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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

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**COUNTY OF LOS ANGELES**

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OSCAR DE LA TORRE and ELIAS  
SERNA

**Case No.: 21STCV08597**

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Plaintiffs,

**PLAINTIFFS' OBJECTIONS TO THE  
DECLARATION OF FRANK  
ZERUNYAN FILED IN SUPPORT OF  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

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v.

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CITY OF SANTA MONICA and  
DOES 1 through 10, inclusive

Dept. 15

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Defendants.

[Hon. Richard Fruin]

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1                   **The Entirety of Zerunyan’s Declaration Is Improper Opinion on the Law.**

2                   It is well settled that expert witnesses are not permitted to opine on the law; that is the  
3 province of the court. (See, e.g., *Prop. California SCJLW One Corp. v. Leamy* (2018) 25 Cal.  
4 App. 5th 1155, 1165 [affirming trial court’s exclusion of expert testimony because his opinion  
5 “was an ultimate conclusion of law, a point on which expert testimony is not allowed.”];  
6 *Adams v. City of Fremont* (1998) 68 Cal.App.4th 243, 266 [“opinion testimony is inadmissible  
7 and irrelevant to adjudging questions of law. ... It is thoroughly established that experts may  
8 not give opinions on matters which are essentially within the province of the court to decide.  
9 Consequently, the opinion of a witness on a question of law is obviously incompetent.”],  
10 quoting *Williams v. Coombs* (1986) 179 Cal.App.3d 626, 638; *Summers v. A.L. Gilbert Co.*  
11 (1999) 69 Cal. App. 4th 1155, 1179-1181 [“allowing an expert to voice an opinion on an issue  
12 of law usurps the authority of the court.”].) Yet, the entirety of Mr. Zerunyan’s declaration,  
13 other than his recitation of his unremarkable credentials and description of documents he has  
14 reviewed in this case (paragraphs 1-8), is nothing more than an attempt to opine on the law.  
15 Mr. Zerunyan has no firsthand knowledge of any relevant facts; his declaration is merely legal  
16 argument.

17                   Moreover, in his attempt to tell this Court what the law is, Mr. Zerunyan fails to cite  
18 any legal authority supporting his view. As a result, his opinions about the law are  
19 demonstrably wrong. Untethered by any legal authority, Mr. Zerunyan is “advocating, not  
20 testifying” for what Mr. Zerunyan feels the law ought to be, not what it is. (*Summers*, 69 Cal.  
21 App. 4<sup>th</sup> at 1185.)

22                   Defendant’s reliance on the opinions of Mr. Zerunyan is revealing. Unable to support  
23 its position with actual legal authority, it instead resorts to Mr. Zerunyan’s view of what the  
24 law *ought to be*. Defendant may not like the law, and may even seek to convince an appellate  
25 court to change the law concerning elected officials’ conflicts of interest, but changing the law  
26 is not the role of this Court.

Pursuant to Rule of Court 3.1352, Plaintiffs object to specific portions of the declaration of Frank Zerunyan as follows:

<b>Material Objected to:</b>	<b>Grounds for Objection</b>	<b>Ruling on the Objection</b>
<p>Zerunyan Declaration, p. 2 lines 6-10: “Based on my experience, research, and expertise, a councilmember is a nonpartisan elected office to serve the public and should govern without the divisions imposed by political interest and even the media. Therefore, partisan ideology, trying to represent only a particular group, or to win by all means necessary is antithetical to local governance. This is one significant way local government differs from federal government or state legislatures.”</p>	<p><b>Irrelevant</b> (Evid. Code §350). Mr. Zerunyan’s opinions about how city councilmembers “<i>should</i> govern,” in some idealized view of local government that ignores the realities of Santa Monica, has no relevance to any issue in this case.</p> <p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, is not a proper subject of the testimony of any witness, including experts.</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

Material Objected to:	Grounds for Objection	Ruling on the Objection
<p>Zerunyan Decl. p. 2, lines 11-13: “Where city councilmembers are elected at large, such as in Rolling Hills Estates or Santa Monica, a councilmember is elected to represent everyone. As such, a councilmember must listen to all views and owes a duty of loyalty to the public, which is like a fiduciary duty.”</p>	<p><b>Irrelevant</b> (Evid. Code §350). Mr. Zerunyan’s opinions about the desirability of at-large elections, has no relevance to any issue in this case. The Legislature, by enacting several bills over the past twenty years (e.g. Sen. Bill 976 (2002), Sen. Bill 493 (2015), Assem. Bill 277 (2015), Assem. Bill 2220 (2016), and Sen. Bill 442 (2021)), has indicated it views at-large elections with disfavor.</p> <p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, concerning the duties of a city council member is not a proper subject of the testimony of any witness, including experts.</p> <p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

Material Objected to:	Grounds for Objection	Ruling on the Objection
	<p>["affidavits must cite evidentiary facts, not legal conclusions or 'ultimate' facts"]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 ["The proper place for argument is in points and authorities, not declarations."].)</p>	
<p>Zerunyan Decl. p. 2, lines 14-22: "City councils, as local democratic institutions, act by majority (or sometimes a super majority), and the entity is larger than any individual councilmember. The city council is the final arbiter of the issues before it. If people do not like the actions taken by the city council, then people have the power to vote councilmembers out of office or petition for a recall. That is democracy in action. Alternatively, and where appropriate, a person can also file a writ of mandamus</p>	<p><b>Irrelevant</b> (Evid. Code §350). Mr. Zerunyan's opinions about how city councils should function, or what is "democracy in action," in some idealized view of local government that ignores the realities of Santa Monica, has no relevance to any issue in this case.</p> <p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan's view of what the law is, or ought to be, concerning, for example, the propriety of courts reviewing the decisions of a city council, is not a proper subject of the testimony of any witness, including experts.</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

Material Objected to:	Grounds for Objection	Ruling on the Objection
<p>1 to challenge council action.</p> <p>2</p> <p>3</p> <p>4 But in my nearly twenty</p> <p>5 years as a Rolling Hills</p> <p>6 Estates city councilmember,</p> <p>7 such writs are few and far</p> <p>8 between and the courts</p> <p>9 cannot and must not second</p> <p>10 guess the city council’s</p> <p>11 decision. I view this to be a</p> <p>12 constitutional separation of</p> <p>13 powers issue to allow the</p> <p>14 local governance to be the</p> <p>15 closest to the people who are</p> <p>16 governed.”</p> <p>17</p>	<p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 [“The proper place for argument is in points and authorities, not declarations.”].)</p>	
<p>18 Zerunyan Decl. p. 2, line 23</p> <p>19 – p. 3, line 2: “At the local</p> <p>20 level, the public trust is</p> <p>21 paramount. Thus, California,</p> <p>22 like many other states, has</p> <p>23 created a framework of</p> <p>24 ethics laws, which are</p> <p>25 designed to preserve the</p> <p>26 public trust in public</p> <p>27 servants and public</p> <p>28 institutions. Under</p>	<p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, concerning, for example, California’s ethics laws and the reason for their enactment, is not a proper subject of the testimony of any witness, including experts.</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

<b>Material Objected to:</b>	<b>Grounds for Objection</b>	<b>Ruling on the Objection</b>
<p>California law, that ethical framework is expressed through the common law conflicts doctrine (also sometimes referred to as the common law bias doctrine), the Political Reform Act, and Government Code Section 1090. Adhering to the ethical framework in these laws is akin to the minimum standard of care for public officials. The rules and principles that arise from these laws and doctrines are based on the ethical principles of autonomy, veracity, undivided loyalty, disinterested zeal, and the public interest.”</p>	<p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 [“The proper place for argument is in points and authorities, not declarations.”].)</p>	

Material Objected to:	Grounds for Objection	Ruling on the Objection
<p>Zerunyan Decl. p. 3, lines 3-9: “AB1234, enacting Government Code Sections 53234 et seq., requires that elected and appointed officials take two hours of ethics training every two years. The ethics training includes training on ‘[l]aws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws,’ as well as ‘[l]aws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members.’ (Gov. Code, § 53234.)”</p>	<p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law requires is not a proper subject of the testimony of any witness, including experts.</p> <p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 [“The proper place for argument is in points and authorities, not declarations.”].)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>



Material Objected to:	Grounds for Objection	Ruling on the Objection
<p>Zerunyan Decl. p. 3, lines 9-13 and Ex. B: “I have taken such trainings numerous times during my time as a public official and they generally cover all three parts of this framework – common law conflicts (or bias), the Political Reform Act, and Government Code Section 1090. An example of such training materials similar to ones I have received is attached at Exhibit B”</p>	<p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, concerning, for example, conflicts of interest, is not a proper subject of the testimony of any witness, including experts.</p> <p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 [“The proper place for argument is in points and authorities, not declarations.”].)</p> <p><b>Inadmissible Hearsay.</b> (Evid. Code § 1200). The “training materials,” attached as Exhibit B, are out-of-court statements of others which Mr. Zerunyan seeks to have this Court accept as an</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

Material Objected to:	Grounds for Objection	Ruling on the Objection
	<p>accurate description of the law. That is no substitute for the law and actual legal authority.</p>	
<p>Zerunyan Decl. p. 3, lines 14-18: “In light of this framework and responsibility as a locally elected official, public officials must want to practice these ethics, not just learn them. Therefore, in my experience, councilmembers disqualify themselves for various reasons, including ethical conflicts that inevitably arise. Disqualification, whether by city council vote or by self-recusal, is not undemocratic at all – it is ethical. And democracy has to be ethical.”</p>	<p><b>Irrelevant</b> (Evid. Code §350). Mr. Zerunyan’s opinions about how city councilmembers “must want to practice [] ethics,” what some unidentified councilmembers have done for unidentified “various reasons,” and whether “democracy has to be ethical,” has no relevance to any issue in this case.</p> <p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, is not a proper subject of the testimony of any witness, including experts. Nor is Mr. Zerunyan’s view of democracy and what is “undemocratic.”</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

1 <b>Material Objected to:</b> 2	<b>Grounds for Objection</b>	<b>Ruling on the Objection</b>
3 Zerunyan Decl. p. 3, lines 4 19-27: “The doctrine of 5 common law conflicts, 6 which are sometimes 7 referred to as common law 8 bias, requires public officials 9 to act without personal 10 interest and for the benefit of 11 the public, regardless of 12 whether specific financial 13 interests are at stake. These 14 are the same ethical 15 considerations of undivided 16 loyalty, disinterested skill, 17 and fairness that also apply 18 where financial interests are 19 also at stake. In my 20 experience, common law 21 conflicts still arise and the 22 absence of a financial 23 conflict does not mean that a 24 common law conflict does 25 not exist. Instead, when 26 assessing whether a conflict 27 of interest exists, a public 28 official should look	<p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800).            As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, concerning, for example, conflicts of interest, is not a proper subject of the testimony of any witness, including experts.</p> <p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 [“The proper place for argument is in points and authorities, not declarations.”].)</p>	Sustained: _____  Overruled: _____  Judge: _____

Material Objected to:	Grounds for Objection	Ruling on the Objection
<p>collectively at the three main sources of law – common law conflicts, the Political Reform Act, and Government Code Section 1090 – and always have in mind the public interest.”</p>		
<p>Zerunyan Decl. p. 4, lines 1-3: “Furthermore, much like financial conflicts, these ethical considerations not only include whether an actual conflict exists, but also includes whether there is a perception of such common law conflict.”</p>	<p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, concerning, for example, conflicts of interest, is not a proper subject of the testimony of any witness, including experts.</p> <p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 [“The proper place for argument is in points and authorities, not declarations.”].)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

Material Objected to:	Grounds for Objection	Ruling on the Objection
<p>Zerunyan Decl. p. 4, lines 3-6: “That is why, in my experience, most councilmembers when presented with any type of potential conflict issue, whether common law or otherwise, will recuse themselves out of an abundance of caution and to preserve public integrity and safeguard the institution of the respective city council.”</p>	<p><b>Irrelevant</b> (Evid. Code §350).            What other (unidentified) councilmembers did in different (unexplained) circumstances different than those presented in this case, has no relevance to any issue in this case.</p> <p><b>Speculation.</b> (Evid. Code § 803)            Mr. Zerunyan has no way to know <i>why</i> the unnamed councilmembers recused themselves. (<i>Trujillo v. First Am. Registry, Inc.</i> (2008) 157 Cal. App. 4th 628, 635 [“opposition to summary judgment will be deemed insufficient when it is essentially conclusionary, argumentative or based on conjecture and speculation”].)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

Material Objected to:	Grounds for Objection	Ruling on the Objection
<p>Zerunyan Decl. p. 4, lines 7-11: “Common law conflicts can arise where there are decisions involving close familial relations, whether that person receives compensation or not or whether that spouse received direct relief or not. In my experience, it is presumed that a close familial relationship can and likely impacts one’s judgment, raises such ethical issues such as autonomy, undivided loyalties, fairness and disinterested skill, and gives rise to a common law conflict of interest.”</p>	<p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, concerning, for example, conflicts of interest, is not a proper subject of the testimony of any witness, including experts.</p> <p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 [“The proper place for argument is in points and authorities, not declarations.”].)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

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	<b>Material Objected to:</b>	<b>Grounds for Objection</b>	<b>Ruling on the Objection</b>
1 2 3 4 5 6 7 8 9	Zerunyan Decl. p. 4, lines 11-12: “There are similar conflict rules that other professions employ, such as the legal and medical professions.”	<b>Irrelevant</b> (Evid. Code §350). Conflict rules applicable to the legal and medical profession do not apply to city council members, and therefore have no relevance to any issue in this case.	Sustained: _____  Overruled: _____  Judge: _____
10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Zerunyan Decl. p. 4, lines 13-16: “Beyond close familial relationships, other close relationships and connections to other people may raise similar ethical concerns. Participation in decisions involving close friends, business partners and/or professional relationships can lead to the appearance of preferential treatment, divided loyalties and/or compromise the appearance of fairness, all of which undermine public confidence.”	<b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, concerning, for example, conflicts of interest, is not a proper subject of the testimony of any witness, including experts.  <b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4 <sup>th</sup> 28, 30 n. 3 [“The proper place for argument is in points and authorities, not declarations.”].)	Sustained: _____  Overruled: _____  Judge: _____

Material Objected to:	Grounds for Objection	Ruling on the Objection
<p>Zerunyan Decl. p. 4, lines 17-19: “Common law conflicts can also arise when a public official crosses the line to being partisan, closed minded, and becoming embroiled in the underlying decision before the public official.”</p>	<p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, concerning, for example, conflicts of interest, is not a proper subject of the testimony of any witness, including experts.</p> <p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 [“The proper place for argument is in points and authorities, not declarations.”].)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>
<p>Zerunyan Decl. p. 4, lines 20-26: “While it is my opinion based on my experience and expertise that Mr. De la Torre is entitled to advocate for his position to</p>	<p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, concerning, for example, conflicts of interest, is not</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>



<b>Material Objected to:</b>	<b>Grounds for Objection</b>	<b>Ruling on the Objection</b>
<p>1 effectuate the policy change  2 with regard to district-based  3 elections, such as during  4 public comment or 13 items  5 – and I defend his right to do  6 so – but based on the facts I  7 have seen, he improperly  8 seeks to participate in closed  9 sessions regarding the  10 litigation on the California  11 Voting Rights Act  12 (“CVRA”) despite his  13 admitted bias, despite his  14 lack of autonomy, and  15 despite his relationship with  16 his wife, the plaintiff in that  17 litigation, and his ongoing  18 relationship with Kevin  19 Shenkman, one of the  20 attorneys for the plaintiffs in  21 the CVRA litigation.”  22  23  24  25</p>	<p>a proper subject of the testimony of  any witness, including experts.</p> <p><b>Improper legal conclusion.</b> (See  <i>Hayman v. Block</i> (1986) 176  Cal.App.3d 629, 638-639  [“affidavits must cite evidentiary  facts, not legal conclusions or  ‘ultimate’ facts”]; <i>Marriage of  Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28,  30 n. 3 [“The proper place for  argument is in points and  authorities, not declarations.”].)</p>	

Material Objected to:	Grounds for Objection	Ruling on the Objection
<p>Zerunyan Decl. p. 4, line 26 – p. 5, line 3: “As one example, Mr. De la Torre creating an adversarial setting in the city council meeting on January 26, 2021 when his disqualification was before the council demonstrates that he is not disinterested and that he has divided loyalties. Furthermore, a significant distinction exists between using the democratic process to collaboratively govern and win sufficient votes and trying to utilize the judicial system to subvert and overrule that democratic process.”</p>	<p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, concerning, for example, conflicts of interest, is not a proper subject of the testimony of any witness, including experts.</p> <p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 [“The proper place for argument is in points and authorities, not declarations.”].)</p> <p><b>Irrelevant</b> (Evid. Code §350). Mr. Zerunyan’s opinions about Councilmember de la Torre’s political style, and his resort to this Court to require Defendant to abide by the law, has no relevance to any issue in this case.</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

Material Objected to:	Grounds for Objection	Ruling on the Objection
<p>Zerunyan Decl. p. 5, lines 4-9: “A reasonable councilmember in Mr. De la Torre’s position would have recused themselves from the closed session discussions of the CVRA litigation due to the conflict of interest posed by relationships and his advocacy before and after he became a councilmember. Even though the CVRA litigation only seeks equitable relief, that does not change that the named plaintiff is Mr. De la Torre’s wife. His direct advocacy on her behalf demonstrates divided loyalties, a lack of disinterested skill, and bias.”</p>	<p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, concerning, for example, conflicts of interest, is not a proper subject of the testimony of any witness, including experts.</p> <p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 [“The proper place for argument is in points and authorities, not declarations.”].)</p> <p><b>Irrelevant</b> (Evid. Code §350). Mr. Zerunyan’s opinions about what “a reasonable councilmember ... would [do],” has no relevance to any issue in this case. The question in this case is what the law requires</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

Material Objected to:	Grounds for Objection	Ruling on the Objection
	Councilmember de la Torre to do, not what Mr. Zerunyan thinks he should do.	
<p>Zerunyan Decl. p. 5, lines 10-15: “In fact, neither I, nor would I expect my colleagues, would insist on participating in such closed sessions where such conflicts existed. It actually surprises me that Councilmember De la Torre has taken such positions here because his actions undermine public confidence and trust. If it were me in these circumstances, I would have taken affirmative actions to ensure that I had no connection to discussions concerning the underlying CVRA litigation to ensure that public confidence and trust remained.”</p>	<p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, concerning, for example, conflicts of interest, is not a proper subject of the testimony of any witness, including experts.</p> <p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 [“The proper place for argument is in points and authorities, not declarations.”].)</p> <p><b>Irrelevant</b> (Evid. Code §350). What Mr. Zerunyan’s would or</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

Material Objected to:	Grounds for Objection	Ruling on the Objection
	<p>wouldn't do under certain circumstances has no relevance to any issue in this case. The question in this case is what the law requires Councilmember de la Torre to do, not what Mr. Zerunyan would do.</p>	
<p>Zerunyan Decl. p. 5, lines 16-19: "Additionally, Mr. De la Torre asserts that the city council lacks authority to disqualify a city council member. In my experience, and based on the doctrine of home rule that applies to charter cities, the city council decides its organizational and democratic structure. The city council can and must be able to act to preserve itself and ensure that it acts in compliance with the law."</p>	<p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan's view of what the law is, or ought to be, concerning, for example, the Brown Act, is not a proper subject of the testimony of any witness, including experts.</p> <p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 ["affidavits must cite evidentiary facts, not legal conclusions or 'ultimate' facts"]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 ["The proper place for argument is in points and authorities, not declarations."].)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

Material Objected to:	Grounds for Objection	Ruling on the Objection
<p>1 Zerunyan Decl. p. 5, lines</p> <p>2 20-26: “I understand that</p> <p>3 the Plaintiffs here have</p> <p>4 asserted that the Brown Act</p> <p>5 was somehow implicated by</p> <p>6 Mr. De la Torre’s exclusion</p> <p>7 at a closed session regarding</p> <p>8 the CVRA litigation based</p> <p>9 upon his conflict of interest.</p> <p>10 However, the Brown Act</p> <p>11 was not enacted to ensure</p> <p>12 that all city council members</p> <p>13 are present at city council</p> <p>14 meetings. Rather, the Brown</p> <p>15 Act is a sunshine law. Its</p> <p>16 purpose is to ensure that,</p> <p>17 subject to certain specific</p> <p>18 statutory exceptions where</p> <p>19 there is a demonstrated need</p> <p>20 for confidentiality, local</p> <p>21 legislative bodies like city</p> <p>22 councils conduct their</p> <p>23 business in open and public</p> <p>24 meetings so that the local</p> <p>25 decision-making process is</p> <p>26 observable by the public.”</p>	<p>3 <b>Not a proper subject of expert</b></p> <p>4 <b>opinion</b> (Evid. Code §§ 310, 800).</p> <p>5 As explained more fully above, Mr.</p> <p>6 Zerunyan’s view of what the law</p> <p>7 is, or ought to be, concerning, for</p> <p>8 example, the Brown Act, is not a</p> <p>9 proper subject of the testimony of</p> <p>10 any witness, including experts.</p> <p>11</p> <p>12 <b>Improper legal conclusion.</b> (See</p> <p>13 <i>Hayman v. Block</i> (1986) 176</p> <p>14 Cal.App.3d 629, 638-639</p> <p>15 [“affidavits must cite evidentiary</p> <p>16 facts, not legal conclusions or</p> <p>17 ‘ultimate’ facts”]; <i>Marriage of</i></p> <p>18 <i>Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28,</p> <p>19 30 n. 3 [“The proper place for</p> <p>20 argument is in points and</p> <p>21 authorities, not declarations.”].)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

1 <b>Material Objected to:</b> 2	<b>Grounds for Objection</b>	<b>Ruling on the Objection</b>
<p>3 Zerunyan Decl. p. 5, line 27- 4 p. 6, line 9: “Plaintiffs’ 5 interpretation of the Brown 6 Act, as requiring all 7 members to attend any 8 closed session, is untenable. 9 It would mean that city 10 councils would be unable to 11 conduct business or go into a 12 closed session if not 13 everyone is there. In fact, in 14 my experience, it is common 15 for closed sessions to have 16 to proceed without all 17 members of the city council 18 and to proceed where only a 19 quorum is present. This may 20 happen due to a conflict of 21 interest, an absence due to 22 illness, or an absence due to 23 other issues. But requiring 24 all members to attend every 25 meeting would grind the 26 council’s business to a halt. 27 If all members of a 28 legislative body had a right</p>	<p><b>Not a proper subject of expert opinion</b> (Evid. Code §§ 310, 800). As explained more fully above, Mr. Zerunyan’s view of what the law is, or ought to be, concerning, for example, the Brown Act, is not a proper subject of the testimony of any witness, including experts.</p> <p><b>Improper legal conclusion.</b> (See <i>Hayman v. Block</i> (1986) 176 Cal.App.3d 629, 638-639 [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”]; <i>Marriage of Heggie</i> (2002) 99 Cal.App.4<sup>th</sup> 28, 30 n. 3 [“The proper place for argument is in points and authorities, not declarations.”].)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>Judge: _____</p>

<b>Material Objected to:</b>	<b>Grounds for Objection</b>	<b>Ruling on the Objection</b>
<p>to attend closed sessions, it would also effectively mean that conflict of interest laws have no application when legislative bodies are meeting to discuss litigation or other proper closed session topics, which makes no sense. Of course, it is my desire that all my colleagues are present when discussing an important issue (so long as they do not have a disqualifying conflict), but only a quorum is required.”</p>		

DATED: April 13, 2022

Respectfully submitted:  
**TRIVINO-PEREZ & ASSOCIATES**

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