  
8 responsibilities as PNA's treasurer?

9 A My main responsibility is to give a monthly,  
10 you know, financial report to the membership to keep 03:39:38  
11 track of the expenses and the money that comes in  
12 and the expenses. We have a very small budget, so  
13 it's not a very laborious job.

14 Q How many members does the PNA have?

15 A I mean, approximately, we have approximately 03:40:02

16 I would say over 300 members. We have -- it's  
17 approximate because we have a category of family,  
18 you know, so people can sign up as either senior,  
19 single or family. And so when they sign up as  
20 family, they can sign up as many people as are in 03:40:31  
21 their families. And we have some families that have  
22 up to eight people, you know, so.

23 Q Do you know how many of your 300-some members  
24 are Latino?

25 A I don't know the exact number, but I would 03:40:49

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1 I, the undersigned, a Certified Shorthand  
2 Reporter of the State of California, Registered  
3 Professional Reporter, Certified Live Note Reporter,  
4 do hereby certify:

5 That the foregoing proceedings were taken  
6 before me at the time and place herein set forth;  
7 that any witnesses in the foregoing proceedings,  
8 prior to testifying, were duly sworn; that a record  
9 of the proceedings was made by me using machine  
10 shorthand which was thereafter transcribed under my  
11 direction; that the foregoing transcript is a true  
12 record of the testimony given.

13 Further, that if the foregoing pertains to  
14 the original transcript of a deposition in a Federal  
15 Case, before completion of the proceedings, review  
16 of the transcript [ ] was [ ] was not requested.  
17 I further certify I am neither financially  
18 interested in the action nor a relative or employee  
19 of any attorney or party to this action.

20 IN WITNESS WHEREOF, I have this date  
21 subscribed my name.

22  
23 Dated: May 17, 2018  
24



25 MELISSA M. VILLAGRAN

CSR No. 12543 RPR

# Exhibit 8

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

PICO NEIGHBORHOOD ASSOCIATION; )  
MARIA LOYA AND ADVOCATES FOR )  
MALIBU PUBLIC SCHOOLS, )  
 )  
PLAINTIFFS, )  
 )  
vs. )  
 )  
CITY OF SANTA MONICA, )  
CALIFORNIA; AND DOES 1-100, )  
INCLUSIVE, )  
 )  
DEFENDANTS. )  
\_\_\_\_\_ )

Case No. BC616804

VIDEOTAPED DEPOSITION OF TERRENCE O'DAY  
FRIDAY, SEPTEMBER 23, 2016

REPORTED BY LEESA DURRANT, C.S.R. NO. 11899, RPR

1 VIDEOTAPED DEPOSITION OF TERRENCE O'DAY TAKEN ON BEHALF  
2 OF THE PLAINTIFFS, AT 10:59 A.M., FRIDAY, SEPTEMBER 23,  
3 2016, AT 43364 10 STREET WEST, LANCASTER, CALIFORNIA,  
4 BEFORE LEESA DURRANT, C.S.R. NO. 11899.

5

6 APPEARANCES OF COUNSEL:

7

8 FOR THE PLAINTIFFS:

9 R. REX PARRIS LAW FIRM  
10 BY: ROBERT PARRIS, ESQ.  
11 43364 10TH STREET WEST  
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13 (661)949-2595  
14 raparris@rrexparris.com

15 FOR THE DEFENDANTS:

16 GIBSON, DUNN & CRUTCHER, LLP  
17 BY: GEORGE H. BROWN, ESQ.  
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23 gbrown@gibsondunn.com

24 ALSO PRESENT:

25 JOSEPH CHAVEZ, VIDEOGRAPHER  
MARCI CUSSIMONIO, PARALEGAL  
OSCAR DE LA TORRE  
CHRIS CASILLAS

1 I know you still have some questions. But when it's  
2 appropriate, should we take a break?

3 MR. PARRIS: Sure. As soon as we get done  
4 discussing this article, that would be great.

5 Q Mr. O'Day, I have just handed you an article,  
6 it's, "Developer PAC Drops Money Bomb On Santa Monica  
7 Council Race."

8 MR. BROWN: Do you have another copy?

9 MR. PARRIS: Yeah, but I'm reading it.

10 Q It's written October 26th, 2012. Have you read  
11 that article?

12 A I'm looking at it now.

13 MR. BROWN: Yeah, time to look at the article.

14 MR. PARRIS: Why don't we take our break now  
15 and I will give you some time to read it and also take a  
16 break and then we will come back and talk about it.  
17 Okay?

18 VIDEOGRAPHER: It is 12:00 p.m. and we're off  
19 the record.

20 (Brief recess taken.)

21 (Oscar De La Torre and Chris Casillas  
22 join the proceedings.)

23 VIDEOGRAPHER: The 12:19 p.m. We're back on  
24 the record.

25

1 BY MR. PARRIS:

2 Q Mr. O'Day, during the break you've had a chance  
3 to read Plaintiff's Exhibit No. 2, the article  
4 "Developer PAC Drops Money Bomb On Santa Monica Council  
5 Race"; correct?

6 MR. BROWN: I'm sorry, Counsel. We've had some  
7 new people enter the room. Can we get on the record who  
8 is here and what their capacity is?

9 MR. PARRIS: Each of you introduce yourself and  
10 who you represent.

11 MR. DE LA TORRE: My name is Oscar De La Torre  
12 and I'm a representative of one of the plaintiffs in  
13 this case Pico Neighborhood Association.

14 MR. CASILLAS: My name is Chris Casillas and  
15 I'm a law clerk.

16 MR. BROWN: Just one more question: When you  
17 are handing documents to the witness, we would  
18 appreciate it if you would give a copy to counsel as  
19 well. It's usual practice in my experience.

20 MR. PARRIS: I'm not -- I'm from Lancaster.  
21 I'm not used to that stuff. So if I have to take a  
22 break and make copies, I guess we can try to do that.

23 MR. BROWN: At the next break you can make some  
24 copies.

25 MR. PARRIS: If you can read along, we can do

1 MR. PARRIS: We can try for 45 minutes. You  
2 know there's a bunch of restaurants right across the  
3 street.

4 MR. BROWN: You can go off the record.

5 VIDEOGRAPHER: It's 1:26 p.m. We're off the  
6 record.

7 (Brief recess taken.)

8 (Oscar De La Torre did not rejoin the  
9 proceedings.)

10 VIDEOGRAPHER: It is 2:33 p.m. and we're back  
11 on the record.

12 BY MR. PARRIS:

13 Q Mr. O'Day, we talked about crime in the Pico  
14 neighborhood and let me just summarize what I think you  
15 said. You're not certain of what the difference is in  
16 crime rate in the Pico neighborhood versus anywhere else  
17 in Santa Monica. Would that be true?

18 A Yeah, I don't know the data, no.

19 Q Do you believe, based upon living in the Pico  
20 neighborhood and your experience, that the crime rate is  
21 significantly higher in the Pico neighborhood than  
22 anywhere else in the City of Santa Monica?

23 A No.

24 Q Do you believe that the homicide rate in the  
25 Pico neighborhood is higher than anywhere else in the



1 STATE OF CALIFORNIA )  
2 COUNTY OF LOS ANGELES ) SS.

3

4 I, LEESA DURRANT, C.S.R. NO. 11899, RPR, in and  
5 for the State of California, do hereby certify:

6 That prior to being examined, the witness named  
7 in the foregoing deposition was by me duly sworn to  
8 testify to the truth, the whole truth, and nothing but  
9 the truth;

10 That said deposition was taken down by me in  
11 shorthand at the time and place therein named and  
12 thereafter transcribed under my direction, and the same  
13 is a true, correct, and complete transcript of said  
14 proceedings;

15 That if the foregoing pertains to the original  
16 transcript of a deposition in a Federal Case, before  
17 completion of the proceedings, review of the transcript  
18 ( ) was ( ) was not required.

19 I further certify that I am not interested in the  
20 event of the action.

21 Witness my hand this day of , 2016.

22

23

LEESA DURRANT, C.S.R. NO. 11899, RPR

24

25

# Exhibit 9

# CERTIFIED COPY

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

PICO NEIGHBORHOOD ASSOCIATION, )  
MARIA LOYA; AND ADVOCATES FOR )  
MALIBU PUBLIC SCHOOL, )

PLAINTIFFS, )

V. )

)CASE NO. BC616804

CITY OF SANTA MONICA, AND DOES 1 )  
THROUGH 100, INCLUSIVE, )

DEFENDANTS. )

---

DEPOSITION OF: KEVIN MCKEOWN  
TAKEN: FRIDAY, DECEMBER 16, 2016

---

## DALENE COURT REPORTING

---

43364 10<sup>TH</sup> Street West, Suite 117  
Lancaster, California 93534  
Tel: 661.341.3929

Reported and Transcribed By:  
**Magdalene S. Puente**  
**CSR 8498**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

PICO NEIGHBORHOOD ASSOCIATION; )  
MARIA LOYA; AND ADVOCATES FOR )  
MALIBU PUBLIC SCHOOL, )

PLAINTIFFS, )

V. )

NO. BC616804

CITY OF SANTA MONICA, AND DOES )  
1 THROUGH 100, INCLUSIVE, )

DEFENDANTS. )  
-----)

DEPOSITION OF KEVIN MCKEOWN, TAKEN  
ON BEHALF OF THE PLAINTIFFS, AT  
43364 10TH STREET WEST, LANCASTER,  
CALIFORNIA, COMMENCING AT 11:16 A.M.,  
FRIDAY, DECEMBER 16, 2016, BEFORE  
MAGDALENE S. PUENTE, CSR 8498.

1 APPEARANCES OF COUNSEL:

2

3 FOR THE PLAINTIFFS PICO NEIGHBORHOOD ASSOCIATION, MARIA  
4 LOYA AND ADVOCATES FOR MALIBU PUBLIC SCHOOL:

4

PARRIS LAW FIRM  
5 BY: MR. R. REX PARRIS, ESQ.  
43364 10TH STREET WEST  
6 LANCASTER, CALIFORNIA 93534  
661.949.2595

7

8 SHENKMAN & HUGHES  
BY: MR. KEVIN I. SHENKMAN, ESQ.  
9 28905 WIGHT ROAD  
MALIBU, CALIFORNIA 90265  
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11

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16 LAW OFFICE OF ROBERT RUBIN  
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(NOT PRESENT)

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20 FOR THE DEFENDANT CITY OF SANTA MONICA:

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BY: MR. GEORGE H. BROWN, ESQ.  
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23 213.229.7000

24

25

1 I N D E X (CONTINUED)

2

3 MARSHA JONES MOUTRIE, ESQ.  
4 JOSEPH LAWRENCE, ESQ.  
5 JEANETTE SCHACHTNER, ESQ.  
6 SUSAN Y. COLA, ESQ.  
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10 310.458.8336  
11 (NOT PRESENT)

12

13

14 ALSO PRESENT:

15 MARCI CUSSIMONIO, PARRIS LAW FIRM  
16 MR. JONATHAN DOUGLASS, ESQ., PARRIS LAW FIRM  
17 MS. RUHANI SANDHU, PARRIS LAW FIRM  
18 MR. OSCAR DE LA TORRE  
19 SABRINA BLACKBURN, VIDEOGRAPHER

20

21

22

23

24

25

1 STATE OF CALIFORNIA )  
2 COUNTY OF LOS ANGELES ) SS.

3 I, MAGDALENE S. PUENTE, CERTIFIED SHORTHAND  
4 REPORTER, CERTIFICATE NUMBER 8498, FOR THE STATE OF  
5 CALIFORNIA, HEREBY CERTIFY:

6 THE FOREGOING PROCEEDINGS WERE TAKEN BEFORE ME  
7 AT THE TIME AND PLACE THEREIN SET FORTH, AT WHICH TIME  
8 THE DEPONENT WAS PLACED UNDER OATH BY ME;

9 THE TESTIMONY OF THE DEPONENT AND ALL  
10 OBJECTIONS MADE AT THE TIME OF THE EXAMINATION WERE  
11 RECORDED STENOGRAPHICALLY BY ME AND WERE THEREAFTER  
12 TRANSCRIBED.

13 THE FOREGOING TRANSCRIPT IS A TRUE AND CORRECT  
14 TRANSCRIPT OF MY SHORTHAND NOTES SO TAKEN;

15 I FURTHER CERTIFY THAT I AM NEITHER COUNSEL  
16 FOR NOR RELATED TO ANY PARTY TO SAID ACTION NOR IN ANY  
17 WAY INTERESTED IN THE OUTCOME THEREOF.

18 IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED  
19 MY NAME THIS 30<sup>th</sup> DAY OF December, 2016.

20  
21  
22  
23  
24  
25

  
DEPOSITION OFFICER'S SIGNATURE

# Exhibit 10



**CERTIFIED COPY**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

PICO NEIGHBORHOOD ASSOCIATION; MARIA )  
LOYA; AND ADVOCATES FOR MALIBU PUBLIC )  
SCHOOL, )

PLAINTIFFS, )

V. )

CASE NO. BC616804

CITY OF SANTA MONICA, AND DOES 1 THROUGH )  
100, INCLUSIVE, )

DEFENDANTS. )  
\_\_\_\_\_ )

**DEPOSITION OF: TED WINTERER  
TAKEN ON: MONDAY, FEBRUARY 26, 2018**

REPORTED AND TRANSCRIBED BY:  
JENNIFER J. ANGELOV  
CSR 12287

**DALENE COURT REPORTING**

43364 10<sup>TH</sup> St. West #117 Lancaster California 93534 661.341.3929

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

PICO NEIGHBORHOOD	)	
ASSOCIATION; MARIA	)	
LOYA; and ADVOCATES FOR	)	
MALIBU PUBLIC SCHOOL,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. BC616804
	)	
CITY OF SANTA MONICA,	)	
and DOES 1 through 100,	)	
inclusive,	)	
	)	
Defendants.	)	

Deposition of TED WINTERER, taken on behalf of the Plaintiffs, at 43364 10th Street West, Lancaster, California, commencing at 10:27 a.m., on Monday, February 26, 2018, before Jennifer J. Angelov, CSR No. 12287, a Certified Shorthand Reporter in and for the County of Los Angeles, State of California.

1 APPEARANCES:

2

For the Plaintiffs:

3

SHENKMAN & HUGHES

4

BY: KEVIN I. SHENKMAN

Attorney at Law

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Malibu, California 90265

6

310.457.0970

7

PARRIS LAW FIRM

BY: ELLERY S. GORDON

8

Attorney at Law

43364 10th Street West

9

Lancaster, California 93534

661.949.2595

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egordon@parrislawyers.com

11

12

For the Defendants:

13

GIBSON, DUNN & CRUTCHER LLP

14

BY: KAHN A. SCOLNICK

Attorney at Law

15

-and-

TIAUNIA HENRY

16

Attorney at Law

333 South Grand Avenue

17

Los Angeles, California

90071-3197

18

213.229.7000

kscolnick@gibsondunn.com

19

20

ALSO PRESENT: Joseph Chavez, Videographer

21

Oscar De La Torre

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I N D E X

EXAMINATION BY:	PAGE
MR. SHENKMAN	5

E X H I B I T S

	PAGE
Exhibit 1 Maser Condo Sales Advertisement (1 page)	58
Exhibit 2 Series of Newspaper Articles (24 pages)	81
Exhibit 3 5/5/15 City Council Minutes (4 pages)	186
Exhibit 4 City of Santa Monica Major Development Projects: Approved/Denied/Withdrawn Projects (1 page)	190

INFORMATION TO BE SUPPLIED

(NONE)

QUESTIONS MARKED

(NONE)

-o0o-

DEPOSITION OF TED WINTERER

1 LANCASTER, CALIFORNIA; MONDAY, FEBRUARY 26, 2018

2 10:27 a.m.

3

4 THE VIDEOGRAPHER: The video recording has now  
5 begun, and we are on the record.

6 This is the video deposition of Ted Winterer.

7 Today's date is February 26, 2018, and the  
8 time is 10:27 a.m.

9 My name is Joseph Chavez. I'm employed by  
10 Team Legal, Inc.

11 This deposition is being taken at Parris Law  
12 Firm, 43364 10th Street West, Lancaster, California  
13 93534.

14 The case number is BC616804, entitled Pico  
15 Neighborhood Association versus the City of  
16 Santa Monica.

17 Counsel will now introduce themselves for the  
18 record, after which the court reporter will swear in  
19 the witness.

20 MR. SHENKMAN: Good morning.

21 Kevin Shenkman for the Plaintiffs.

22 MR. GORDON: Ellery Gordon for the Plaintiff.

23 MR. DE LA TORRE: Oscar De La Torre.

24 MS. HENRY: Tiaunia Henry with Gibson Dunn for  
25 Defendant City of Santa Monica and the witness.

4

REPORTER'S CERTIFICATE


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I, JENNIFER J. ANGELOV, CSR No. 12287, a  
Certified Shorthand Reporter in and for the State of  
California, do hereby certify:

That prior to being examined, the witness  
named in the foregoing proceedings declared under  
penalty of perjury to testify to the truth, the whole  
truth, and nothing but the truth;

That said proceedings were taken by me in  
shorthand at the time and place herein named and was  
thereafter transcribed into typewriting under my  
direction, said transcript being a true and correct  
transcription of my shorthand notes.

I further certify that I have no interest in  
the outcome of this action.

  
\_\_\_\_\_  
JENNIFER J. ANGELOV  
CSR No. 12287

# Exhibit 11





SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

PICO NEIGHBORHOOD ASSOCIATION;	)	Case No. BC616804
MARIA LOYA; and ADVOCATES FOR	)	
MALIBU PUBLIC SCHOOL,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
CITY OF SANTA MONICA, and DOES	)	
1 through 100, inclusive,	)	
	)	
Defendants.	)	
-----	)	

Videotaped Deposition of Sue Himmelrich  
Los Angeles, California  
Tuesday, May 30, 2017

REPORTED BY:  
TAMMY R. PAGEAU-HINES  
CSR NO. 8413

1           The videotaped deposition of Sue Himmelrich,  
2 taken on behalf of Plaintiffs at 3774 West 54th Street,  
3 Los Angeles, California, commencing at 10:03 A.M.,  
4 Tuesday, May 30, 2017, before Tammy R. Pageau-Hines,  
5 C.S.R. No. 8413.

6   \* \* \*

7 APPEARANCES OF COUNSEL:

8 FOR PLAINTIFFS:

9           LAW OFFICES OF MILTON C. GRIMES  
10           BY: MILTON C. GRIMES, ESQUIRE  
11           3774 West 54th Street  
12           Los Angeles, California 90043  
13           (323) 295-3023

-and-

14           SHENKMAN & HUGHES  
15           BY: KEVIN I. SHENKMAN, ESQUIRE  
16           28905 Wight Road  
17           Malibu, California 90265  
18           (310) 457-0970

19 FOR DEFENDANT CITY OF SANTA MONICA:

20           GIBSON, DUNN & CRUTCHER, LLP  
21           BY: GEORGE H. BROWN, ESQUIRE

22   -and-

23           TIAUNIA HENRY, ATTORNEY AT LAW  
24           333 South Grand Avenue  
25           Los Angeles, California 90071  
              (213) 229-7000

ALSO PRESENT:

SHANOAH GARCIA, VIDEOGRAPHER

MACKENZIE McCULLOUGH

23

24

25

1		I N D E X	
2		WITNESSES	
3	ALL WITNESSES:		PAGE:
4	Sue Himmelrich:		
5	EXAMINATION by Mr. Shenkman		5:11
6		EXHIBITS	
7	NO.:	DESCRIPTION:	PAGE:
8	Exhibit 1		
9	City of Santa Monica Staff Report:		57:3
10			
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1           LOS ANGELES, CALIFORNIA; TUESDAY, MAY 30, 2017

2                               10:03 A.M.

3

4           THE VIDEOGRAPHER: The video recording has now  
5 begun, and we are on the record. This is the video  
6 deposition of Sue Himmelrich.

7           Today's date is May 30th, 2017, and the time  
8 is 10:03 A.M. My name is Shanoah Garcia. I am  
9 employed by Team Legal, Inc.

10           This deposition is being taken at 3774 West  
11 54th Street, Los Angeles, California 90043.

12           The case number is BC616804 entitled Pico  
13 Neighborhood Association vs. City of Santa Monica.

14           Counsel will now introduce themselves for the  
15 record, after which the court reporter will swear in  
16 the witness.

17           MR. SHENKMAN: Kevin Shenkman on behalf of the  
18 plaintiffs.

19           MR. BROWN: I'm George Brown; Gibson, Dunn for  
20 the City of Santa Monica.

21           MS. HENRY: Tiaunia Henry with Gibson, Dunn  
22 for the City of Santa Monica.

23           MR. McCULLOUGH: MacKenzie McCullough with  
24 Gibson, Dunn for the City of Santa Monica.

25           MR. DE LA TORRE: Oscar De La Torre, Pico

1 Neighborhood Association.

2

3

Sue Himmelrich,

4

having been first duly administered

5

an oath, was examined and testified

6

as follows:

7

8

THE WITNESS: I do.

9

THE DEPOSITION OFFICER: Thank you.

10

11

EXAMINATION

12

BY MR. SHENKMAN:

13

Q Ms. Himmelrich, thank you for joining us

14

today. I understand you're an attorney?

15

A Yes.

16

Q Okay. Are you a litigation attorney?

17

A Yes.

18

Q So you know how this whole deposition thing

19

works; correct?

20

A I've taken depositions.

21

Q Okay. Is it okay with you if I skip all of

22

the admonitions trying to instruct you how a deposition

23

works? You know how it works?

24

A Well, I --

25

Is that all right with you, Counsel?

1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

2 \* \* \* \* \*

3 I, TAMMY R. PAGEAU-HINES, Certified Shorthand  
4 Reporter, No. 8413, in and for the State of California  
5 do hereby certify:

6 That the foregoing proceedings were taken  
7 before me at the time and place therein set forth, at  
8 which time the witness was put under oath by me; that  
9 the testimony of the witness and all objections made  
10 at the time of the proceedings were recorded  
11 stenographically by me and were thereafter transcribed  
12 under my direction; that the foregoing is a true  
13 record of the testimony and of all objections made at  
14 the time of the proceedings.

15 I further certify that I am a disinterested  
16 person and am in no way interested in the outcome of  
17 said action, or connected with or related to any of  
18 the parties in said action, or to their respective  
19 counsel.

20 That dismantling, unsealing or unbinding of  
21 the original transcript will render the Reporter's  
22 Certificate null and void.

23 Dated this 8th day of June, 2017

24   
25 TAMMY R. PAGEAU-HINES, CSR  
26  
27  
28

# Exhibit 12

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT 28 HON. YVETTE M. PALAZUELOS, JUDGE  
4

5 PICO NEIGHBORHOOD ASSOCIATION, )  
6 ET AL., )  
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PLAINTIFFS, )  
VS. ) CASE NO. BC616804  
CITY OF SANTA MONICA, ET AL., )  
DEFENDANTS. )

10  
11 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
12 TRIAL P.M. SESSION  
13 WEDNESDAY, AUGUST 22, 2018  
14

15 APPEARANCES:

16 FOR PLAINTIFFS:

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kishenkman@shenkmanhughes.com

PARRIS LAW  
BY: R. REX PARRIS, ESQ.  
ELLERY S. GORDON, ESQ.  
43364 10TH STREET WEST  
LANCASTER, CALIFORNIA 93534

LAW OFFICES OF MILTON C. GRIMES  
BY: MILTON C. GRIMES, ESQ.  
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LOS ANGELES, CALIFORNIA 90043  
miltgrim@aol.com

25  
26 (CONTINUED)  
27 PAGES 2424 TO 2543

28 REPORTED BY: RHONA S. REDDIX, CSR RPR CRR RMR NO. 10807  
OFFICIAL REPORTER



1 APPEARANCES:

2 (CONTINUED)

3

4 FOR PLAINTIFFS:

LAW OFFICE OF ROBERT RUBIN

5

BY: ROBERT RUBIN, ESQ.

6

131 STEUART STREET, SUITE 300

7

SAN FRANCISCO, CALIFORNIA 94105

8

robertrubinsf@gmail.com

9

10 FOR DEFENDANT CITY OF

GIBSON DUNN

11 SANTA MONICA:

BY: MARCELLUS MC RAE, ESQ.

12

TIAUNIA HENRY, ESQ.

13

KAHN A. SCOLNICK, ESQ.

14

MICHELE L. MARYOTT, ESQ.

15

DANIEL R. ADLER, ESQ.

16

MARISSA MOSHELL, ESQ.

17

MIGUEL LOZA, JR., ESQ.

18

SEAN S. TWOMEY, ESQ.

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23

CITY OF SANTA MONICA

24

CITY ATTORNEY'S OFFICE

25

BY: GEORGE S. CARDONA, ESQ.

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27

SANTA MONICA, CALIFORNIA 90401

28

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I N D E X

8/22/18, P.M. SESSION

PLAINTIFFS' WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
OSCAR DE LA TORRE	2425	2472		
	(CONT)			

E X H I B I T S

NUMBER	FOR IDENTIFICATION	IN EVIDENCE
3		2470
3-125	2426	
146	2428	2471
226-1		2471
226-4	2440	2471
226-11	2438	
229-34, -73, -263, -269		2471
1202	2511	2513
1202-13	2511	
1202-22	2512	
1203	2501	2501
1204	2515	2522
1243	2492	
1706	2481	2483
1711	2495	2496
1819-3388 TO -3392	2529	

1 CASE NUMBER: BC616804  
2 CASE NAME: PICO VS SANTA MONICA  
3 LOS ANGELES, CALIFORNIA WEDNESDAY, AUGUST 22, 2018  
4 DEPARTMENT 28 HON. YVETTE M. PALAZUELOS  
5 REPORTER: RHONA S. REDDIX, CSR 10807  
6 TIME: P.M. SESSION  
7 APPEARANCES: (SEE TITLE PAGE.)  
8  
9

10 THE COURT: Pico Neighborhood Association versus  
11 City of Santa Monica, BC616804. Good afternoon.

12  
13 (Responses.)

14  
15 (A discussion was held,  
16 not reported: Court and staff.)  
17

18 THE COURT: Anything to report? No?

19 MR. MCRAE: I don't believe so, Your Honor.

20 THE COURT: All right.

21 MR. GRIMES: Your Honor, I'd just like to notify  
22 the Court I've been ordered to appear in federal court,  
23 Judge Dale Fischer, at 3:00 o'clock.

24 THE COURT: Yes, okay.

25 MR. GRIMES: So it's not a lack of interest if I  
26 leave about 2:30.

27 THE COURT: I understand. Thank you.

28 MR. GRIMES: Okay, thank you.

1 even though the need was great. I think the fact that  
2 Ken Genser was pushing hard, and that the city manager  
3 was really committed to this, and that the Pico  
4 Neighborhood Association was pushing hard, that it was  
5 pretty secure.

6 We were concerned that once the State took  
7 all the R.D.A. money, that the City was not going to  
8 keep that commitment. But the city manager said that  
9 even though the State was taking that money, that he  
10 would ensure that the City would put the money forward  
11 for the Pico Branch Library, and he kept his word.

12 Q Let's talk a little bit about the Pico  
13 Neighborhood Association.

14 A Uh-huh.

15 Q Do you currently have a position in the  
16 Pico Neighborhood Association?

17 A Yes, I'm the co-chair.

18 Q Okay. Is the co-chair on the board of  
19 directors?

20 A Yes, it is.

21 Q All right. What are your responsibilities  
22 as co-chair?

23 A Work with the chair on setting the agenda  
24 for the meetings, informing members that we're having  
25 meetings, assisting with planning of events mainly.  
26 It's a small volunteer organization; so we wear multiple  
27 hats in the organization.

28 Q Okay. And who else other than you is on

1 the Pico Neighborhood Association board?

2 A We have my wife, Maria Loya, Chris McLeod,  
3 Berenice Onofre, Christild Anderson, Katherine Eldridge,  
4 Jeff Blake. I'm trying to remember. Mary Cornejo, and  
5 I'm sure there's others.

6 Q Is Gina de Baca --

7 A Gina de Baca, she's another one, yes.

8 Q It's a pretty diverse group?

9 A It is, it's pretty diverse.

10 Q Some of those board members are Latino,  
11 others are not?

12 A Correct.

13 Q Do you know when the Pico Neighborhood  
14 Association was founded?

15 A I believe it was founded in 1979.

16 Q Okay.

17 MR. SHENKMAN: And let's pull up Exhibit 226,  
18 page 11, please.

19 BY MR. SHENKMAN:

20 Q And Mr. de la Torre, this is a printout  
21 from the California Secretary of State website for the  
22 Pico Neighborhood Association entity information. And  
23 it has listed here, "Agent for service of process,  
24 Griselda Garces de la Torre." Do you see that?

25 A Yes, I do.

26

27

28

1 (Exhibit 226-11, identified:  
2 Printout from CA Secretary of State  
3 website, Pico Neighborhood Assn.  
4 entity information.)

5  
6 BY MR. SHENKMAN:

7 Q And do you know Griselda Garces  
8 de la Torre?

9 A Yes.

10 Q How -- is she related to you?

11 A She is.

12 Q How so?

13 A She's my niece.

14 Q When the Pico Neighborhood Association was  
15 founded in 1979, was your family involved?

16 A Yes. My mom and dad, they would attend  
17 meetings. So we have a long history of family  
18 involvement in the Pico Neighborhood Association.

19 Q So if I'm doing the math right, you were  
20 about eight years old at the time?

21 A Approximately.

22 Q Did you ever go to Pico Neighborhood  
23 Association meetings when you were a kid?

24 A I don't remember too many of them, but as a  
25 teenager I do remember receiving an award from the Pico  
26 Neighborhood Association, and so I do remember that.

27 Q So was it your parents giving you an award?

28 A No, they weren't giving me the award, but

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 28                      HON. YVETTE M. PALAZUELOS, JUDGE

PICO NEIGHBORHOOD ASSOCIATION,     )  
ET AL,    )  
  PLAINTIFFS,    )  
vs.    ) NO. BC616804  
CITY OF SANTA MONICA, ET AL.,         )  
  DEFENDANTS.    )  
\_\_\_\_\_ )

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
THURSDAY, AUGUST 23, 2018  
A.M. SESSION

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PAGES 2544 TO 2653, INCL.

REPORTED BY:                                   LORA J. JOHNSON, CSR 10119  
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OFFICIAL REPORTER PRO TEMPORE

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I N D E X  
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1 CASE NUMBER: BC616804  
2 CASE NAME: PICO NEIGHBORHOOD ASSOCIATION  
3 VS. CITY OF SANTA MONICA  
4 LOS ANGELES, CALIFORNIA THURSDAY, AUGUST 23, 2018  
5 DEPARTMENT NO. 28 HON. YVETTE M. PALAZUELOS  
6 APPEARANCES: (AS HERETOFORE NOTED.)  
7 REPORTER: LORA JOHNSON, CSR NO. 10119  
8 TIME: 10:01 A.M.

9

10 THE COURT: Pico Neighborhood Association  
11 versus City of Santa Monica, BC616804.

12 Good morning.

13 (Counsel respond.)

14 THE COURT: Make your appearances.

15 MR. PARRIS: R. Rex Parris on behalf of the  
16 plaintiffs.

17 MR. SHENKMAN: Kevin Shenkman also for  
18 plaintiffs.

19 MR. GORDON: Good morning, your Honor. Ellery  
20 Gordon on behalf of the plaintiffs.

21 MR. GRIMES: Good morning, your Honor. Milton  
22 C. Grimes on behalf of plaintiffs.

23 MR. RUBIN: Good morning, your Honor. Robert  
24 Rubin on behalf of plaintiffs.

25 MR. McRAE: Marcellus McRae, Gibson Dunn &  
26 Crutcher, appearing on behalf of the City of  
27 Santa Monica.

28 MR. SCOLNICK: Kahn Scolnick on behalf of the