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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 v.
21 CITY OF SANTA MONICA,
22 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 IV OF
IV (EXS. 40-47)**

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.

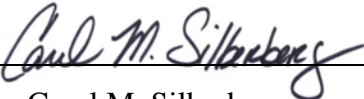
23 48. Attached hereto as **Exhibit 46** is a true and correct copy of a declaration of Jon Katz
24 executed on February 4, 2022 (without the thumb drives referenced therein).

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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RE: PICO NEIGHBORHOOD ASSOCIATION
CITY COUNCIL HEARING
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ITEM 8A

1 *NOTE: Due to the cadence of the speech (i.e., mumbling, slurring, being soft-spoken),*
2 *some words of inaudible and will be marked as such. Words may also be marked*
3 *as inaudible due to background noise, overlapping voices, or impurities of the*
4 *recording.*

5
6 ANDERSON-WARREN: So, the first item is Item 8A, Pico Neighborhood Association and
7 Maria Loya vs. the City of Santa Monica - Determination Regarding Common
8 Law Conflict of Interest of Councilmember de la Torre, and we currently have
9 at least three members who are calling in to speak.

10 HIMMELRICH: So, let me just say before you give the staff report, and I know there will
11 be a staff report, that we are launching our new system – would everyone mute
12 please, other than me, because there’s feedback? Thank you. So, we are starting
13 our new system of public comment where you can actually appear in our meetings
14 and speak to us, and we can ask questions and this will be the first time this is
15 happening, so I beg your indulgence. I’m not so great at pushing buttons and, you
16 know, and to the extent that we’re really trying hard to make this a more
17 interactive process, please give us credit for that and don’t hold us - hold it against
18 us if it doesn’t work perfectly. I’m sure it will be my fault. And on that note, I
19 think we can have a staff report.

20 McCOWAN: Should we wait for Councilmember de la Torre before we do the staff report on
21 this item? I don’t know if we can.

22 DILG: Oscar just texted me. He’s having trouble logging in. I’ve just sent – I’ve just
23 resent him the link.

24 HIMMELRICH: Then let’s wait a couple of minutes.

25 ANDERSON-WARREN: Are there any announcements since we have this time?

26 BROCK: I was wondering if the City Clerk happens to be a former actress or singer if she
27 could do like a Broadway tune right now. Denise?

28 ANDERSON-WARREN: Sorry, Phil.

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1 City subject to the provisions of the Charter and the California
2 Constitution. When the necessary powers of the City vested in its City
3 Council are to ensure the procedures by which it approves and takes
4 actions comply with law. Part of the City Attorney's role as recognized by
5 the Charter is indeed providing legal advice on these procedures to make
6 sure that they comply with law. As part of that, the City Council has the
7 authority to make determinations as to conflicts to ensure that when they
8 subsequently consider those actions, they are not participating in decisions
9 that violate the law because one of the Councilmembers present has a
10 conflict. But the City Council does have the authority as part of its
11 necessary power to ensure that it is not acting in violation of law to make
12 determinations and ensure that a Councilmember who is sitting and
13 participating in those decisions is not suffering from a conflict.

14 DE LA TORRE: Okay. Even though earlier you talked about . . .

15 HIMMELRICH: You said that was your last . . .

16 DE LA TORRE: Okay . . .

17 HIMMELRICH: But you're arguing that. You're arguing. So, let's hear from the public and
18 then we can go back to that.

19 DE LA TORRE: Yeah.

20 HIMMELRICH: Okay? Thank you. So, I believe there are number of questions. So, let's
21 open the public hearing. Oh, Councilmember McCowan.

22 McCOWAN: Just one more before we go into public comment. Just a question to get
23 answered. Um, we – sometimes in other issues we'll talk about like ex
24 parte conversations and stuff like that and disclosure of those in advance,
25 I'm just curious in this regard if anyone on the dais has had conversations
26 about the recusal issue with attorney Schenkman?

27 HIMMELRICH: Councilmember de la Torre, you have? You're muted.

28 DE LA TORRE: That's privileged information, right?

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1 HIMMELRICH: No. Look, you're saying you don't have a privilege with Mr. Schenkman,
2 that you are not one of the parties to that case, right? That's not privileged.
3 CARDONA: Councilmember Himmelrich, if Councilmember de la Torre is, in fact,
4 represented by Mr. Schenkman, then he has the right to assert that
5 privilege.
6 HIMMELRICH: Personally represented?
7 CARDONA: Yes, personally represented.
8 HIMMELRICH: So is that what you're saying that he's your personal lawyer, Mr. de la
9 Torre?
10 CARDONA: And Mayor Himmelrich, I should point out at one of the depositions Mr.
11 Schenkman, in fact, represented that he was representing Mr. de la Torre
12 individually, so I believe Mr. de la Torre may have the right to assert the
13 privilege.
14 HIMMELRICH: Okay. I understand. Um, okay, so ...
15 McCOWAN: I was asking universally of all Councilmembers if they've had
16 conversations with the attorney representing the other party in this case on
17 the issue of recusal of Councilmember de la Torre. So, I think ...
18 MCKEOWN: I don't think you heard before that I said no, I have not.
19 HIMMELRICH: And I have not. Has anyone else?
20 McCOWAN: And I have not. I think it's just important for the public to be aware of.
21 Okay, thank you.
22 McKEOWN: Did we hear from Councilmember Brock on that question?
23 McCOWAN: Oh, sorry.
24 BROCK: I didn't say anything because it wasn't relevant to me, so I'm taking all
25 this in and listening quietly, trying not to do what I usually do. I can tell
26 you, in general, even though this is not your answer Kevin, I'm frustrated
27 by the tone of this meeting and the fact that we are going so long on this
28 disruptive issue. Whatever that means to anyone, I'm concerned about

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1 that. I'm concerned about how our Council is perceived from the outside.

2 HIMMELRICH: Okay.

3 BROCK: Thank you.

4 McKEOWN: Are you willing to answer Mayor Pro Tem McCowan's question.

5 HIMMELRICH: Yeah, Phil, we're asking for an answer to the question. Have you
6 discussed with Kevin Schenkman the issue of recusal that we're
7 discussing tonight?

8 BROCK: No, I have discussed issues with attorney Schenkman in the past.

9 HIMMELRICH: And I assume Councilmember Parra that your answer is the same, you
10 haven't discussed recusal with . . .?

11 PARRA: Correct.

12 HIMMELRICH: No, right? So that's the answer?

13 PARRA: No.

14 HIMMELRICH: So, we're fine. Yeah, the answer is no. Okay, so now we have the answers
15 for everyone and now let's go to the public hearing and let's hear from the
16 public. So how many . . .?

17 ANDERSON-WARREN: We have six callers, Mayor.

18 HIMMELRICH: Great. And, um – oh this is, um. Oh, there we go. So, we have – may we
19 have the – we have six callers and do we have people on video? Is that a
20 general . . .? I'm sorry. I'm dealing with my own special issues here.

21 ANDERSON-WARREN: That's okay. We have six callers and the people who signed up for the
22 video have not logged into the meeting, so they may be on the phone.
23 We're not sure.

24 HIMMELRICH: Okay, so, well, let's start with the callers and let's start with the first one.

25 NEWLANDER: Okay, here we go.

26 UNKNOWN: Transferring Stan Epstein.

27 NEWLANDER: Stan Epstein, welcome to the meeting. Your time starts now. Mr. Epstein,
28 you're in the meeting. Your time starts now.

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1 EPSTEIN: Thanks. This is Stan Epstein. I'm sorry, I can't be a guinea pig. I'm also
2 on the phone tonight, but it sounds like . . . This is Stan Epstein. I, thank
3 you.

4 HIMMELRICH: Stan, turn off your whatever else is in the background. There's a time lag.

5 NEWLANDER: Mr. Epstein, are you with us?

6 EPSTEIN: Yes.

7 NEWLANDER: Yeah, there's a delay for the other audio that you're listening to, so turn
8 down the meeting in the background.

9 EPSTEIN: I just did. Thank you. We're talking about two different possible conflicts
10 of interest: one is common law and the other is financial. With respect to
11 financial, I'm very disturbed that the Council didn't waive the privilege
12 about the conversations that Oscar had with George. Those should be very
13 significant to deciding this and it also shows that the FPPC is not going to
14 ever find that there was a financial interest that Oscar had. I've spoken to
15 both Oscar and to the President of the Pico Neighborhood Association and
16 I'm convinced there isn't any. In fact, it would be illegal for any of the
17 legal fee to be paid to Oscar's wife or to be paid to the PNA. There is no
18 financial. With respect to the common law, the comparison to the other
19 case is absolutely ridiculous there. In the case that the AG was talking
20 about, there was the son of the government official was to receive a major
21 loan from the government agency. In this case, Maria is only representing
22 all of the citizens of Santa Monica. She gets nothing special. It's not like
23 she got hurt on a bus, she's – if she wins all 90,000 people in Santa
24 Monica win in the same way that she wins. That's her status. She has no
25 special standing, so therefore Oscar has no personal interest that's
26 different from anybody else that cares about this issue. With respect to
27 secrecy which George says is not the basis for this claim, I do know that
28 Sue was extremely concerned about Oscar's possible failure to keep the

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1 secrecy, which is totally unwarranted. He has a legal duty to keep secret
2 anything that's said in closed session and I'm absolutely sure he will do
3 so, just as Kevin and Sue, who have spouses that have major interests in
4 town and are very active in significant issues, don't have bed talk with
5 their spouses.

6 UNKNOWN: Thank you. Your time is now up.

7 EPSTEIN: Thank you.

8 NEWLANDER: Thank you.

9 UNKNOWN: Transferring Ann Thanawalla.

10 NEWLANDER: Ann Thanawalla, welcome to the meeting. Your time starts now. Ms.
11 Thanawalla, you're in the meeting. Hi. Your time starts now.

12 THANAWALLA: Hello, Hello, City Council. Process is what has to happen here and we're
13 not seeing that. There is no case law that can determine the outcome of
14 this. As elected officials, my elected officials, all of you, I implore you to
15 either seek a judge's opinion, go to court, or move on because
16 Councilmember de la Torre has repeated his position. He has not wavered
17 from his position with regards to district elections nor has any of the other
18 Councilmembers. So, if you think it's okay to decide that he should sit it
19 out, while you all get to go in and continue the conversation with your
20 own individual positions, that's ridiculous. You either take it to court,
21 follow a process with this common law conflict, as you're calling it, where
22 no viable case law exists, or Oscar joins in the conversation about whether
23 or not we should continue to pay outrageous legal fees that we are all on
24 the hook for and you continue to not let us know how much those are or
25 you don't. So, I'm asking you to do not allow some fake organizations to
26 push your buttons, to say, "Oh, my gosh, someone's going to take us to
27 court." No, you go to court, okay, and you do it without being abrasive
28 towards your City Councilmember and I believe Mr. Cardona made an

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1 and his company. Then, after he left the company, he said he didn't have
2 to recuse himself even though he still held stock in the company and
3 continued to financially benefit from his actions. And finally, we have
4 Pam O'Connor, who was on the Metro Board and the Expo Line and
5 anyone who thinks that Pam O'Connor did not financially benefit from
6 that is fooling themselves. For all these reasons, Councilmember Oscar de
7 la Torre does not have a conflict of interest in the CRV case. Thank you.

8 NEWLANDER: Thank you.

9 UNKNOWN: Transferring Tricia Crane.

10 NEWLANDER: Tricia Crane, welcome to the meeting. Your time starts now.

11 CRANE: Good afternoon, Mayor Himmelrich and City Council. Interim City
12 Attorney Cardona has not presented a persuasive argument as to why
13 newly elected Councilmember Oscar de la Torre should be prevented from
14 participating in the City Council discussion concerning the voting rights
15 lawsuit in tonight's closed session. The Council should consider and
16 respect the fact that the voters supported the election of Oscar de la Torre
17 with Phil Brock and Christine Parra, precisely because the three shared a
18 campaign platform that promised to seek an end to the City's long and
19 costly fight against district elections. And then there's the fact that
20 Councilmember de la Torre's attorney has advised him to not recuse
21 himself from engaging in tonight's discussions on the districting case.
22 Notwithstanding Mr. Cardona's advice, the determination on this matter,
23 whether or not there is a common law conflict of interest for
24 Councilmember de la Torre, is to be made by this Council. It is your
25 decision. Those of us who seek transparency in our local government
26 really do appreciate the fact that Mayor Himmelrich has called for this
27 discussion to be held in public. Thank you very much.

28 NEWLANDER: Thank you.

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1 UNKNOWN: Transferring Bob Selden.
2 NEWLANDER: Bob Selden, welcome to the meeting. Your time starts now.
3 SELDEN: Thank you.
4 NEWLANDER: Go ahead, you're in the meeting. Turn down your background, the
5 background meeting. Good.
6 SELDEN: There's a delay, I guess. Thank you.
7 NEWLANDER: There is.
8 SELDEN Good evening, Councilmembers. This is Bob Selden. My understanding is
9 that the issue of financial interest is not at stake here and so I'm going to
10 skip my comments with respect to that. If I'm wrong, feel free to question
11 me, but my remainders that there's no non-financial or personal interest at
12 stake. There's no conflict of interest. One of the things that's troubled me
13 here is we've heard a lot about caselaw and precedent, but we haven't
14 heard anybody apply the facts here to that law, to explain why Oscar has a
15 conflict. And that is a very serious defect. Now the thing here is that Oscar
16 is actually operating against the PNA's interest in seeking to vote to
17 terminate this litigation. Right now, the Court of Appeals has agreed that
18 the City wins. The only chance for the plaintiffs to prevail is to have it
19 overturned at the Supreme Court, a case from which Oscar wishes to vote
20 to withdraw. It's against PNA's interest. It's against his wife's interest. In
21 that sense, and therefore, there is no conflict of interest with respect to
22 Oscar's position and the City's position. He wants to withdraw it. There is
23 no win for him and there's no financial win or loss, as I've seen in one of
24 the letters that was submitted, because Oscar stands to gain nothing. Maria
25 stands to gain nothing if they win and neither of them is on the hook to
26 pay if they lose. And if you're unaware of the facts behind that, I'll be
27 glad to explain it. So, I would say that Oscar is entitled to vote. We know
28 how he's going to vote. It's a public position. He's not – there's no

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1 privileged communications to be discussed here. It's not a question of
2 litigation strategy. It's a simple up or down vote. And that's the extent of
3 my comment. I really would appreciate it if you let him vote. We elected
4 him to do this, and I think the residents and the majority want to do it.
5 Thank you.

6 NEWLANDER: Thank you.

7 HIMMELRICH: Mr. Selden, hold on. Mr. Selden, is he gone?

8 NEWLANDER: I still have him on unless he hung up.

9 SELDEN: I'm sorry.

10 NEWLANDER: Mr. Selden, hold on. The Council has questions for you.

11 SELDEN: Should I turn my volume back up on the computer?

12 NEWLANDER: No, you can listen on your phone. The Council has questions for you.

13 SELDEN: Oh.

14 NEWLANDER: Yeah.

15 SELDEN: Thank you.

16 HIMMELRICH: And I – yes, Mr. Selden, it's Sue Himmelrich and my question is this: Are
17 you an attorney?

18 SELDEN: I'm a retired attorney.

19 HIMMELRICH: And so, with respect to what Mr. de la Torre wants to do about the
20 litigation, you just told us what he wants to do. How do you know that?

21 SELDEN: It's his public position and I know from his campaigning and from the
22 public statements he's made, he has been one of the leaders in supporting
23 [RECORDING CUTS OUT] litigation.

24 HIMMELRICH: Thank you.

25 NEWLANDER: Thank you, Mr. Selden.

26 SELDEN: Am I done?

27 NEWLANDER: You're all done. Thanks so much.

28 SELDEN: Thank you very much for your time. Bye-bye.

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1 UNKNOWN Transferring Olga Zurawska.

2 NEWLANDER: Olga Zurawska, welcome to the meeting. Your time starts now.

3 ZURAWSKA: Good afternoon. In my opinion, the City should wait for a formal response
4 from the FPPC and/or ask the court to decide on whether there is, in fact, a
5 common law conflict of interest. Please do not go into a closed session on
6 this case tonight. And on a more general note, we are still dealing with this
7 lawsuit because we have an appointed, as opposed to an elected City
8 Attorney. An appointed City Attorney works for the Council, not the
9 residents. The Council that originally decided to defend themselves
10 against this lawsuit only had one goal: to hold onto their seats as long as
11 possible. We need an elected City Attorney who will be looking out for
12 the interests of the residents. Thank you.

13 NEWLANDER: Thank you. I believe that's the last caller on this item.

14 DE LA TORRE: Hello, Sue?

15 HIMMELRICH: Yes.

16 DE LA TORRE: I want to make one correction. One of the callers said that I'm advocating
17 for the Pico Neighborhood Association to drop the case and that's not true.
18 I would prefer that the City drop its appeal, but I have not made a public
19 comment that the PNA should drop this case. I just want to make that
20 correction.

21 HIMMELRICH: Thank you. So, now let's open this up for discussion and – so look, I've
22 been involved in this. I'm a lawyer. I have a pretty strong opinion. I talked
23 to Oscar over the weekend. I feel Oscar is disqualified in this case. Oscar
24 was in my deposition in this case, was in other depositions in this case,
25 worked on the strategy in this case, and as I said to Oscar over the
26 weekend, it's like a football game, right? If I am planning, right? If I am
27 going into a huddle to do my last charge towards the goal line, I am not
28 inviting the coach for the other team into my strategy session about the

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1 HIMMELRICH: Okay, thank you. Mr. de la Torre.

2 DE LA TORRE: Yes. As you all know, I care deeply about voting rights of minorities in
3 Santa Monica and California, more generally. Just like Sue, everyone
4 knows that you care deeply about affordable housing. Just like Kevin,
5 everybody knows that you care about environmental issues. My wife,
6 Maria, and the entire Pico Neighborhood Association Board also care
7 deeply about minority voting rights in Santa Monica. That's why in late
8 2015, they raised the illegality of Santa Monica's at-large Council
9 elections to the City Council here and the City Attorney, then, who was
10 Marsha Moutrie. They laid out their case that the at-large election system
11 violated the California Voting Rights Act and the Equal Protection Clause
12 of the California Constitution. The City didn't even respond to our letter in
13 2015 and so having waited four months, Maria and the Pico Neighborhood
14 Association had no choice but to file a lawsuit. We now know, because it
15 was reported by a newspaper in 2018 and revealed in court about a week
16 later, that in 2016, the City hired Karen McDonald, an expert in
17 demographics and voting patterns, to determine whether the City was
18 violating the California Voting Rights Act. I haven't seen Ms.
19 McDonald's report because much like we just learned was done with the
20 after-action report about the police response to protest and looting on May
21 31, the City suppressed Ms. McDonald's report. But I think we all know,
22 based on the City's suppression of the report, what that report says. It says
23 that the City's at-large elections violate the California Voting Rights Act
24 and should be changed. And that report is part of what's going to be
25 discussed in closed session today. Even faced with that report, rather than
26 resolve the matter amicably and inexpensively back in 2016, the City
27 Council chose to pay the most expensive lawyers they could find –
28 Gibson, Dunn & Crutcher, to attack the California Voting Rights Act and

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the important minority voting rights that it protects and though the City also refused this to let the taxpayers of Santa Monica know how much of their taxes had been paid to Gibson, Dunn & Crutcher. I think we all know that number is very high. Most certainly in the tens of millions. And that is why, as an elected official, I want to be involved to stop the bloodletting. The residents want us to stop wasting taxpayer dollars and that's my fiduciary responsibility to do that. If it wasn't such a large amount, they would let us all know, right? And for that, and for what has all that money been spent, if we think about it? Not to avoid laying off City employees, or to improve our parks, or to provide services to our children, or to senior citizens. No – that money has been spent to protect the seats of Councilmembers. In the process, that money was spent fighting for white supremacy. Yeah, that's right. Now some of you might think, Oscar's lost his mind, accusing the famously liberal City of Santa Monica of fighting for white supremacy. But that's exactly what it did. And is still doing by attacking the California Voting Rights Act here in Santa Monica and jeopardizing the Act statewide. But that's exactly what's going on here and we need to understand that we have every reputable civil rights organization, every black, Latino, and Asian member of the California Legislature, past members of the California Legislature, including three current members of Congress: Secretary of State, now US Senator, Alex Padilla, all implored the California Supreme Court to take the case and find in favor for the plaintiffs. They all recognize that at-large elections are the tool used to maintain white supremacy in municipal government. As Senator Polanco wrote, "You will each be remembered by where you stood on this case whether you were on the right side or the wrong side of history." Make no mistake, the California Supreme Court is about to do exactly what all of those civil rights groups and people of color elected to

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1 office have asked it to do. The California Supreme Court is about to tell
2 you what Ms. McDonald told you back in 2016, that Santa Monica's at-
3 large election system violates the California Voting rights Act. So now, as
4 a Council, we are asked whether we are going to throw good money after
5 bad, spend a few more millions of dollars to fight for white supremacy and
6 against minority voting rights. Just like Phil and Christine, I was elected to
7 make sure that we answer that question: no more. And that's what I will
8 do, regardless of whether some members of this Council think I should
9 shut up or be prohibited from participating. And why is this Council
10 discussing the matter in secret closed session anyway? Why not let the
11 people know what you're doing and why you're doing it? Let's push for
12 more transparency. It's certainly not to protect the City of Santa Monica.
13 The trial is over. No more facts can be raised. The case is in the appellate
14 phase, where only legal issues are addressed. There's no longer anything
15 to hide. The only reason now to have discussions about the Pico
16 Neighborhood Association case in secret closed sessions is to protect the
17 lawyers who gave bad advice and cost the City tens of millions of dollars.
18 Specifically, Interim City Attorney Cardona and Interim City Manager
19 Lane Dilg. And perhaps the Councilmembers who sheepishly followed
20 their flawed advice. So, I suppose Mr. Cardona's biased and superficial
21 staff report should not be surprising. He's trying to protect himself and his
22 buddy, the outgoing City Manager. There are so many problems with Mr.
23 Cardona's analysis. The most important is that he does not present the
24 other side of the argument. He started talking about it today, but it doesn't
25 give the City Council today enough opportunity to really reflect on the
26 opposite side, on the other side of this debate. While Mr. Cardona relies
27 exclusively on non-precedential attorney general opinion addressing a
28 situation very different from this one, Mr. Ambrose, who gave me an

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1 independent legal opinion, points to the precedential decision in *Break*
2 *Zone Billiards vs. City of Torrance*. In the *Break Zone Billiards* case, a
3 business obtained an amendment to its conditional use permit for the City
4 of Torrance's Planning Commission. Then, a Torrance City
5 Councilmember appealed the Planning Commission's decision, and that
6 same Torrance City Councilmember adjudicated his own appeal and
7 reversed the Planning Commission's decision. The business claimed that
8 Torrance Councilmember had a conflict of interest, including based on the
9 so-called Common Law Doctrine that you all are talking about, and the
10 Court of Appeal found there was no conflict, financial or otherwise, that
11 would prohibit that Torrance City Councilmember from voting on his own
12 appeal. And Mr. Cardona fails to cite any authority for this Council to
13 unilaterally exclude me from any Council discussions, deliberations or
14 meetings. Why do you think that? Because there is no such authority. He
15 needs to get an independent opinion to bring that forward. Now there's a
16 government code that I researched here called Section 91003, Government
17 Code § 91003. It provides the exclusive procedure for excluding a
18 Councilmember from participating in the Council's deliberations or
19 decisions for which it is alleged that Councilmember has a conflict of
20 interest. That procedure is first to seek an opinion from the FPPC and then
21 seek an injunction from the superior court. It makes sense that a court pass
22 on any question of conflict of interest, not a City Council. The superior
23 court is versed in municipal law, particularly the judges that deal with the
24 writ petitions every day. This Council is not. There are two attorneys on
25 the Council, and I appreciate the years of service for both Gleam and
26 Mayor Himmelrich. But neither of them deal extensively with municipal
27 law and unlike other cities, our Interim City Attorney is also not well
28 versed in municipal law. He is a career federal prosecutor who is

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1 thoroughly unqualified to be giving us an opinion on this matter. Let me
2 be very clear about this. Neither I nor my wife, nor the Pico Neighbor-
3 hood Association, nor any member of my family has any financial interest
4 in the outcome of the Pico Neighborhood Association's litigation against
5 the City. The attorneys for my wife and the Pico Neighborhood
6 Association agreed at the outset that none of the plaintiffs would ever have
7 to pay for anything. On the flipside of that, they also agreed that they
8 would never receive any financial benefit. The attorney's fees and costs
9 that would likely be awarded to the plaintiffs' attorneys go to the
10 attorneys. They will not, and cannot, be shared with my wife or the Pico
11 Neighborhood Association. Mr. Cardona has already made that clear. If
12 anybody has any evidence that I have a financial interest in that case, you
13 can say it now. There is no conflict. Mr. Cardona attempts to extend the
14 conflict-of-interest law to a so-called non-financial conflict even though
15 the California Legislature has said otherwise. He says a Councilperson has
16 a - a City Councilmember has a conflict any time his or her view is
17 different than the City's position. But that begs the question: who decides
18 the City's position? The City Attorney? And wouldn't that mean that any
19 Councilmember who has strong views on any topic that do not conform to
20 the view of the Council majority could be excluded entirely from the
21 discussions and decisions on that topic? Sue, should you be excluded from
22 any discussions regarding RHNA, the demand – the RHNA demand to
23 produce 9,000 plus new housing units with the majority being affordable
24 or eviction moratoriums since you represent tenants at the Western Center
25 for Law and Poverty? After all, some members of this Council would
26 prefer that we oppose the RHNA demand for 9,000 new housing units.
27 Kevin, should you be excluded from every CEQA matter that comes
28 before this Council or discussions concerning the cost of environmental

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1 sustainability or an electric bus fleet? Some members of this Council
2 might value fiscal responsibility over environmental sustainability. Of
3 course, no one should be excluded. Should Kristin McCowan be excluded
4 when we vote on a black agenda or anything specific to the African-
5 American community? No, I think she should be included in those
6 decisions. Each of us was elected by the voters of Santa Monica with full
7 knowledge of how we care deeply about these topics. That my wife and
8 the Pico Neighborhood Association had to sue the City to make progress
9 on this issue does not change the facts and does not mean that I have a
10 conflict of interest. To be in litigation is also a form of advocacy. If
11 anyone on this Council feels differently or anyone watching at home, you
12 can go to court. I invite you to do so. But until a judge tells me that Mr.
13 Ambrose's analysis is wrong, and I have a conflict of interest, I will do
14 what the voters elected me to do: participate in all City Council
15 deliberations and advocate for an end to this horrible costly mistake.
16 Thank you.

17 HIMMELRICH: So, you're saying. Oscar, you will not recuse? Is that correct?

18 DE LA TORRE: I want to do what the voters elected me to do, and that is . . .

19 HIMMELRICH: That's a yes or no question. You aren't going to recuse right now because
20 then we have to vote . . .

21 DE LA TORRE: No.

22 HIMMELRICH: . . . solely on the issue of whether we want to disqualify you. Those are the
23 two choices. That's a binary choice, right? So, you aren't going to recuse
24 so we have to vote. And, let me understand. So, you were going to insist
25 that any closed session we have regarding the CVRA is illegal if it doesn't
26 include you, is that right?

27 DE LA TORRE: Yes.

28 HIMMELRICH: Let's take a vote. Anyone have anything else to say?

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1 DILG: I would like to speak after you vote.
2 HIMMELRICH: Yes. Mr. Brock.
3 BROCK: George, I'm asking one other question. How long would it take to receive
4 a court decision on this? Would that be a long, drawn-out process?
5 CARDONA: I think that is impossible to predict. The court system works in its own
6 ways. In addition, there's the issue as to whether a court would find that
7 this was ripe for an action by the Council. A court very well might say,
8 "Look, I'm not in a position to decide this. There has to be some action
9 taken by the Council and then a challenge to that action that would give
10 me a case or controversy that would provide a basis." Obviously, if the
11 Council votes to disqualify Oscar, he would have the ability to pursue that
12 in court and that might be a quicker way to get an answer from a court.
13 BROCK: Thank you, George.
14 HIMMELRICH: Kristin.
15 McCOWAN: And I saw Councilmember McKeown, too, but – so a quick question. Is
16 there a way to proceed under whatever the direction was prior to now for
17 the City Attorney and the City without us revisiting or receiving any
18 updates in closed session while we await the conclusion of
19 Councilmember de la Torre's lawsuit?
20 CARDONA: We would proceed with the prior direction that is place, which is simply to
21 proceed with briefing. The Council would not have any input into what
22 that brief says or the positions we take. I would have to base that on prior
23 direction that we have received from Council and our interpretations.
24 McCOWAN: Okay, so that would be another option.
25 CARDONA: In theory, yes.
26 McCOWAN: Okay.
27 HIMMELRICH: Councilmember McKeown.
28 McKEOWN: No, I just wanted to say I regret that Councilmember de la Torre chose not

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1 to accept the voluntary option and I can assure you that if my wife were to
2 sue the City, I would recuse myself.

3 HIMMELRICH: Okay. Are we ready to take a vote? So, as I understand the motion now,
4 Mr. de la Torre will not recuse, so we are voting to determine that Mr. de
5 la Torre has a common law conflict of interest that disqualifies him from
6 his involvement in any closed session or confidential conversations
7 concerning Pico Neighborhood Association, Maria Loya versus City of
8 Santa Monica?

9 CARDONA: And, Mayor Himmelrich, would disqualify him from voting on any
10 decisions made with respect to that case.

11 HIMMELRICH: And would disqualify him from voting on any decisions made with respect
12 to that. Councilmember McCowan.

13 McCOWAN: I just – is there a place to – where the City Attorney would proceed based
14 on prior direction? I mean, is that an option while we wait out the
15 judgment from the court that Councilmember de la Torre is seeking?

16 HIMMELRICH: Councilmember Davis.

17 DAVIS: Well, I think we have to take this vote, I think is what our City Attorney
18 has told us. We have to take the vote to create the conflict so there is a
19 justiciable issue. Otherwise, there's no ripeness. You can't go and say,
20 "What if this happened and what if we did that?" That's an advisory
21 opinion and the courts won't issue that. So, I think we have to take the
22 vote first and then see procedurally where we are.

23 McCOWAN: Got it. Thank you.

24 HIMMELRICH: So, let's take the vote now.

25 DAVIS: Can I just make it clear that a yes vote is a yes to declare that there is a
26 common law conflict of interest, and that Councilmember de la Torre
27 should be excluded as you described?

28 HIMMELRICH: Yes, thank you. Thanks for making that clear. Denise?

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1 ANDERSON-WARREN: Well, Councilmember de la Torre has his hand up.

2 HIMMELRICH: Oh, I'm sorry, thank you.

3 DE LA TORRE: Yeah. I just want to clarify one thing. That if the FPPC or, you know,
4 another higher body, if the courts clarify this issue for me, then I would
5 definitely recuse myself as, you know, I would follow the law. I mean, I
6 just want to make that clear. But I don't feel that that's clarified, and I just
7 wanted to make that last point.

8 HIMMELRICH: Thank you. Let's take a vote.

9 ANDERSON-WARREN: Okay. So, this is a yes or a no. Councilmember Parra.

10 PARRA: No.

11 ANDERSON-WARREN: Councilmember Davis.

12 DAVIS: Yes.

13 ANDERSON-WARREN: Councilmember McKeown.

14 McKEOWN: Yes.

15 ANDERSON-WARREN: Mayor Pro Tem, McCowan.

16 McCOWAN: Yes.

17 ANDERSON-WARREN: Councilmember Brock.

18 BROCK: Abstain.

19 ANDERSON-WARREN: Councilmember de la Torre.

20 DE LA TORRE: No.

21 ANDERSON-WARREN: Mayor Himmelrich.

22 HIMMELRICH: Yes. So that passes 4 to 2.

23 ANDERSON-WARREN: Yes.

24 HIMMELRICH: So, let me just say that we now are going into a closed session where we
25 are discussing this, and Mr. de la Torre is refusing to recuse. I guess we
26 can exclude you electronically from the closed session, who has just now
27 just disappeared, from the closed session.

28 ANDERSON-WARREN: Councilmember Himmelrich . . . before we go, we have to adjourn

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1 this meeting.

2 HIMMELRICH: I'm talking, I'm understand, but this is, I think, part of this discussion.

3 That's my point.

4 ANDERSON-WARREN: Okay.

5 HIMMELRICH: Councilmember – so City Manager, please.

6 DILG: Yes. I simply want to say, before we leave this meeting, I think some of
7 the comments made tonight were outrageous. I want to say that in this
8 particular moment in our country's history, we have seen the need to
9 verify information. We have seen the use of baseless allegations and
10 accusations printed in sources that do not take time to verify. As we see
11 that, it is more important than ever that people – that we not continue to
12 print things simply because they are said. Equally importantly, public
13 service is an honorable profession. I am a Constitutional lawyer and a civil
14 rights lawyer. I have worked for the ACLU as a civil rights lawyer. I am
15 not seeking \$22 Million from this City, and I want to be very clear that
16 this City and all of our communities deserve good public servants. And
17 continued attacks on public servants does not move anyone forward. So, I
18 want to be very clear that I will be here, and I will continue to work to the
19 best of my ability for this community, for all of our community, and I will
20 continue to do that every day. But this is outrageous, and I want to clearly
21 state that on the record.

22 HIMMELRICH: Councilmember Brock.

23 BROCK: My question was during the closed session, there are other items in the
24 closed sessions, so Councilmember de la Torre should be allowed to
25 participate in the other two items, I think?

26 CARDONA: That's correct. He'll be present for those two which we'll do first and
27 we'll save the CVRA for last and ask at that time for Mr. de la Torre to
28 leave in accordance with the Council's direction.

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1 HIMMELRICH: And that's what we did with the Airbnb, Phil. We always . . .
2 BROCK: That's fine. You had said he was excluded. I was just trying to be clear.
3 HIMMELRICH: Yes.
4 BROCK: Thank you very much.
5 HIMMELRICH: So, this meeting now will adjourn, and we will move to the, our 5:30
6 regular meeting of the City Council. And thank you all very much.

7 **END OF HEARING ON ITEM 8A**

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THE BRIEF CASE
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January 10, 2022

I hereby certify under penalty of perjury that The Brief Case has transcribed the audio file provided by the Santa Monica City Council, regarding the City Council Hearing dated January 26, 2021, Item 8A. The file was transcribed, verbatim, to the best of our ability.

After reviewing the transcript, it was necessary to make non-substantive typographical corrections; therefore, this Revised Certification is being provided to verify that the corrections/changes were made in this matter.



CHERI SINGER, Transcription Specialist

Exhibit 41

1 *NOTE: Due to the cadence of the speech (i.e., mumbling, slurring, being soft-spoken),*
2 *some words of inaudible and will be marked as such. Words may also be marked*
3 *as inaudible due to background noise, overlapping voices, or impurities of the*
4 *recording.*

5
6 HIMMELRICH: Well, while we're waiting, Oscar, if you're there, cause I saw you for a
7 minute. Did you have a statement to make?

8 DE LA TORRE: Yes, yes, yes, thank you, Mayor. And thank you for reminding me, in the
9 last City Council meeting when the issue of PAL and the allegations were
10 presented I wasn't able to participate in that meeting and so Mayor
11 Himmelrich reminded me that, of the proper procedure for recusal and so I
12 want to do that because I think it's appropriate for this matter. As the
13 public has been informed, the majority of the alleged victims of the Police
14 Activities League sexual abuse issue, we know that most of the victims
15 reside or resided in the Pico neighborhood, a neighborhood I, you know,
16 was raised in. And many of the victims are also youth of color and being
17 that I had been working with young people for so many years, there are
18 some of those victims I had relationships with and it makes it very
19 difficult for me to be impartial in this case because it's emotional, it's
20 psychological, and it's very hard. So, I think for this reason, I think it's
21 best for me to recuse myself on all matters regarding the settlement of
22 these issues and these incidents, and I look forward to a greater healing for
23 the victims and also I look forward to learning of the results of the City's
24 promised internal investigation related to the alleged issue of staff
25 knowing or should have been knowing about these incidents. And so, in
26 any case, I think it's appropriate for me to recuse myself for this item and I
27 hope that there will be a greater accountability and greater healing for the
28 victims in this case.

CITY COUNCIL HEARING
HEARING DATE: April 13, 2021
ITEM 1A

1 HIMMELRICH: So, Oscar, we have one item, the first 1A, is something that you will be in
2 closed session on and then on 1B, we will expect you to leave the meeting
3 and turn your sound off.

4 DE LA TORRE: Okay. Thank you.

5 HIMMELRICH: Thanks very much.

6 **END OF HEARING ON ITEM 1A**

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THE BRIEF CASE
6913 Waxwing Way
Sacramento, California 95842
Telephone: (916) 338-5756

January 27, 2022

I hereby certify under penalty of perjury that The Brief Case has transcribed the audio file provided by the City Attorney's Office of Santa Monica, regarding the City Council Hearing on April 13, 2021, Item 1A. The file was transcribed, verbatim, to the best of our ability.


CHERI SINGER, Transcription Specialist

SM00133

Exhibit 42

CITY COUNCIL HEARING
HEARING DATE: November 9, 2021
ITEM 3G

1 *NOTE: Due to the cadence of the speech (i.e., mumbling, slurring, being soft-spoken),*
2 *some words of inaudible and will be marked as such. Words may also be marked*
3 *as inaudible due to background noise, overlapping voices, or impurities of the*
4 *recording.*

5
6 HIMMELRICH: And now I need to step out so council-, I'm sorry, Mayor Pro Tem
7 McCowan will be leading the meeting.

8 ANDERSON-WARREN: Okay, 3G is adoption of Resolution Amending the Policies for City
9 Boards, Commissions, Committees, Task Forces, and Regional Advisor
10 Boards to include a Nepotism Policy, and Repeal Resolution No. 11338.

11 McCOWAN: Do we have a motion?

12 DE LA TORRE: Yes.

13 ANDERSON-WARREN: Who made a motion?

14 McCOWAN: De la Torre. Is there a second?

15 DAVIS: Second.

16 McCOWAN: We're ready for a roll call vote.

17 BROCK: Excuse me? Discussion?

18 McCOWAN: Oh, I'm sorry. We can, yes, sure.

19 BROCK: I think there's going to be a lot of discussion on this item or at least I'll
20 have some.

21 McCOWAN: Okay. Feel free. That's why I asked.

22 BROCK: No, no, it was moving so fast, I was like, wait a minute. Okay, so how do
23 we want to – should I just go through the items that I have issues with?

24 McCOWAN: You have the floor, Councilmember Brock. Feel free.

25 BROCK: So, while there are a lot of good provisions in this, there are concerns by
26 residents and concerns by people I've heard throughout the City about
27 some of the parts of this resolution. So, I'm just going to go through each
28 piece of the resolution and give you the part that I think needs to be

CITY COUNCIL HEARING
HEARING DATE: November 9, 2021
ITEM 3G

1 without having to go through their reconsideration process.

2 McCOWAN: Okay, so first Councilmember De la Torre was next, so I just want to
3 make sure he doesn't have anything. Given everything that you just heard,
4 do you still have comments?

5 DE LA TORRE: [inaudible]

6 McCOWAN: Okay. Go for it.

7 DE LA TORRE: And maybe Denise, you can remind me of this, but I know that we – one
8 of the directives that we gave and I just wanted to hear from you, your
9 interpretation of the directive, regarding like how for boards and
10 commissions, for us how we can gather baseline data to understand.

11 ANDERSON-WARREN: Okay, we will be coming back. We will be coming back. We've
12 already . . . yeah, we've already done that.

13 DE LA TORRE: We have that, okay. Cool. We're good on that. Thank you. And then the
14 other thing that I wanted to raise, I do want to say that and I know we're
15 only dealing with Item G here regarding the nepotism . . .

16 ANDERSON-WARREN: That's it.

17 DE LA TORRE: Yeah. And so one of the things that I want to say is, that I think it is
18 unfortunate, you know, that it seems that one member of our housing
19 commission would be affected and I do agree with the previous caller, Ms.
20 Hoffman, who said that Mr. Soloff has done a great job, but I do agree
21 also that if we're going to have a rule it must be applied across the board
22 for everyone so that we are fair in the application of our policies. But I
23 started thinking, you know, the issue is really is like sort of the conflict,
24 you know, as we would call a conflict, because the husband, wife,
25 registered domestic partner, son, daughter, mother, father, brother, and
26 sister of a Councilmember would have a hard time sort of distancing
27 themselves or it seems like they could be compromised, right, because of
28 their relationship with a Councilmember. But I started thinking if it would

1 be appropriate to add sort of an employee of a Councilmember or a
2 business partner of a Councilmember. Maybe we would add those either
3 two categories because wouldn't that also be a way to compromise an
4 individual serving on a board or commission, you know, that they work
5 for you? I mean how would they vote against something that you – you
6 know, if I supported something and my employee is on the board and
7 commission, it's hard for them to sort of go against me, right? They're
8 compromised, you know, for lack of a better term. So, I thought that
9 maybe we would add that also you can't be an employee of a Council-
10 member and you can't be a business partner of a Councilmember. And I
11 wanted to know how my colleagues felt about adding those two categories
12 to the list.

13 McCOWAN: Councilmember Negrete is next then Councilmember Brock you're up if
14 you still have one.

15 NEGRETE: I don't have any problem with what Councilmember De la Torre just
16 brought up. I do have a question though as it pertains to the nepotism, so
17 just to be clear, if there was an amendment to say that because this is a
18 new – this is new, that if there is a member who's going to be terminating
19 within seven months, and it sounds like it would be effective January, this
20 member would be off presumably what? May? Do we know the date? Do
21 we need to make an amendment to say that – I – so that's what the
22 amendment would have to be to this, that we're asking to amend that it not
23 be immediate, but rather allow this. It sounds like it's one individual, too.

24 McCOWAN: One, I don't think a motion's been made. Has there? Oh, there was, sorry a
25 motion and a second, so you'd have to make a friendly amendment just
26 addressing whatever particulars of the current nepotism policy and then
27 Councilmember De la Torre, if he wants to add, if that's accepted, it's
28 accepted, Councilmember De la Torre, if he wants to add an amendment

THE BRIEF CASE
6913 Waxwing Way
Sacramento, California 95842
Telephone: (916) 338-5756

January 27, 2022

I hereby certify under penalty of perjury that The Brief Case has transcribed the audio file provided by the City Attorney's Office of Santa Monica, regarding the City Council Hearing on November 8, 2021, Item 3G. The file was transcribed, verbatim, to the best of our ability.



CHERI SINGER, Transcription Specialist

Exhibit 43

Andrew Lamb

From: W. Trivino-Perez, Esq. <wtpesq@gmail.com>
Sent: Wednesday, November 17, 2021 2:54 PM
To: Carol Silberberg; Kirsten Galler; Brandon Ward
Subject: PROPOSED DECLARATIONS IN LIEU OF DISCOVERY
Attachments: de la torre decl in lieu of discovery.pdf; kis decl in lieu of discovery.pdf

Carol,

Attached are the proposed declarations in lieu of discovery. kindly review and advise.

Thank you,

Will

NO US MAIL AT THIS TIME - ELECTRONIC ONLY:

To promote public health, and in hopes of doing our part to slow the spread of the Delta variant, our office is immediately transitioning to remote work for all of our staff until further notice. This will no doubt complicate our usual workflow in several ways, some foreseeable and some not.

TRIVINO PEREZ & ASSOCIATES | Attorneys at Law

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<http://m.facebook.com/TPALAW>

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1 **DECLARATION OF KEVIN SHENKMAN**

2 I, Kevin Shenkman, declare as follows:

3 1. I am one of several attorneys representing the plaintiffs in the case styled
4 *Pico Neighborhood Association, et al. v. City of Santa Monica* (“Voting Rights Case”).

5 I am over the age of 18 and have personal knowledge of the facts contained in this
6 declaration. If called as a witness, I could and would competently testify as follows:

7 2. Since 2012, a significant portion of my practice has focused on voting
8 rights, and more specifically cases involving the California Voting Rights Act
9 (“CVRA”). In 2013, I was lead counsel in the first CVRA case to go to trial – *Jauregui*
10 *v. City of Palmdale*, tried before Hon. Mark Mooney in the Los Angeles Superior
11 Court. Since that time, my law firm, Shenkman & Hughes PC, and the other law firms
12 we work with, have been responsible for the majority of CVRA litigation in California.
13 Since 2013, I have spoken over a hundred times at various events, such as legal
14 conferences and community meetings, regarding voting rights, district-based elections
15 and the CVRA.

16 3. I met Maria Loya, her husband Oscar de la Torre, and the rest of the board
17 members of the Pico Neighborhood Association in 2015. Though I knew of Mr. de la
18 Torre before that time, particularly because he was a board member for the school
19 district where my children attended school, and I knew that he was a leader in the
20 Latino civil rights community, I had not met him personally until 2015. In late-2015
21 and early-2016, Shenkman & Hughes PC worked with Ms. Loya and the Pico
22 Neighborhood Association, as well as other Santa Monica residents and groups, to
23 convince the Santa Monica City Council to bring their elections into compliance with
24 the CVRA. When those efforts proved unsuccessful, we initiated the Voting Rights
25 Case.

26 4. In developing a case under the CVRA, we often must investigate the
27 political realities of a governing body, as well as the factors the CVRA identifies as
28 “probative but not necessary” to establishing a violation of the CVRA, for example,
“the history of discrimination ... denial of access to those processes determining which

1 groups of candidates will receive financial or other support in a given election, the
2 extent to which members of a protected class bear the effects of past discrimination in
3 areas such as education, employment, and health, which hinder their ability to
4 participate effectively in the political process, [] the use of overt or subtle racial appeals
5 in political campaigns,” and the unresponsiveness of the governing board to the needs
6 and desires of the protected class. To carry out that investigation, we communicate
7 with community members with knowledge of local politics in the political subdivision
8 at issue, among other things. Our investigation of Santa Monica was no exception. As
9 detailed in the billing records of my firm and those of our co-counsel, all of which have
10 been provided to the City of Santa Monica, we inquired of several people
11 knowledgeable in Santa Monica city politics, including Oscar de la Torre. Mr. de la
12 Torre was helpful; he provided us with significant information concerning the political,
13 social and economic realities of Santa Monica, and political figures. Of course, all of
14 that work is complete now, since the trial of the Voting Rights Case concluded in 2018.
15 Now, with the trial concluded, the record is closed and the factual disputes are resolved,
16 so we have no need to further investigate. Since the trial concluded, and the Los
17 Angeles Superior Court entered judgment, in the Voting Rights Case, many of the
18 people with whom we communicated for the purpose of our factual investigation have
19 asked that we update them on the progress of the case and pending appeal, and we have
20 done so upon their requests.

21 5. My firm’s voting rights practice often requires me and my colleagues to
22 engage in the political process as well as the court process. Because the system of
23 election employed by a political subdivision is both a legal issue and a political issue
24 important to thousands of voters, whenever we pursue litigation we also engage with
25 community leaders, community groups and elected officeholders. Over the six years in
26 which we have worked to bring Santa Monica’s city council elections into compliance
27 with the CVRA, I have personally spoken at dozens of Santa Monica community group
28 meetings and fielded questions from Santa Monica residents on each occasion. In the
process, I have communicated with all, or nearly all, of the current members of the

1 Santa Monica City Council, as well as several former councilmembers. For example, I
2 spoke at a Northeast Neighbors meeting regarding district elections, the CVRA and the
3 Voting Rights Case, at which Councilmember Gleam Davis also spoke briefly
4 regarding the same topics, after which I fielded questions. More recently, I spoke at a
5 Santa Monica Democratic Club meeting, attended by Mayor Sue Himmelrich,
6 Councilmember Oscar de la Torre and Councilmember Kristin McCowan, as well as
7 former councilmembers Kevin McKeown and Tony Vazquez, regarding those same
8 topics. Some of my communications with Santa Monica city councilmembers have
9 been in public, while others have been in private.

10 6. My communications with members of the Santa Monica City Council are
11 expressly permitted by the Professional Rules of Conduct. Specifically, while Rule 4.2
12 generally prohibits communications between an attorney and a represented opposing
13 party, it excludes public elected officials from that prohibition: “This rule shall not
14 prohibit [] communications with a public official, board, committee, or body.” (Rule of
15 Prof. Cond. 4.2(c)(1)). Comment 7 to that Rule explains that First Amendment
16 considerations require that attorneys opposing a political subdivision in litigation be
17 allowed to petition the elected officials who make decisions for the public entity:

18 “When a lawyer communicates on behalf of a client with a governmental
19 organization, or certain employees, members, agents, or other constituents
20 of a governmental organization, however, special considerations exist as a
21 result of the right to petition conferred by the First Amendment of the
22 United States Constitution and article I, section 3 of the California
23 Constitution. Paragraph (c)(1) recognizes these special considerations by
24 generally exempting from application of this rule communications with
25 public boards, committees, and bodies, and with public officials as defined
26 in paragraph (d)(2) of this rule.”

27 (Rule of Prof. Cond. 4.2, cmt. 7)

28 7. I frequently have discussions concerning the CVRA, voting rights and
elections with elected officials throughout California. Almost always, those elected
officials communicate with me with the (often express) understanding that our

1 discussions are confidential and will not be disclosed to anyone. When my discussions
2 with elected officials are not in public, I never reveal those discussions, both because it
3 would be a breach of trust to do so and because elected officials would be unlikely to
4 speak to me if they believed I would reveal those discussions.

5 7. Litigating CVRA cases requires significant time, effort, knowledge and
6 resources. Some CVRA cases require thousands of hours of work by attorneys, and
7 hundreds of thousands of dollars in expenses, mostly for expert witnesses who testify
8 about topics such as group voting behavior, statistical methods, demographics and
9 alternative election systems. In *Jauregui v. City of Palmdale*, for example, the Los
10 Angeles Superior Court awarded over \$4 million in attorneys' fees and expenses
11 through two disputed fees motions. The CVRA affords standing to "[a]ny voter who is
12 a member of a protected class and who resides in a political subdivision where a
13 violation ... is alleged." Yet, very few voters have millions of dollars available to
14 spend on attorneys and expert witnesses. Moreover, voters who wish to challenge an
15 at-large election system under the CVRA have no prospect of financial gain through
16 such a lawsuit, because the only financial relief available is attorneys' fees and costs,
17 and non-attorneys cannot share in that recovery. Therefore, Shenkman & Hughes and
18 the other law firms with which we associate, handles all CVRA cases on a *pro bono*
19 basis. Our CVRA clients do not pay us or anyone else any money in connection with
20 those cases. They have no prospect for any financial gain or financial loss from those
21 cases.

22 I declare under penalty of perjury under the laws of the State of California that
23 the foregoing is true and correct.

24 Executed this ____ day of November 2021, at Malibu, California.

25
26 _____
27 Kevin Shenkman
28

Exhibit 44

Fwd: Filing ID 4895959 Accepted on 21STCV08597 - OSCAR DE LA TORRE vs CITY OF SANTA MONICA

From: W. Trivino-Perez, Esq. (wtpesq@gmail.com)

To: shenkman@sbcglobal.net; odelatorre16@yahoo.com

Date: Friday, March 5, 2021, 08:10 AM PST

----- Forwarded message -----

From: **GreenFiling Support** <support@greenfiling.com>

Date: Thu, Mar 4, 2021 at 4:15 PM

Subject: Filing ID 4895959 Accepted on 21STCV08597 - OSCAR DE LA TORRE vs CITY OF SANTA MONICA

To: Wilfredo Trivino-Perez <wtpesq@gmail.com>

CC: wtpesq@gmail.com <wtpesq@gmail.com>



Warning: One or more files could NOT be attached to this email due to file size restrictions. [Click here](#) to open your filing, and download your filed copies.

Accepted

Filing ID: [4895959](#)

Envelope No: 21LA03240156

Document(s): Complaint - Accepted
Summons - Accepted
Civil Case Cover Sheet - Accepted
Civil Case Cover Sheet - Accepted

Case: [21STCV08597 - OSCAR DE LA TORRE vs CITY OF SANTA MONICA](#)

Court Location: Central District Stanley Mosk Courthouse Department 32

Filer: Wilfredo Trivino-Perez

Final Filing Fees: Complaint \$435.00

P0863

Los Angeles County Court Transaction Fee	\$2.25
Provider Service Fee	\$7.85
Payment Service Fee	\$13.12
<hr/>	
Total	\$458.22

Card Used: VISA-xxxxxxxxxxxx6302

Invoice Number: 2518076 - [View Invoice](#)

[Click here](#) for a detailed printer friendly filing receipt.

[Click here](#) for a filing statement.

Thank you!

--
Trivino Perez & Associates is operating virtually with full access to phone and email communication during our regular business hours. Our physical office is currently closed in adherence to Governor Newsom's March 19, 2020 Order N-33-20. Please refrain from communication by mail in order to reduce the spread of viruses and other illnesses being transmitted on physical documents.

TRIVINO PEREZ & ASSOCIATES
Trial Attorneys
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 Notice of Case Assignment - Unlimited Civil Case.pdf
634.7kB

 Notice of E-Filing Confirmation.pdf
44.5kB

 Notice.pdf
2.2MB



P0864



Civil Case Cover Sheet.pdf
725.7kB



Civil Case Cover Sheet.pdf
580.2kB



Summons on Complaint.pdf
308.1kB

Superior Court of California
County of Los Angeles

Receipt EFM-2021-2999824.1

Date: 3/4/21 4:12 PM

Time: 3/4/21 4:12 PM

CASE # 21STCV08597

OSCAR DE LA TORRE vs CITY OF SANTA

Unlimited Civil- Compl/UD/Pat filed >25k -	435.00
GC70611,70602.5,70602.6	
Court Transaction Fee	2.25
Case Total:	<u>437.25</u>

Total Paid: 437.25

21LA03240156

P0866

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES	<small>Reserved for Clerk's File Stamp</small>
<small>COURTHOUSE ADDRESS:</small> Stanley Mosk Courthouse 111 North Hill Street, Los Angeles, CA 90012	FILED Superior Court of California County of Los Angeles 03/04/2021 Sherri R. Carter, Executive Officer / Clerk of Court By <u> N. Alvarez </u> Deputy
NOTICE OF CASE ASSIGNMENT UNLIMITED CIVIL CASE	
Your case is assigned for all purposes to the judicial officer indicated below.	<small>CASE NUMBER</small> 21STCV08597

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT

	ASSIGNED JUDGE	DEPT	ROOM		ASSIGNED JUDGE	DEPT	ROOM
<input checked="" type="checkbox"/>	Daniel S. Murphy	32					

Given to the Plaintiff/Cross-Complainant Attorney of Record Sherri R. Carter, Executive Officer / Clerk of Court
on 03/04/2021 (Date) By N. Alvarez Deputy Clerk

INSTRUCTIONS FOR HANDLING UNLIMITED CIVIL CASES

The following critical provisions of the California Rules of Court, Title 3, Division 7, as applicable in the Superior Court, are summarized for your assistance.

APPLICATION

The Division 7 Rules were effective January 1, 2007. They apply to all general civil cases.

PRIORITY OVER OTHER RULES

The Division 7 Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

CHALLENGE TO ASSIGNED JUDGE

A challenge under Code of Civil Procedure Section 170.6 must be made within 15 days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

TIME STANDARDS

Cases assigned to the Independent Calendaring Courts will be subject to processing under the following time standards:

COMPLAINTS

All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days.

CROSS-COMPLAINTS

Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

STATUS CONFERENCE

A status conference will be scheduled by the assigned Independent Calendar Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

FINAL STATUS CONFERENCE

The Court will require the parties to attend a final status conference not more than 10 days before the scheduled trial date. All parties shall have motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested jury instructions, special jury instructions, and special jury verdicts timely filed and served prior to the conference. These matters may be heard and resolved at this conference. At least five days before this conference, counsel must also have exchanged lists of exhibits and witnesses, and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Three of the Los Angeles Superior Court Rules.

SANCTIONS

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Three Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Three Rules. Such sanctions may be on a party, or if appropriate, on counsel for a party.

This is not a complete delineation of the Division 7 or Chapter Three Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is imperative.

Class Actions

Pursuant to Local Rule 2.3, all class actions shall be filed at the Stanley Mosk Courthouse and are randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be a class action it will be returned to an Independent Calendar Courtroom for all purposes.

*Provisionally Complex Cases

Cases filed as provisionally complex are initially assigned to the Supervising Judge of complex litigation for determination of complex status. If the case is deemed to be complex within the meaning of California Rules of Court 3.400 et seq., it will be randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be complex, it will be returned to an Independent Calendar Courtroom for all purposes.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Branch Name: Stanley Mosk Courthouse
Mailing Address: 111 North Hill Street
City, State and Zip Code: Los Angeles CA 90012

SHORT TITLE: OSCAR DE LA TORRE vs CITY OF SANTA MONICA**CASE NUMBER:**
21STCV08597**NOTICE OF CONFIRMATION OF ELECTRONIC FILING**

The Electronic Filing described by the below summary data was reviewed and accepted by the Superior Court of California, County of LOS ANGELES. In order to process the filing, the fee shown was assessed.

Electronic Filing Summary Data

Electronically Submitted By: Green Filing
Reference Number: 4895959_1
Submission Number: 21LA03240156
Court Received Date: 03/04/2021
Court Received Time: 1:14 pm
Case Number: 21STCV08597
Case Title: OSCAR DE LA TORRE vs CITY OF SANTA MONICA
Location: Stanley Mosk Courthouse
Case Type: Civil Unlimited
Case Category: Other Complaint (non-tort/non-complex)
Jurisdictional Amount: Over \$25,000
Notice Generated Date: 03/04/2021
Notice Generated Time: 4:12 pm

Documents Electronically Filed/Received**Status**

Complaint	Accepted
Summons	Accepted
Civil Case Cover Sheet	Accepted
Civil Case Cover Sheet	Accepted

NOTICE OF CONFIRMATION OF FILING

P0869

Notice (name extension)

Accepted

Comments

Submitter's Comments: Civil Case Cover Sheet and Addendum to civil case cover sheet were uploaded separately per efilng company instruction.

Clerk's Comments:

Electronic Filing Service Provider Information

Service Provider: Green Filing

Contact: Green Filing

Phone: (801) 448-7268

NOTICE OF CONFIRMATION OF FILING

P0870

750

FILED
Superior Court of California
County of Los Angeles

MAY 03 2019

Sherri R. Carter, Executive Officer/Clerk
By *Rizallinda Mias*, Deputy
Rizallinda Mias

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

IN RE LOS ANGELES SUPERIOR COURT) FIRST AMENDED GENERAL ORDER
— MANDATORY ELECTRONIC FILING)
FOR CIVIL)
)
)
)
)

On December 3, 2018, the Los Angeles County Superior Court mandated electronic filing of all documents in Limited Civil cases by litigants represented by attorneys. On January 2, 2019, the Los Angeles County Superior Court mandated electronic filing of all documents filed in Non-Complex Unlimited Civil cases by litigants represented by attorneys. (California Rules of Court, rule 2.253(b).) All electronically filed documents in Limited and Non-Complex Unlimited cases are subject to the following:

1) DEFINITIONS

- a) **"Bookmark"** A bookmark is a PDF document navigational tool that allows the reader to quickly locate and navigate to a designated point of interest within a document.
- b) **"Efiling Portal"** The official court website includes a webpage, referred to as the efiling portal, that gives litigants access to the approved Electronic Filing Service Providers.
- c) **"Electronic Envelope"** A transaction through the electronic service provider for submission of documents to the Court for processing which may contain one or more PDF documents attached.
- d) **"Electronic Filing"** Electronic Filing (eFiling) is the electronic transmission to a Court of a document in electronic form. (California Rules of Court, rule 2.250(b)(7).)

1 e) **“Electronic Filing Service Provider”** An Electronic Filing Service Provider (EFSP) is a
 2 person or entity that receives an electronic filing from a party for retransmission to the Court.
 3 In the submission of filings, the EFSP does so on behalf of the electronic filer and not as an
 4 agent of the Court. (California Rules of Court, rule 2.250(b)(8).)

5 f) **“Electronic Signature”** For purposes of these local rules and in conformity with Code of
 6 Civil Procedure section 17, subdivision (b)(3), section 34, and section 1010.6, subdivision
 7 (b)(2), Government Code section 68150, subdivision (g), and California Rules of Court, rule
 8 2.257, the term “Electronic Signature” is generally defined as an electronic sound, symbol, or
 9 process attached to or logically associated with an electronic record and executed or adopted
 10 by a person with the intent to sign the electronic record.

11 g) **“Hyperlink”** An electronic link providing direct access from one distinctively marked place
 12 in a hypertext or hypermedia document to another in the same or different document.

13 b) **“Portable Document Format”** A digital document format that preserves all fonts,
 14 formatting, colors and graphics of the original source document, regardless of the application
 15 platform used.

16 2) **MANDATORY ELECTRONIC FILING**

17 a) **Trial Court Records**

18 Pursuant to Government Code section 68150, trial court records may be created, maintained,
 19 and preserved in electronic format. Any document that the Court receives electronically must
 20 be clerically processed and must satisfy all legal filing requirements in order to be filed as an
 21 official court record (California Rules of Court, rules 2.100, et seq. and 2.253(b)(6)).

22 b) **Represented Litigants**

23 Pursuant to California Rules of Court, rule 2.253(b), represented litigants are required to
 24 electronically file documents with the Court through an approved EFSP.

25 c) **Public Notice**

26 The Court has issued a Public Notice with effective dates the Court required parties to
 27 electronically file documents through one or more approved EFSPs. Public Notices containing
 28 effective dates and the list of EFSPs are available on the Court's website, at www.lacourt.org.

1 d) Documents in Related Cases

2 Documents in related cases must be electronically filed in the eFiling portal for that case type if
3 electronic filing has been implemented in that case type, regardless of whether the case has
4 been related to a Civil case.

5 3) EXEMPT LITIGANTS

6 a) Pursuant to California Rules of Court, rule 2.253(b)(2), self-represented litigants are exempt
7 from mandatory electronic filing requirements.

8 b) Pursuant to Code of Civil Procedure section 1010.6, subdivision (d)(3) and California Rules of
9 Court, rule 2.253(b)(4), any party may make application to the Court requesting to be excused
10 from filing documents electronically and be permitted to file documents by conventional
11 means if the party shows undue hardship or significant prejudice.

12 4) EXEMPT FILINGS

13 a) The following documents shall not be filed electronically:

14 i) Peremptory Challenges or Challenges for Cause of a Judicial Officer pursuant to Code of
15 Civil Procedure sections 170.6 or 170.3;

16 ii) Bonds/Undertaking documents;

17 iii) Trial and Evidentiary Hearing Exhibits

18 iv) Any ex parte application that is filed concurrently with a new complaint including those
19 that will be handled by a Writs and Receivers department in the Mosk courthouse; and

20 v) Documents submitted conditionally under seal. The actual motion or application shall be
21 electronically filed. A courtesy copy of the electronically filed motion or application to
22 submit documents conditionally under seal must be provided with the documents
23 submitted conditionally under seal.

24 b) Lodgments

25 Documents attached to a Notice of Lodgment shall be lodged and/or served conventionally in
26 paper form. The actual document entitled, "Notice of Lodgment," shall be filed electronically.

27 //

28 //

1 5) **ELECTRONIC FILING SYSTEM WORKING PROCEDURES**

2 Electronic filing service providers must obtain and manage registration information for persons
3 and entities electronically filing with the court.

4 6) **TECHNICAL REQUIREMENTS**

5 a) Electronic documents must be electronically filed in PDF, text searchable format when
6 technologically feasible without impairment of the document's image.

7 b) The table of contents for any filing must be bookmarked.

8 c) Electronic documents, including but not limited to, declarations, proofs of service, and
9 exhibits, must be bookmarked within the document pursuant to California Rules of Court, rule
10 3.1110(f)(4). Electronic bookmarks must include links to the first page of each bookmarked
11 item (e.g. exhibits, declarations, deposition excerpts) and with bookmark titles that identify the
12 bookedmarked item and briefly describe the item.

13 d) Attachments to primary documents must be bookmarked. Examples include, but are not
14 limited to, the following:

15 i) Depositions;

16 ii) Declarations;

17 iii) Exhibits (including exhibits to declarations);

18 iv) Transcripts (including excerpts within transcripts);

19 v) Points and Authorities;

20 vi) Citations; and

21 vii) Supporting Briefs.

22 e) Use of hyperlinks within documents (including attachments and exhibits) is strongly
23 encouraged.

24 f) **Accompanying Documents**

25 Each document accompanying a single pleading must be electronically filed as a separate
26 digital PDF document.

27 g) **Multiple Documents**

28 Multiple documents relating to one case can be uploaded in one envelope transaction.

1 h) Writs and Abstracts

2 Writs and Abstracts must be submitted as a separate electronic envelope.

3 i) Sealed Documents

4 If and when a judicial officer orders documents to be filed under seal, those documents must be
 5 filed electronically (unless exempted under paragraph 4); the burden of accurately designating
 6 the documents as sealed at the time of electronic submission is the submitting party's
 7 responsibility.

8 j) Redaction

9 Pursuant to California Rules of Court, rule 1.201, it is the submitting party's responsibility to
 10 redact confidential information (such as using initials for names of minors, using the last four
 11 digits of a social security number, and using the year for date of birth) so that the information
 12 shall not be publicly displayed.

13 7) ELECTRONIC FILING SCHEDULE

14 a) Filed Date

15 i) Any document received electronically by the court between 12:00 am and 11:59:59 pm
 16 shall be deemed to have been effectively filed on that court day if accepted for filing. Any
 17 document received electronically on a non-court day, is deemed to have been effectively
 18 filed on the next court day if accepted. (California Rules of Court, rule 2.253(b)(6); Code
 19 Civ. Proc. § 1010.6(b)(3).)

20 ii) Notwithstanding any other provision of this order, if a digital document is not filed in due
 21 course because of: (1) an interruption in service; (2) a transmission error that is not the
 22 fault of the transmitter; or (3) a processing failure that occurs after receipt, the Court may
 23 order, either on its own motion or by noticed motion submitted with a declaration for Court
 24 consideration, that the document be deemed filed and/or that the document's filing date
 25 conform to the attempted transmission date.

26 8) EX PARTE APPLICATIONS

27 a) Ex parte applications and all documents in support thereof must be electronically filed no later
 28 than 10:00 a.m. the court day before the ex parte hearing.

1 b) Any written opposition to an ex parte application must be electronically filed by 8:30 a.m. the
 2 day of the ex parte hearing. A printed courtesy copy of any opposition to an ex parte
 3 application must be provided to the court the day of the ex parte hearing.

4 **9) PRINTED COURTESY COPIES**

5 a) For any filing electronically filed two or fewer days before the hearing, a courtesy copy must
 6 be delivered to the courtroom by 4:30 p.m. the same business day the document is efiled. If
 7 the efiled is submitted after 4:30 p.m., the courtesy copy must be delivered to the courtroom
 8 by 10:00 a.m. the next business day.

9 b) Regardless of the time of electronic filing, a printed courtesy copy (along with proof of
 10 electronic submission) is required for the following documents:

- 11 i) Any printed document required pursuant to a Standing or General Order;
- 12 ii) Pleadings and motions (including attachments such as declarations and exhibits) of 26
 13 pages or more;
- 14 iii) Pleadings and motions that include points and authorities;
- 15 iv) Demurrers;
- 16 v) Anti-SLAPP filings, pursuant to Code of Civil Procedure section 425.16;
- 17 vi) Motions for Summary Judgment/Adjudication; and
- 18 vii) Motions to Compel Further Discovery.

19 c) Nothing in this General Order precludes a Judicial Officer from requesting a courtesy copy of
 20 additional documents. Courtroom specific courtesy copy guidelines can be found at
 21 www.lacourt.org on the Civil webpage under "Courtroom Information."

22 **10) WAIVER OF FEES AND COSTS FOR ELECTRONICALLY FILED DOCUMENTS**

23 a) Fees and costs associated with electronic filing must be waived for any litigant who has
 24 received a fee waiver. (California Rules of Court, rules 2.253(b)(1), 2.258(b), Code Civ. Proc. §
 25 1010.6(d)(2).)

26 b) Fee waiver applications for waiver of court fees and costs pursuant to Code of Civil Procedure
 27 section 1010.6, subdivision (b)(6), and California Rules of Court, rule 2.252(f), may be
 28 electronically filed in any authorized action or proceeding.

1 1) SIGNATURES ON ELECTRONIC FILING

2 For purposes of this General Order, all electronic filings must be in compliance with California
3 Rules of Court, rule 2.257. This General Order applies to documents filed within the Civil
4 Division of the Los Angeles County Superior Court.

5
6 This First Amended General Order supersedes any previous order related to electronic filing,
7 and is effective immediately, and is to remain in effect until otherwise ordered by the Civil
8 Supervising Judge and/or Presiding Judge.

9
10 DATED: May 3, 2019



11 *Kevin C. Brazile*
12 KEVIN C. BRAZILE
13 Presiding Judge
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VOLUNTARY EFFICIENT LITIGATION STIPULATIONS



Superior Court of California
County of Los Angeles



Los Angeles County
Bar Association
Litigation Section

Los Angeles County
Bar Association Labor and
Employment Law Section



Consumer Attorneys
Association of Los Angeles



Southern California
Defense Counsel



Association of
Business Trial Lawyers



California Employment
Lawyers Association

LACIV 230 (NEW)
LASC Approved 4-11
For Optional Use

The Early Organizational Meeting Stipulation, Discovery Resolution Stipulation, and Motions in Limine Stipulation are voluntary stipulations entered into by the parties. The parties may enter into one, two, or all three of the stipulations; however, they may not alter the stipulations as written, because the Court wants to ensure uniformity of application. These stipulations are meant to encourage cooperation between the parties and to assist in resolving issues in a manner that promotes economic case resolution and judicial efficiency.

The following organizations endorse the goal of promoting efficiency in litigation and ask that counsel consider using these stipulations as a voluntary way to promote communications and procedures among counsel and with the court to fairly resolve issues in their cases.

◆ Los Angeles County Bar Association Litigation Section ◆

◆ Los Angeles County Bar Association
Labor and Employment Law Section ◆

◆ Consumer Attorneys Association of Los Angeles ◆

◆ Southern California Defense Counsel ◆

◆ Association of Business Trial Lawyers ◆

◆ California Employment Lawyers Association ◆

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY		STATE BAR NUMBER	Reserving for Court use or Stamp
TELEPHONE NO: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FAX NO. (Optional)	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
STIPULATION - DISCOVERY RESOLUTION			CASE NUMBER

This stipulation is intended to provide a fast and informal resolution of discovery issues through limited paperwork and an informal conference with the Court to aid in the resolution of the issues.

The parties agree that:

1. Prior to the discovery cut-off in this action, no discovery motion shall be filed or heard unless the moving party first makes a written request for an Informal Discovery Conference pursuant to the terms of this stipulation.
2. At the Informal Discovery Conference the Court will consider the dispute presented by parties and determine whether it can be resolved informally. Nothing set forth herein will preclude a party from making a record at the conclusion of an Informal Discovery Conference, either orally or in writing.
3. Following a reasonable and good faith attempt at an informal resolution of each issue to be presented, a party may request an Informal Discovery Conference pursuant to the following procedures:
 - a. The party requesting the Informal Discovery Conference will:
 - i. File a Request for Informal Discovery Conference with the clerk's office on the approved form (copy attached) and deliver a courtesy, conformed copy to the assigned department,
 - ii. Include a brief summary of the dispute and specify the relief requested; and
 - iii. Serve the opposing party pursuant to any authorized or agreed method of service that ensures that the opposing party receives the Request for Informal Discovery Conference no later than the next court day following the filing.
 - b. Any Answer to a Request for Informal Discovery Conference must:
 - i. Also be filed on the approved form (copy attached);
 - ii. Include a brief summary of why the requested relief should be denied;

LACV 036 (new)
LASC Approved 04/11
For Optional Use

STIPULATION - DISCOVERY RESOLUTION

Page 1 of 3

P0879

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- iii. Be filed within two (2) court days of receipt of the Request; and
 - iv. Be served on the opposing party pursuant to any authorized or agreed upon method of service that ensures that the opposing party receives the Answer no later than the next court day following the filing.
- c. No other pleadings, including but not limited to exhibits, declarations, or attachments, will be accepted.
- d. If the Court has not granted or denied the Request for Informal Discovery Conference within ten (10) days following the filing of the Request, then it shall be deemed to have been denied. If the Court acts on the Request, the parties will be notified whether the Request for Informal Discovery Conference has been granted or denied and, if granted, the date and time of the Informal Discovery Conference, which must be within twenty (20) days of the filing of the Request for Informal Discovery Conference.
- e. If the conference is not held within twenty (20) days of the filing of the Request for Informal Discovery Conference, unless extended by agreement of the parties and the Court, then the Request for the Informal Discovery Conference shall be deemed to have been denied at that time.
4. If (a) the Court has denied a conference or (b) one of the time deadlines above has expired without the Court having acted or (c) the Informal Discovery Conference is concluded without resolving the dispute, then a party may file a discovery motion to address unresolved issues.
5. The parties hereby further agree that the time for making a motion to compel or other discovery motion is tolled from the date of filing of the Request for Informal Discovery Conference until (a) the request is denied or deemed denied or (b) twenty (20) days after the filing of the Request for Informal Discovery Conference, whichever is earlier, unless extended by Order of the Court.

It is the understanding and intent of the parties that this stipulation shall, for each discovery dispute to which it applies, constitute a writing memorializing a "specific later date to which the propounding [or demanding or requesting] party and the responding party have agreed in writing," within the meaning of Code Civil Procedure sections 2030.300(c), 2031.320(c), and 2033.290(c).

- 6. Nothing herein will preclude any party from applying *ex parte* for appropriate relief, including an order shortening time for a motion to be heard concerning discovery.
- 7. Any party may terminate this stipulation by giving twenty-one (21) days notice of intent to terminate the stipulation.
- 8. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day.

SHORT TITLE	CASE NUMBER
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The following parties stipulate:

Date: _____ (TYPE OR PRINT NAME)	v	_____
Date: _____ (TYPE OR PRINT NAME)	v	_____
Date: _____ (TYPE OR PRINT NAME)	v	_____
Date: _____ (TYPE OR PRINT NAME)	v	_____
Date: _____ (TYPE OR PRINT NAME)	v	_____
Date: _____ (TYPE OR PRINT NAME)	v	_____
Date: _____ (TYPE OR PRINT NAME)	v	_____
Date: _____ (TYPE OR PRINT NAME)	v	_____

NAME AND ADDRESS OF ATTORNEY OR PARTY THROUGH ATTORNEY		STATE BAR NUMBER	DATE OF FILING
TELEPHONE NO.:		FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):			
ATTORNEY FOR (Plaintiff):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
STIPULATION - EARLY ORGANIZATIONAL MEETING			FILE NUMBER

This stipulation is intended to encourage cooperation among the parties at an early stage in the litigation and to assist the parties in efficient case resolution.

The parties agree that:

1. The parties commit to conduct an initial conference (in-person or via teleconference or via videoconference) within 15 days from the date this stipulation is signed, to discuss and consider whether there can be agreement on the following:
 - a. Are motions to challenge the pleadings necessary? If the issue can be resolved by amendment as of right, or if the Court would allow leave to amend, could an amended complaint resolve most or all of the issues a demurrer might otherwise raise? If so, the parties agree to work through pleading issues so that a demurrer need only raise issues they cannot resolve. Is the issue that the defendant seeks to raise amenable to resolution on demurrer, or would some other type of motion be preferable? Could a voluntary targeted exchange of documents or information by any party cure an uncertainty in the pleadings?
 - b. Initial mutual exchanges of documents at the "core" of the litigation. (For example, in an employment case, the employment records, personnel file and documents relating to the conduct in question could be considered "core." In a personal injury case, an incident or police report, medical records, and repair or maintenance records could be considered "core.");
 - c. Exchange of names and contact information of witnesses;
 - d. Any insurance agreement that may be available to satisfy part or all of a judgment, or to indemnify or reimburse for payments made to satisfy a judgment;
 - e. Exchange of any other information that might be helpful to facilitate understanding, handling, or resolution of the case in a manner that preserves objections or privileges by agreement;
 - f. Controlling issues of law that, if resolved early, will promote efficiency and economy in other phases of the case. Also, when and how such issues can be presented to the Court;
 - g. Whether or when the case should be scheduled with a settlement officer, what discovery or court ruling on legal issues is reasonably required to make settlement discussions meaningful, and whether the parties wish to use a sitting judge or a private mediator or other options as

Docket #	Case #
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discussed in the "Alternative Dispute Resolution (ADR) Information Package" served with the complaint;

- h. Computation of damages, including documents, not privileged or protected from disclosure, on which such computation is based;
 - i. Whether the case is suitable for the Expedited Jury Trial procedures (see information at www.lscourt.org under "Civil" and then under "General Information").
2. The time for a defending party to respond to a complaint or cross-complaint will be extended to _____ (INSERT DATE) for the complaint, and _____ (INSERT DATE) for the cross-complaint, which is comprised of the 30 days to respond under Government Code § 08616(b), and the 30 days permitted by Code of Civil Procedure section 1054(a), good cause having been found by the Civil Supervising Judge due to the case management benefits provided by this Stipulation. A copy of the General Order can be found at www.lscourt.org under "Civil", click on "General Information", then click on "Voluntary Efficient Litigation Stipulations".
 3. The parties will prepare a joint report titled "Joint Status Report Pursuant to Initial Conference and Early Organizational Meeting Stipulation, and if desired, a proposed order summarizing results of their meet and confer and advising the Court of any way it may assist the parties' efficient conduct or resolution of the case. The parties shall attach the Joint Status Report to the Case Management Conference statement, and file the documents when the CMC statement is due.
 4. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day.

The following parties stipulate:

Date: _____ (TYPE OR PRINT NAME)	_____ (ATTORNEY FOR PLAINTIFF)
Date: _____ (TYPE OR PRINT NAME)	_____ (ATTORNEY FOR DEFENDANT)
Date: _____ (TYPE OR PRINT NAME)	_____ (ATTORNEY FOR DEFENDANT)
Date: _____ (TYPE OR PRINT NAME)	_____ (ATTORNEY FOR DEFENDANT)
Date: _____ (TYPE OR PRINT NAME)	_____ (ATTORNEY FOR _____)
Date: _____ (TYPE OR PRINT NAME)	_____ (ATTORNEY FOR _____)
Date: _____ (TYPE OR PRINT NAME)	_____ (ATTORNEY FOR _____)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY		CASE NUMBER	JUDICIAL BRANCH - 236 Street
TELEPHONE NO: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FAX NO (Optional)	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
INFORMAL DISCOVERY CONFERENCE (pursuant to the Discovery Resolution Stipulation of the parties)			CASE NUMBER

- This document relates to:
 - Request for Informal Discovery Conference
 - Answer to Request for Informal Discovery Conference
2. Deadline for Court to decide on Request: _____ (insert date 10 calendar days following filing of the Request)
3. Deadline for Court to hold Informal Discovery Conference: _____ (insert date 20 calendar days following filing of the Request).
4. For a Request for Informal Discovery Conference, briefly describe the nature of the discovery dispute, including the facts and legal arguments at issue. For an Answer to Request for Informal Discovery Conference, briefly describe why the Court should deny the requested discovery, including the facts and legal arguments at issue.

LACTV 094 (rev)
LASC Approved 04/11
For Optional Use

INFORMAL DISCOVERY CONFERENCE
(pursuant to the Discovery Resolution Stipulation of the parties)

P0884

NAME AND ADDRESS OF ATTORNEY FOR PLAINTIFFS (OPTIONAL)		STATE BAR NUMBER	If signed for Clerk of the Court
TELEPHONE NO: E-MAIL ADDRESS (Optional): ATTORNEY FOR DEFENDANT		FAX NO (Optional)	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			CASE NUMBER
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
STIPULATION AND ORDER - MOTIONS IN LIMINE			

This stipulation is intended to provide fast and informal resolution of evidentiary issues through diligent efforts to define and discuss such issues and limit paperwork.

The parties agree that:

1. At least ___ days before the final status conference, each party will provide all other parties with a list containing a one paragraph explanation of each proposed motion in limine. Each one paragraph explanation must identify the substance of a single proposed motion in limine and the grounds for the proposed motion.
2. The parties thereafter will meet and confer, either in person or via teleconference or videoconference, concerning all proposed motions in limine. In that meet and confer, the parties will determine:
 - a. Whether the parties can stipulate to any of the proposed motions. If the parties so stipulate, they may file a stipulation and proposed order with the Court.
 - b. Whether any of the proposed motions can be briefed and submitted by means of a short joint statement of issues. For each motion which can be addressed by a short joint statement of issues, a short joint statement of issues must be filed with the Court 10 days prior to the final status conference. Each side's portion of the short joint statement of issues may not exceed three pages. The parties will meet and confer to agree on a date and manner for exchanging the parties' respective portions of the short joint statement of issues and the process for filing the short joint statement of issues.
3. All proposed motions in limine that are not either the subject of a stipulation or briefed via a short joint statement of issues will be briefed and filed in accordance with the California Rules of Court and the Los Angeles Superior Court Rules.

MODEL TITLE	CASE NUMBER
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The following parties stipulate:

Date: _____ (TYPE OR PRINT NAME)	_____ / _____ (ATTORNEY FOR PLAINTIFF)
Date: _____ (TYPE OR PRINT NAME)	_____ / _____ (ATTORNEY FOR DEFENDANT)
Date: _____ (TYPE OR PRINT NAME)	_____ / _____ (ATTORNEY FOR DEFENDANT)
Date: _____ (TYPE OR PRINT NAME)	_____ / _____ (ATTORNEY FOR DEFENDANT)
Date: _____ (TYPE OR PRINT NAME)	_____ / _____ (ATTORNEY FOR _____)
Date: _____ (TYPE OR PRINT NAME)	_____ / _____ (ATTORNEY FOR _____)
Date: _____ (TYPE OR PRINT NAME)	_____ / _____ (ATTORNEY FOR _____)

THE COURT SO ORDERS.

Date: _____

JUDICIAL OFFICER



Superior Court of California, County of Los Angeles

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKAGE

THE PLAINTIFF MUST SERVE THIS ADR INFORMATION PACKAGE ON EACH PARTY WITH THE COMPLAINT.

CROSS-COMPLAINANTS must serve this ADR Information Package on any new parties named to the action with the cross-complaint.

What is ADR?

ADR helps people find solutions to their legal disputes without going to trial. The main types of ADR are negotiation, mediation, arbitration, and settlement conferences. When ADR is done by phone, videoconference or computer, it may be called Online Dispute Resolution (ODR). These alternatives to litigation and trial are described below.

Advantages of ADR

- **Saves Time:** ADR is faster than going to trial.
- **Saves Money:** Parties can save on court costs, attorney's fees, and witness fees.
- **Keeps Control** (with the parties): Parties choose their ADR process and provider for voluntary ADR.
- **Reduces Stress/Protects Privacy:** ADR is done outside the courtroom, in private offices, by phone or online.

Disadvantages of ADR

- **Costs:** If the parties do not resolve their dispute, they may have to pay for ADR and litigation and trial.
- **No Public Trial:** ADR does not provide a public trial or a decision by a judge or jury.

Main Types of ADR:

1. **Negotiation:** Parties often talk with each other in person, or by phone or online about resolving their case with a settlement agreement instead of a trial. If the parties have lawyers, they will negotiate for their clients.
2. **Mediation:** In mediation, a neutral mediator listens to each person's concerns, helps them evaluate the strengths and weaknesses of their case, and works with them to try to create a settlement agreement that is acceptable to all. Mediators do not decide the outcome. Parties may go to trial if they decide not to settle.

Mediation may be appropriate when the parties

- want to work out a solution but need help from a neutral person.
- have communication problems or strong emotions that interfere with resolution.

Mediation may not be appropriate when the parties

- want a public trial and want a judge or jury to decide the outcome.
- lack equal bargaining power or have a history of physical/emotional abuse.

How to arrange mediation in Los Angeles County

Mediation for civil cases is voluntary and parties may select any mediator they wish. Options include:

a. The Civil Mediation Vendor Resource List

If all parties agree to mediation, they may contact these organizations to request a "Resource List Mediation" for mediation at reduced cost or no cost (for selected cases):

- ADR Services, Inc. Case Manager patricia@adrservices.com (310) 201-0010 (Ext. 261)
- JAMS, Inc. Senior Case Manager mbinder@jamsadr.com (310) 309-6204
- Mediation Center of Los Angeles (MCLA) Program Manager info@mediationLA.org (833) 476-9145
 - Only MCLA provides mediation in person, by phone and by videoconference.

These organizations cannot accept every case and they may decline cases at their discretion.

Visit www.lacourt.org/ADR.Res.List for important information and FAQs before contacting them.

NOTE: This program does not accept family law, probate, or small claims cases.

b. Los Angeles County Dispute Resolution Programs

<https://wdacs.lacounty.gov/programs/drp/>

- Small claims, unlawful detainers (evictions) and, at the Spring Street Courthouse, limited civil:
 - Free, day-of-trial mediations at the courthouse. No appointment needed.
 - Free or low-cost mediations before the day of trial.
 - For free or low-cost Online Dispute Resolution (ODR) by phone or computer before the day of trial visit <http://www.lacourt.org/division/smallclaims/pdf/OnlineDisputeResolutionFlyer-EngSpan.pdf>

c. Mediators and ADR and Bar organizations that provide mediation may be found on the internet.

3. **Arbitration:** Arbitration is less formal than trial, but like trial, the parties present evidence and arguments to the person who decides the outcome. In "binding" arbitration, the arbitrator's decision is final; there is no right to trial. In "nonbinding" arbitration, any party can request a trial after the arbitrator's decision. For more information about arbitration, visit <http://www.courts.ca.gov/programs-adr.htm>
4. **Mandatory Settlement Conferences (MSC):** MSCs are ordered by the Court and are often held close to the trial date or on the day of trial. The parties and their attorneys meet with a judge or settlement officer who does not make a decision but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. For information about the Court's MSC programs for civil cases, visit <http://www.lacourt.org/division/civil/C10047.aspx>

Los Angeles Superior Court ADR website: <http://www.lacourt.org/division/civil/C10109.aspx>

For general information and videos about ADR, visit <http://www.courts.ca.gov/programs-adr.htm>

SHORT TITLE de la Torre v. City of Santa Monica	CASE NUMBER 21STCV08597
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**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL² HOURS/ DAYS

Item II. Select the correct district and courthouse location (4 steps – If you checked “Limited Case”, skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|--|---|
| <ul style="list-style-type: none"> 1. Class Actions must be filed in the County Courthouse, Central District. 2. May be filed in Central (Other county, or no Bodily Injury/Property Damage). 3. Location where cause of action arose 4. Location where bodily injury, death or damage occurred 5. Location where performance required or defendant resides | <ul style="list-style-type: none"> 6. Location of property or permanently garaged vehicle 7. Location where petitioner resides 8. Location wherein defendant/respondent functions wholly 9. Location where one or more of the parties reside. 10. Location of Labor Commissioner Office. |
|--|---|

Step 4: Fill in the information requested on page 4 in Item III, complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 2, 4
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 2, 4
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage	2
		<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1, 2, 3, 4, 8
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1, 2, 4 1, 2, 4
Non-Personal Injury/Property Damage/Wrongful Death Tort	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1, 2, 4
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1, 2, 4
		<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1, 2, 3
		<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 2, 4
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3	
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1, 2, 3	
Defamation (13)	<input type="checkbox"/> A8010 Defamation (slander/libel)	1, 2, 3	
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1, 2, 3	

Non-Personal Injury/Property Damage/
 Wrongful Death Tort (Cont'd.)
 Employment
 Contract
 Real Property
 Unlawful Detainer
 Judicial Review

S-DORT TITLE de la Torre v. City of Santa Monica	CASE NUMBER
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A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons -See Step 3 Above
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3 1, 2, 3
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2, 3
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1, 2, 3
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1, 2, 3 10
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2, 5 2, 5 1, 2, 5 1, 2, 5
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2, 5, 6 2, 5
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1, 2, 5, 8
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 5 1, 2, 3, 5 1, 2, 3, 8
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2, 6
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2, 6 2, 6 2, 6
Unlawful Detainer- Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2, 6
Unlawful Detainer- Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2, 6
Unlawful Detainer- Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2, 6
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2, 6
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5

SHORT TITLE de la Torre v. City of Santa Monica	CASE NUMBER
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Judicial Review (Cont'd.)

Provisionally Complex Litigation

Enforcement of Judgment

Miscellaneous Civil Complaints

Miscellaneous Civil Petitions

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
Other Judicial Review (38)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	<input type="checkbox"/> A6007 Construction defect	1., 2., 3.
Cla ms Involving Mass Tort (40)	<input type="checkbox"/> A6006 Cla ms Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Cla ims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input checked="" type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Partnership Corporation Governance(21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

SHORT TITLE: de la Torre v. City of Santa Monica	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE <input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS 1695 Main Street
CITY: Santa Monica	STATE: CA	ZIP CODE: 90401

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Mosk / Spring St. courthouse in the Central District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)).

Dated: March 3, 2021

[Signature]
(SIGNATURE OF ATTORNEY FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010
4. Complete Addendum to Civil Case Cover Sheet form LASC Approved CIV 109 03-04 (Rev. 03/06).
5. Payment in full of the filing fee, unless fees have been waived
6. Signed order appointing the Guardian ad Litem, JC form 982(a)(27), if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

Wilfredo Alberto Trivino-Perez (SBN 219345)
 10940 Wilshire Blvd., 16th Floor
 Los Angeles, CA 90024
 TELEPHONE NO 310-443-4251 FAX NO (Optional)
 ATTORNEY FOR (Name) Plaintiff Oscar de la Torre

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
 STREET ADDRESS 111 N. Hill St
 MAILING ADDRESS 111 N. Hill St.
 CITY AND ZIP CODE: Los Angeles, CA 90012
 BRANCH NAME: Stanley Mosk Courthouse

CASE NAME:
 de la Torre v. City of Santa Monica, et al.

CIVIL CASE COVER SHEET		Complex Case Designation
<input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000)	<input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
21STCV08597
 JUDGE
 DEPT

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<p>Auto Tort</p> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <p>Non-PI/PD/WD (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <p>Employment</p> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (08) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <p>Real Property</p> <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trace regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20) <p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27) <input checked="" type="checkbox"/> Other complaint (not specified above) (42) <p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): Three - Declaratory Relief; Injunctive Relief; Violation of Ralph M. Brown Act
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: MARCH 3, 2012
 Wilfredo Trivino-Perez

Wilfredo Trivino-Perez
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000 exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex, if a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

<p>Auto Tort Auto (22)—Personal Injury/Property Damage/Wrongful Death Uninsured Motorist (48) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto) Other PUPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort Asbestos (04) Asbestos Property Damage Asbestos Personal Injury/Wrongful Death Product Liability (not asbestos or toxic/environmental) (24) Medical Malpractice (45) Medical Malpractice—Physicians & Surgeons Other Professional Health Care Malpractice Other PUPD/WD (23) Premises Liability (e.g., slip and fall) Intentional Bodily Injury/PD/WD (e.g., assault, vandalism) Intentional Infliction of Emotional Distress Negligent Infliction of Emotional Distress Other PUPD/WD Non-PUPD/WD (Other) Tort Business Tort/Unfair Business Practice (07) Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08) Defamation (e.g., slander libel) (13) Fraud (16) Intellectual Property (19) Professional Negligence (25) Legal Malpractice Other Professional Malpractice (not medical or legal) Other Non-PUPD/WD Tort (35) Employment Wrongful Termination (36) Other Employment (15)</p>	<p>Contract Breach of Contract/Warranty (06) Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence) Negligent Breach of Contract/Warranty Other Breach of Contract/Warranty Collections (e.g., money owed, open book accounts) (09) Collection Case—Seller Plaintiff Other Promissory Note/Collections Case Insurance Coverage (not provisionally complex) (18) Auto Subrogation Other Coverage Other Contract (37) Contractual Fraud Other Contract Dispute Real Property Eminent Domain/Inverse Condemnation (14) Wrongful Eviction (33) Other Real Property (e.g., quiet title) (26) Writ of Possession of Real Property Mortgage Foreclosure Quiet Title Other Real Property (not eminent domain, landowners/tenants, or foreclosure) Unlawful Detainer Commercial (31) Residential (32) Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential) Judicial Review Asset Forfeiture (05) Petition Re: Arbitration Award (11) Writ of Mandate (02) Writ—Administrative Mandamus Writ—Mandamus on Limited Court Case Matter Writ—Other Limited Court Case Review Other Judicial Review (39) Review of Health Officer Order Notice of Appeal—Labor Commissioner Appeals</p>	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403) Antitrust/Traffic Regulation (03) Construction Defect (10) Claims Involving Mass Tort (40) Securities Litigation (28) Environmental/Toxic Tort (30) Insurance Coverage Claims (arising from provisionally complex case type listed above) (41) Enforcement of Judgment Enforcement of Judgment (20) Abstract of Judgment (Out of County) Confession of Judgment (non-domestic relations) Sister State Judgment Administrative Agency Award (not unpaid taxes) Petition/Certification of Entry of Judgment on Unpaid Taxes Other Enforcement of Judgment Case Miscellaneous Civil Complaint RICC (27) Other Complaint (not specified above) (42) Declaratory Relief Only Injunctive Relief Only (non-harassment) Mechanics Lien Other Commercial Complaint Case (non-tort/non-complex) Other Civil Complaint (non-tort/non-complex) Miscellaneous Civil Petition Partnership and Corporate Governance (21) Other Petition (not specified above) (43) Civil Harassment Workplace Violence Elder/Dependent Adult Abuse Election Contest Petition for Name Change Petition for Relief From Late Claim Other Civil Petition</p>
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SUM-100

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

City of Santa Monica, and DOES 1 through 10, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Oscar de la Torre

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a non-profit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegerá. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO!** Por ley, la corte tiene derecho a reclamar las cuotas y los costos evitados por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desecher el caso.

The name and address of the court is:
(El nombre y dirección de la corte es). Los Angeles Superior Court
111 N. Hill St., Los Angeles, CA 90012

CASE NUMBER: (Número del Caso).

21STCV08597

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Wilfredo Trivino-Perez, 10940 Wilshire Blvd., 16th Floor, Los Angeles, CA 90024, (310) 443-4251

DATE: 03/04/2021 Sheri R. Carter Executive Officer / Clerk of Court Clerk, by N. Alvarez Deputy (Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010).)



NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant
- 2. as the person sued under the fictitious name of (specify):
- 3. on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
- CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
- other (specify): CCP 416.50 public agency

- 4. by personal delivery on (date):

Form Adopted for Information Use
Judicial Council of California
SUM-100 (Rev. July 1, 2009)

SUMMONS

Page 1 of 1
Code of Civil Procedure §§ 412.20-465
www.courts.ca.gov

For your protection and privacy, please press the Clear This Form button after you have printed the form.

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Exhibit 45



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

January 4, 2021

George S. Cardona
Interim City Attorney
City of Santa Monica
City Attorney's Office
1685 Main Street, Room 310
Santa Monica, California 90401

Re: Your Request for Advice
Our File No. A-20-149

Dear Mr. Cardona:

This letter responds to your request for advice regarding the Political Reform Act (the "Act") and Government Code section 1090, et seq.¹ Please note that we are only providing advice under the Act and Section 1090, not under other general conflict of interest prohibitions such as common law conflict of interest.

Also, note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

We are required to forward your request regarding Section 1090 and all pertinent facts relating to the request to the Attorney General's Office and the Los Angeles County District Attorney's Office, which we have done. (Section 1097.1(c)(3).) We did not receive a written response from either entity. (Section 1097.1(c)(4).) We are also required to advise you that, for purposes of Section 1090, the following advice "is not admissible in a criminal proceeding against any individual other than the requestor." (See Section 1097.1(c)(5).)

QUESTIONS

1. Do the conflict of interest provisions of the Act or Section 1090 prohibit Santa Monica Councilmember Oscar de la Torre from participating in governmental decisions relating to pending litigation against the City, including a potential settlement agreement, where his spouse is a named plaintiff in the lawsuit?

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

P0910

2. Do the conflict of interest provisions of the Act or Section 1090 prohibit Councilmember de la Torre from participating in governmental decisions relating to pending litigation against the City, including a potential settlement agreement, where his spouse is the Communications Officer for a nonprofit organization that is also a named plaintiff in the lawsuit?

CONCLUSIONS

1. No. As explained below, neither the Act nor Section 1090 prohibits Councilmember de la Torre from participating in governmental decisions relating to the City's pending litigation, including a potential settlement agreement, where his spouse is a named plaintiff.

2. No. As explained below, neither the Act nor Section 1090 prohibits Councilmember de la Torre from participating in governmental decisions relating to pending litigation against the City, including a potential settlement agreement, where his spouse is the Communications Officer for a nonprofit organization that is also a named plaintiff.

FACTS AS PRESENTED BY REQUESTER

You are the Interim City Attorney for the City of Santa Monica. In November of 2020, Oscar de la Torre was elected to serve as a member of the Santa Monica City Council and assumed his duties as a Councilmember on December 8, 2020. Prior to being elected to the City Council, Councilmember de la Torre served as an elected member of the governing board of the Santa Monica-Malibu Unified School District ("SMMUSD") for approximately 18 years.

The City of Santa Monica ("City") is currently the defendant in pending litigation challenging the City's use of an at-large election system to elect its City Council members. The original complaint in the litigation was filed on April 12, 2016 by three plaintiffs: Pico Neighborhood Association ("PNA"), Maria Loya (the spouse of Councilmember de la Torre), and Advocates for Malibu Public School.

The original complaint alleging violations of California Voting Rights Act ("CVRA") and California Equal Protection Clause did not seek damages, but did seek an award of attorneys' fees, costs, and litigation expenses. A First Amended Complaint ("FAC"), which again included alleged violations of the CVRA and California Equal Protection Clause, was filed in 2017 by PNA and Ms. Loya. The FAC did not seek damages, but did seek an award of attorneys' fees, costs, and litigation expenses.

The litigation proceeded to trial, judgment, and appeal based on the allegations in the FAC. After the trial, the court issued judgment in favor of plaintiffs on both of their causes of action in 2019. Plaintiffs' attorneys then filed a motion seeking approximately \$902,000 in costs and the City filed a motion to strike/tax those costs to significantly reduce them. Plaintiffs' attorneys also filed a motion seeking an award of more than \$22 million in attorneys' fees pursuant to a provision of the CVRA. Pursuant to an agreement between the parties, the City's response to the fee motion, and the

hearings regarding costs and fees have been continued to follow the resolution of proceedings in the Court of Appeal and the California Supreme Court.²

Councilmember de la Torre has advised that there is no obligation on the part of him, his spouse, or PNA to pay any attorneys' fees or costs in connection with the litigation, and that his understanding is that the plaintiffs' attorneys would seek to recover fees and costs only from the City. Councilmember de la Torre has further advised that if plaintiffs' attorneys do not recover any fees or costs from the City, they have no ability to collect costs or fees from him, his spouse, or PNA. Finally, Councilmember de la Torre has orally advised that there is no arrangement under which any portion of any recovery from the City of attorneys' fees or costs would flow to him, PNA, or his spouse; any entity controlled, directly or indirectly, by him, PNA, or spouse; or any entity that employs or would otherwise provide any financial benefit to him or his spouse.³

PNA raises a small amount of money through modest membership dues, and its annual budget is consistently less than \$5,000. PNA has no employees and engages in no commercial transactions. Rather, PNA's board – usually consisting of about 12 residents who are unpaid volunteers – meets approximately once a month to discuss issues pertinent to the Pico Neighborhood, and advocates for the interests of the Pico Neighborhood residents. According to the PNA website, it was “[e]stablished in 1979, the PNA is a non-profit organization that has been involved in a wide variety of issues – crime & safety, housing, neighborhood conditions, commercial development, City Hall watch, youth activities, parks, and traffic control.”⁴

During his recent City Council campaign and as of November 2020, Mr. de la Torre was serving as chair of the PNA board. However, Mr. de la Torre has advised that following his election to the City Council, he resigned from his position as chair of the PNA board. You stated by email dated January 22, 2021, that the list of Board Members from the PNA website identifies his spouse as the “Communications Officer” for PNA. As Councilmember de la Torre and his spouse have always volunteered, they have never received any compensation from PNA.

ANALYSIS

The Act

Section 87100 prohibits any public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the

² The City appealed and the Court of Appeal reversed the judgment. Plaintiffs filed a Petition seeking review by the California Supreme Court, which granted review in October 2020 only on a limited question relating to the CVRA claim. Should plaintiffs ultimately prevail, the City anticipates returning to the trial court for resolution of the pending fee and cost motions.

³ By letter dated November 30, 2020, Councilmember de la Torre confirmed that he has no financial interest in the outcome of the instant lawsuit. At the outset of the case, his spouse and PNA both agreed that they have no right to any attorneys' fees or costs recovered in that case. Moreover, the attorneys representing his spouse and PNA agreed that they would handle the lawsuit pro bono and pay all associated costs.

⁴ See <https://pnasantamonica.wordpress.com/board-members>

official has a financial interest. Pertinent to your facts, the Act's conflict of interest provisions apply to financial interests based on the following:

- An interest in a business entity⁵ in which the official has a direct or indirect investment of \$2,000 or more (Section 87103(a)); or in which the official is a director, officer, partner, trustee, employee, or holds any position of management. (Section 87103(d).)
- An interest in a source of income to the official, including promised income, which aggregates to \$500 or more within 12 months prior to the decision. (Section 87103(c).)
- The official's interest in his or her personal finances and those of immediate family members. (Section 87103.)

According to the facts, neither Councilmember de la Torre nor his spouse has ever received, nor have they been promised, any compensation from PNA, and there are no other facts to suggest PNA is a source of income to them. Additionally, Councilmember de la Torre does not have a business interest in PNA because, as a nonprofit organization, PNA is not a "business entity" as defined by the Act. (Section 82005.) Finally, there are no facts suggesting decisions related to the pending lawsuit will have any financial effect on his or his immediate family's personal finances. Therefore, based on the facts provided, Councilmember de la Torre does not have a disqualifying conflict of interest under the Act in future City Council decisions related to the instant lawsuit.

Section 1090

Section 1090 generally prohibits public officers, while acting in their official capacities, from making contracts in which they are financially interested. Section 1090 is concerned with financial interests, other than remote or minimal interests, that prevent public officials from exercising absolute loyalty and undivided allegiance in furthering the best interests of their agencies. (*Stigall v. City of Taft* (1962) 58 Cal.2d 565, 569.) Section 1090 is intended not only to strike at actual impropriety, but also to strike at the appearance of impropriety. (*City of Imperial Beach v. Bailey* (1980) 103Cal.App.3d 191, 197.)

Under Section 1090, the prohibited act is the making of a contract in which the official has a financial interest. (*People v. Honig* (1996) 48 Cal.App.4th 289, 333.) A contract that violates Section 1090 is void. (*Thomson v. Call* (1985) 38 Cal.3d 633, 646.) The prohibition applies regardless of whether the terms of the contract are fair and equitable to all parties. (*Id.* at pp. 646-649.) Finally, when Section 1090 applies to one member of a governing body of a public entity, the prohibition cannot be avoided by having the interested board member abstain. Instead, the entire governing body is precluded from entering into the contract. (*Thomson, supra*, at pp. 647-649; *Stigall, supra*, at p. 569; 86 Ops.Cal.Atty.Gen. 138, 139 (2003); 70 Ops.Cal.Atty.Gen. 45, 48 (1987).)

You have asked whether Councilmember de la Torre may participate in governmental decisions concerning a potential settlement agreement⁶ between plaintiffs and the City. The

⁵ Section 82005 defines a "business entity" as any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

determinative question here is whether he has a financial interest in a potential settlement agreement.

The term “financially interested” contained in Section 1090 has been defined as follows:

The phrase ‘financially interested’ as used in Government Code section 1090 means any financial interest which might interfere with a city officer’s unqualified devotion to his public duty. The interest may be direct or indirect. It includes any monetary or proprietary benefit, or gain of any sort, or the contingent possibility of monetary or proprietary benefits. The interest is direct when the city officer, in his official capacity, does business with himself in his private capacity. The interest is indirect when the city officer, or the board of which he is a member, enters into a contract in his or its official capacity with an individual or business firm, which individual or business firm, by reason of the city officer’s relationship to the individual or business firm at the time the contract is entered into, is in a position to render actual or potential pecuniary benefits directly or indirectly to the city officer based on the contract the individual or business firm has received.

(88 Ops.Cal.Atty.Gen. 32, 36.)

Councilmember de la Torre’s spouse

Initially, we note that under Section 1090, an official always has an interest in the community and separate property income of the official’s spouse. (*Thorpe v. Long Beach Community College Dist.* (2000) 83 Cal.App.4th 655; 89 Ops.Cal.Atty.Gen. 69 (2006)). Councilmember de la Torre would therefore have a prohibitive financial interest in any potential settlement agreement resulting in a monetary benefit or liability of his spouse based on her status as a plaintiff in the instant lawsuit. According to the facts, however, neither he nor his spouse has any financial interest, direct or indirect, in the outcome of the lawsuit, including any future settlement agreement. There is no obligation on the part of him or his spouse to pay any attorneys’ fees or costs in connection with the litigation, and no arrangement under which any portion of any recovery from the City of attorneys’ fees or costs would flow to him or his spouse.

Accordingly, Councilmember does not have a financial interest in any potential settlement agreement related to the lawsuit based on his spouse’s status as a plaintiff therein.

PNA

⁶ The litigation against the City may be resolved under a settlement agreement. “A settlement agreement is a contract, and the legal principles which apply to contracts generally apply to settlement contracts.” (*Weddington Productions, Inc. v. Flick* (1998) 60 Cal.App.4th 793, 810-811, citing *Ginnun v. Holte* (1985) 164 Cal.App.3d 984, 988; see also 91 Ops.Cal.Atty.Gen. 1 (2008); 86 Ops.Cal.Atty.Gen. 142 (2003) [Section 1090 would prohibit a public official from participating in a settlement agreement in which the official is financially interested, and the body in which the official is a member could not enter the contract].)

In addition to being a plaintiff in the lawsuit, Councilmember de la Torre's spouse is the Communications Officer for the other plaintiff, PNA. You have therefore asked whether Councilmember de la Torre would have a financial interest in any settlement agreement resulting in a monetary payment that would benefit PNA. Importantly, the Legislature has created various statutory exceptions to Section 1090's prohibition where the interest involved is deemed a "remote interest," as defined in Section 1091 or a "noninterest," as defined in Section 1091.5. If a noninterest is present, the public official's abstention is generally not required, and the contract may be made by the agency.

Section 1091.5(a)(8) establishes that an officer is not interested in a contract if his or her interest is:

That of a noncompensated officer of a nonprofit, tax-exempt corporation, which, as one of its primary purposes, supports the functions of the body or board or to which the body or board has a legal obligation to give particular consideration, and provided further that this interest is noted in its official records.

For purposes of this paragraph, an officer is "noncompensated" even though he or she receives reimbursement from the nonprofit, tax-exempt corporation for necessary travel and other actual expenses incurred in performing the duties of his or her office.

According to the facts, Councilmember de la Torre's spouse volunteers as the Communications Officer for PNA, a nonprofit organization. In addition, based upon the description of issues it addresses, the primary purpose of dealing with crime & safety, housing, youth activities, parks, and traffic control supports important functions of the City. Therefore, even if a settlement agreement would result in a monetary payment that would benefit PNA, Councilmember de la Torre would have a noninterest in the agreement. However, should Councilmember de la Torre participate in such an agreement, he must disclose his interest in the City Council's official records.

Accordingly, for purposes of the Act, Councilmember does not have a disqualifying conflict of interest in City Council decisions concerning the instant lawsuit against the City. For purposes of Section 1090, he is not financially interested in any future settlement agreement based on his spouse's status as a plaintiff, and he has a noninterest in any future settlement agreement resulting in a monetary payment that would benefit PNA.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel

By: *Jack Woodside*
Jack Woodside
Senior Counsel, Legal Division

JW:aja

Exhibit 46

1 **DECLARATION OF JON KATZ**

2 I, Jon Katz, declare the following:

3 1. I am over the age of 18 and not a party to this action. I have personal knowledge
4 of each fact stated in this declaration. I am submitting this declaration pursuant to Evidence
5 Code Section 1561(a).

6 2. I am the president of the Santa Monica Democratic Club.

7 3. I am the duly authorized custodian of records of the following described business
8 record: The video recording of the April 28, 2021 membership meeting of the Santa Monica
9 Democratic Club featuring Oscar de la Torre, Maria Loya, and Kevin Shenkman.

10 4. On April 28, 2021, I chaired the membership meeting of the Santa Monica
11 Democratic Club on the topic of potential government reforms. Among other topics,
12 Councilmember de la Torre was invited to speak at that meeting on the issue of district
13 elections. (I had asked him explicitly not to discuss the CVRA lawsuit, but he did anyway.)
14 Attached as Exhibit A is a true and correct copy of my email exchange with Councilmember de
15 la Torre regarding the April 28, 2021 Santa Monica Democratic Club membership meeting.

16 5. At the start of the April 28, 2021 membership meeting, which was conducted via
17 Zoom, I hit record using the built-in Zoom software. At the end of the meeting, I uploaded the
18 full, unedited recording to the YouTube channel for the Santa Monica Democratic Club and
19 then shared that video link with our membership. The video has been publicly available on
20 YouTube in the nine months since the meeting, and is available
21 at: <https://www.youtube.com/watch?v=iVKzFgt-TvA>.

22 6. On February 2, 2022, a deposition subpoena was served on me on behalf of the
23 Santa Monica Democratic Club for the production of the above-described business records.

24 7. On February 2, 2022, I reviewed the video of the April 28, 2021 membership
25 meeting that I posted on YouTube and the video remains unaltered since I made the recording
26 on April 28, 2021. It is a true and correct copy of the video recording of the April 28, 2021
27 membership meeting.
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8. On February 4, 2022, I downloaded a copy of the video recording of the April 28, 2021 membership meeting from YouTube and saved it to two thumb drives.

9. The enclosed thumb drives contain a true and correct copy of the above-described record that is in my possession, custody, or control as the custodian of records.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: February 4, 2022


Jon Katz

EXHIBIT A



Jon Katz <tmbjon@gmail.com>

SMDC - City Governance Meeting

Oscar de la Torre <odelatorre16@yahoo.com>
To: Jon Katz <tmbjon@gmail.com>

Thu, Apr 29, 2021 at 3:47 PM

Jon:

Our intent was to make the case for district based elections and Maria wanted Kevin available to answer any legal questions related to the CVRA. Tony's reaction to Kevin was unfortunate because it was all going as planned until he started throwing insults etc. Neither you nor I can be held accountable for Tony's reaction. Overall I thought it was a productive exchange and frankly we should have had this conversation 5-6 years ago. We wouldn't have a need for Kevin's involvement if those in power back then would have been about everything they claim to be about now. Racial injustice is more than just immoral but creates real poverty, inequality and harm to those who are marginalized by the current system. We are barely beginning to truly articulate the root causes of systemic racism in SM and it's messy and uncomfortable but as long as we stay engaged and authentically listen and strive for real solutions, we might serve as a model community for our nation. That's my goal and I would like to continue this conversation so that we have a clearer understanding of how this vision can be achieved.

Sent from my iPhone

On Apr 29, 2021, at 11:24 AM, Jon Katz <tmbjon@gmail.com> wrote:

Hey Oscar,

Thank you for coming last night and presenting your case.

I want to let you know that I feel a bit disrespected now, based on our conversation (which you can see below in this thread) where we initially discussed this meeting. I told you that I wanted to give you a platform to present on district elections and why it would be a good solution for Santa Monica *without* bringing the lawsuit into the conversation. I went out on a limb with my Board in defending you, telling them that you gave me your word that we would keep the conversation on the substantive matter of district elections, rather than the specifics of the pending lawsuit.

I thought that you and Maria presented the information about districts well, and people were engaged at that point. When you brought in your attorney, I thought that crossed the line of exactly what we had agreed you would not do. I received complaints during the meeting about this, including Board members who felt that I wasn't able to deliver the meeting that I had promised we would have, as well as city councilmembers who felt conflicted about being present for Mr. Shenkman's presentation.

I have no problem bringing ideas to the Club that challenge their entrenched way of thinking. which is why I reached out to you on this in the first place. I see it as part of my goal as Club President to push the Club in new ways and make people reassess their prior convictions. There was a version of your presentation last night that would have done that, and I think it's a shame that the conversation devolved into precisely the conversation we agreed not to have.

I'm not asking for anything specific here in response, but I just want you to understand my honest feelings about the event.

Thanks and be well,

-Jon

--

tmbjon@gmail.com
cell: (215) 962-4357

On Fri, Feb 19, 2021 at 2:52 PM Jon Katz <tmbjon@gmail.com> wrote:

Great, I am glad we're on the same page. I agree that it's important to contextualize the history of the at-large election system and how it has caused harm, and that is completely within the realm of what I am

thinking about. My goal is to provide a platform to have a real policy discussion about district elections (and the other systems I mentioned) without specifically making a case that connects it to the lawsuit that is currently going on. We should be able to talk about the potential benefits of districts as a city governance policy without wading into the merits of the lawsuit.

I only say this because, as you know, once you get into the specifics of the PNA case it will get people polarized into their predisposed positions, and I want to give you the opportunity to potentially change minds with your presentation.

Thanks,

-Jon

--
tmbjon@gmail.com
cell: (215) 962-4357

On Fri, Feb 19, 2021 at 2:43 PM Oscar de la Torre <odelatorre16@yahoo.com> wrote:

Hello Jon:

Thank you for reaching out. I do agree that a format conducive to a solutions-based dialogue is beneficial and holding white people accountable for systemic racism and past injustices can make people feel uncomfortable. We don't have to mention names but we should be able to discuss the history of the at large election system, its impact on people of color in SM and the Pico Neighborhood but I agree, lets not get stuck there and lets discuss systems of representation that can produce more inclusive and democratice governance in all of our elected bodies. Looking forward to it! -Oscar de la Torre

On Friday, February 19, 2021, 10:57:45 AM PST, Jon Katz <tmbjon@gmail.com> wrote:

Hey Oscar and Maria,

I wanted to let you know that I am working on a presentation for SMDC of various ways that Santa Monica might consider reforming its governance structure.

Obviously, in that discussion, I want to include a fair discussion of district elections and I want to reach out to you both to figure out the best way to present this. I want to do it in a positive way that highlights how districts have the potential to benefit Santa Monica governance, not as a forum to criticize current/past Councilmembers for actions pertaining to your lawsuit. I hope you can see the difference here: we want to keep the discussion around why this policy could be good for Santa Monicans and something that more people should consider rather than get into the specifics of the existing lawsuit and casting blame about past actions.

Similar to our housing discussion last month, I want to include a wide variety of ideas and speakers. Some of the other topics I am trying to include are: elected mayor, ranked choice voting, proportional representation, etc. I am open to more ideas and topics if you have suggestions.

We are thinking of doing this meeting on April 27. Let me know if that timing might work for you.

Thanks,

-Jon

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tmbjon@gmail.com
cell: (215) 962-4357

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PROOF OF SERVICE

I, Jon Katz, reside in Santa Monica, California, am over the age of eighteen years, and not a party to the action in which this service is made.

On February 4, 2022, I served the following document: Declaration of Jon Katz.

I personally served the foregoing document by delivering it to:

Kirsten Galler
Deputy City Attorney
City of Santa Monica

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: February 4, 2022



Jon Katz

Exhibit 47

1 Wilfredo Alberto Trivino-Perez (SBN 219345)
wtp@tpalawyers.com
2 **TRIVINO-PEREZ & ASSOCIATES**
10940 Wilshire Blvd., 16th Floor
3 Los Angeles, CA 90024
Phone: (310) 443-4251
4 Fax: (310) 443-4252

5 Attorneys for Plaintiffs Oscar De La Torre and Elias Serna
6
7

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

11 OSCAR DE LA TORRE and ELIAS
SERNA

12 Plaintiffs,

13 v.

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

16 Defendants.
17
18

Case No.: 21STCV08597

**DECLARATION OF OSCAR DE LA
TORRE IN SUPPORT OF OPPOSITIONS
TO MOTIONS TO COMPEL**

Date: December 9, 2021
Time: 1:30 p.m.
Dept. 15

[Hon. Richard Fruin]

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**Exhibit
0036**

1 I, Oscar de la Torre, declare as follows:

2 1. I am a plaintiff in the above-captioned case. I am over the age of 18 and
3 have personal knowledge of the facts contained in this declaration. If called as a
4 witness, I could and would competently testify as follows:

5 2. I am an elected member of the Santa Monica City Council, having been
6 elected to that position in November 2020. Even prior to my election to the Santa
7 Monica City Council, I was an elected member of the Board of Trustees of the Santa
8 Monica – Malibu Unified School District, having been first elected to that position in
9 2002, and re-elected in 2006, 2010, 2014 and 2018. Based on my nearly two decades
10 of service as a local elected official, I am very familiar with my responsibilities,
11 including being responsive to my constituents and maintaining the confidentiality of
12 closed session discussions.

13 3. I have been involved in the Latino civil rights movement since I was a
14 high school student attending Santa Monica High School. Particularly because of their
15 tendency to disadvantage minority voters, at-large elections, like those employed by the
16 City of Santa Monica to elect its city council, are despised within the Latino civil rights
17 community. I first understood the need for district-based elections in Santa Monica
18 when then City Council member Antonio "Tony" Vazquez publicly advocated for a
19 change to the at-large election system in the early 1990's. Council member Vazquez
20 was the first Latino elected to the Santa Monica City Council – indeed, the only Latino
21 elected to the City Council until 2020 – and was a proponent of district-based elections.
22 I understood back then that he took this position because he had seen the impact of the
23 marginalization of the at-large election system and the social neglect that it produced in
24 the Pico Neighborhood. Although Mr. Vazquez did not live in the Pico Neighborhood,
25 he was the first Latino to ever campaign in the Pico Neighborhood and was fully aware
26 of the concentrated poverty, racial segregation, environmental dumping and gang
27 violence that plagued my generation.

28 4. Since moving back to Santa Monica, following my graduate studies in
public administration at the University of Texas, I have also consistently worked to

1 improve the Pico Neighborhood – the neighborhood of Santa Monica where I was
2 raised and where Latino and African American residents are concentrated. For
3 example, I founded the Pico Youth and Family Center to combat the endemic gang
4 violence that plagued the Pico Neighborhood. I also have advocated for the residents of
5 the Pico Neighborhood, for example, in my role, dating back to 2005, on the board of
6 the Pico Neighborhood Association (“PNA”). The Pico Neighborhood is much less
7 wealthy than other parts of the city, and has long been the dumping ground for all the
8 city’s undesirable, and even toxic, elements. It is my belief, as the Los Angeles
9 Superior Court found in the Voting Rights Case, that the at-large system of election has
10 resulted in a lack of representation on the City Council for the Pico Neighborhood, and,
11 in turn, the City Council being unresponsive to the needs of Pico Neighborhood, and
12 especially its minority residents.

12 5. Accordingly, for several years I have vocally advocated for district-based
13 elections in Santa Monica. I have spoken on that subject at neighborhood group
14 meetings, rallies, political group meetings, protests, and informational events in Santa
15 Monica and elsewhere. I consistently tell people that I favor district-based elections,
16 and I take questions at some of these events concerning several topics, including
17 district-based elections. I believe my advocacy for district-based elections is one of the
18 things I am known for. In the course of that advocacy, which continues to this day, I
19 have spoken about district-based elections, and the related Voting Rights Case, with
20 scores of Santa Monica residents as well as likeminded people who reside outside of
21 Santa Monica. Some of those likeminded people are attorneys, such as R. Rex Parris,
22 Kevin Shenkman and Milton Grimes, who have informed me about the California
23 Voting Rights Act and other laws governing municipal elections in California. I would
24 estimate that over the past 6 years, I have spoken with people concerning district-based
25 elections and the Voting Rights Case on hundreds of occasions.

26 6. Because I am known in Santa Monica for my advocacy for district-based
27 elections, among other things, and because Santa Monica residents favor the adoption
28 of district-based elections by a margin of more than 2 to 1, the issue took a prominent

1 role in my 2020 campaign for a seat on the Santa Monica City Council. When Santa
2 Monica voters elected me, they knew that I support district-based elections, and that I
3 have been very critical of the City's insistence on spending tens of millions of dollars to
4 fight against the voting rights of its citizens. The voters elected me to stop that waste
5 and to implement district-based elections.

6 7. Consistent with my support for district elections, I have also supported the
7 efforts of the plaintiffs in the Voting Rights Case. I have consistently and repeatedly
8 expressed my view that Santa Monica's at-large elections are unlawful (as the Los
9 Angeles Superior Court ultimately ruled), and my hope that the plaintiffs prevail in the
10 Voting Rights Case. The plaintiffs in the Voting Rights Case are Maria Loya, my wife,
11 and the Pico Neighborhood Association, an organization for which, as discussed above,
12 I served as a board member in various capacities from 2005 to 2020. I resigned my
13 position with the Pico Neighborhood Association immediately following my election to
14 the Santa Monica City Council. I applaud Ms. Loya and the Pico Neighborhood
15 Association for their decision to pursue the Voting Rights Case; I have supported that
16 decision since they initiated the case in April 2016. They had no choice but to file that
17 case, because the City of Santa Monica ignored their efforts to bring the City's election
18 system into compliance with the law before they filed that case.

19 8. At various times in the course of the litigation and trial of the Voting
20 Rights Case, spoke with the attorneys prosecuting the Voting Rights Case. For
21 instance, I spoke with the attorneys prior to several of the depositions of Santa Monica
22 political figures, including two of the current members of the Santa Monica City
23 Council, to provide the attorneys with information that could help them to take
24 effective depositions and prepare for trial. I understand those occasions are listed in the
25 billing records the attorneys have submitted in the Voting Rights Case in connection
26 with their motion for an award of attorneys' fees.

27 9. I also testified in the trial of the Voting Rights Case in 2018, and submitted
28 an amicus curiae brief to the California Supreme Court in that case. In my amicus
curiae brief, I made very clear that I was submitting the brief in my individual capacity,

1 not on behalf of the Santa Monica City Council, and that the views expressed in the
2 brief were mine alone. Attorney Todd Bonder assisted me with the preparation of that
3 amicus brief. Other Santa Monica city councilmembers expressed their opposing views
4 at trial and in the press. For example, Gleam Davis and Terry O'Day (who was
5 defeated in his 2020 bid for re-election) both testified at trial, and Gleam Davis and Ted
6 Winterer (who was also defeated in his 2020 bid for re-election) released an op-ed in
7 the Los Angeles Times just a few days before the trial began. In their testimony and
8 op-ed, those councilmembers expressed their view that Santa Monica should keep it's
9 at-large election system. I don't begrudge anyone, including my fellow
10 councilmembers, the right to express their views, even when they are opposite to my
11 own strongly held views and beliefs. I wish they would treat me the same.

12 10. In order to fulfill my duties as an elected councilmember, particularly my
13 oversight duties, I find myself forced to seek the legal opinions of outside attorneys
14 because I can't trust the legal advice and opinions of the Santa Monica City Attorney's
15 Office. I have found that the legal advice and opinions of the Santa Monica City
16 Attorney's Office is often wrong, and is later demonstrated to be wrong. The Santa
17 Monica City Attorney's Office is consistently biased, skewing its opinions to meet the
18 desires of certain councilmembers, and is frequently more interested in covering up its
19 own mistakes than providing the City Council with objective and sound legal advice.
20 The Voting Rights Case is a perfect example of this bias from the Santa Monica City
21 Attorney's Office. The previous interim city attorney, who only recently resigned from
22 that position, was heavily involved in the defense of the Voting Rights Case and
23 insisted that the California Voting Rights Act is unconstitutional. Based, at least in
24 part, on his advice, the previous city councilmembers, some of whom remain on the
25 council now, decided to spend tens of millions of tax dollars in defending the Voting
26 Rights Case and even challenge the California Voting Rights Act itself. Now, a
27 resolution of the Voting Rights Case would reveal the folly of that previous advice
28 from the Santa Monica City Attorney's Office, so that office advises to continue
wasting even more money in the hope that previous advice will somehow be

1 vindicated. Moreover, rather than treating me as an equal member of the City Council,
2 the Santa Monica City Attorney's Office treats me as an "enemy at the gates"; on the
3 few occasions when I have spoken with the City Attorney's Office it has felt more like
4 an interrogation than a collegial discussion for the benefit of Santa Monica residents. I
5 believe the way they have litigated this case demonstrates that attitude. At various
6 times, I have consulted several trusted attorneys regarding a wide variety of topics
7 impacting the City of Santa Monica – housing, crime, homelessness and district-based
8 elections, to name a few. Those attorneys include, but are not necessarily limited to,
9 Dan Ambrose, R. Rex Parris, Wilfredo Trivino-Perez, Kevin Shenkman and Todd
10 Bonder. Since becoming an elected member of the Santa Monica City Council, I have,
11 on a couple occasions, asked Kevin Shenkman to provide me with an update on the
12 progress of the Voting Rights Case, which he has done. I don't have any specific
13 recollection of those discussions, but I do know that the Voting Rights Case is now
14 pending in the California Supreme Court. I appreciate the counsel of all those
15 attorneys, and other members of the general public, because I could not carry out my
16 duties as a councilmember as effectively if I did not receive their thoughts regarding
17 various matters. In my communications with those attorneys, and others, I am careful
18 to never reveal any confidential information disclosed to me only in closed session. If
19 that advice, provided in confidence, were instead subject to disclosure, I would likely
20 have nowhere to get honest advice about the law and other political matters; those who
21 provide me with advice would refuse to do so, or at least be hesitant and thus less
22 candid in their advice.

23 11. I understand that my colleagues on the city council also receive
24 confidential advice from advisers outside of the City's employment. For example, I
25 know that certain council members receive frequent advice from former
26 councilmembers and representatives of groups like Santa Monicans for Renters' Rights
27 and Santa Monica Forward. None of my colleagues on the Santa Monica City Council
28 disclose their communications with advisers. Unlike me, one of them was even found
to have violated the Political Reform Act and other anti-corruption laws. Yet, they are

1 still not required to disclose their communications with individuals and groups with
2 interests in City actions.

3 12. It has been insinuated by some that I have some financial stake in the
4 Voting Rights Case. As I previously informed the Santa Monica City Attorney's
5 Office, neither I, nor my wife, nor the Pico Neighborhood Association has any financial
6 stake in the Voting Rights Case at all. No monetary relief, other than attorneys' fees
7 and costs, is sought in the Voting Rights Case. Rather, as demonstrated by the Los
8 Angeles Superior Court's Judgment in that case, the relief sought is a change in the
9 election system – a change that will benefit all Santa Monica residents. The attorneys
10 who have prosecuted the Voting Rights Case all agreed to do so *pro bono*, with the
11 understanding that if they are successful they may be awarded attorneys' fees and costs
12 by the Los Angeles Superior Court. My wife and I, and the Pico Neighborhood
13 Association board, all understand that we cannot share in any of those attorneys' fees,
14 because it would be illegal for the attorneys to share their fees with non-attorneys. The
15 arrangement with the attorneys prosecuting the Voting Rights Case has always been
16 that they will be entitled to any award of attorneys' fees and costs, and accordingly they
17 will pay all costs associated with that case – nobody else (including Ms. Loya and the
18 Pico Neighborhood Association) has any potential financial benefit or potential
19 financial loss from the Voting Rights Case. Indeed, in seeking an opinion from the Fair
20 Political Practices Commission ("FPPC"), interim city attorney George Cardona
21 acknowledged these facts, and presumably that is why the City acknowledged that I
22 have no statutory conflict of interest under either the Political Reform Act or
23 Government Code section 1090.

24 I declare under penalty of perjury under the laws of the State of California that
25 the foregoing is true and correct.

26 Executed this 6 day of December 2021, at Santa Monica, California.



27 Oscar de la Torre

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 10940 Wilshire Blvd., 16th Floor, Los Angeles, CA 90024.

On December 6, 2021, I served true copies of the following document(s) described as

DECLARATION

on the interested parties in this action as follows:

Joseph Lawrence
Interim Santa Monica City Attorney
1685 Main Street, Room 310
Santa Monica, CA 90401

Carol M. Silberberg
155 N. Lake Ave., Suite 800
Pasadena. CA 91101

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with our practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 6, 2021 at Los Angeles, California.

/s/ Wilifred Trivino-Perez
Wilifred Trivino-Perez