

1 SUSAN Y. COLA (SBN 178360)
Interim City Attorney
2 susan.cola@santamonica.gov
3 KIRSTEN R. GALLER (SBN 227171)
Deputy City Attorney
4 kirsten.galler@santamonica.gov
5 BRANDON D. WARD (SBN 259375)
Deputy City Attorney
6 brandon.ward@santamonica.gov
7 1685 Main Street, Room 310
8 Santa Monica, California 90401
Telephone: (310) 458-8336
Facsimile: (310) 395-6727

9 CAROL M. SILBERBERG (SBN 217658)
10 ROBERT P. BERRY (SBN 220271)
BERRY SILBERBERG STOKES PC
11 csilberberg@berrysilberberg.com
12 155 North Lake Avenue, Suite 800
Pasadena, CA 91101
Telephone: (213) 986-2688
Facsimile: (213) 986-2677

13 Attorneys for Defendant
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 Plaintiffs,

19 v.

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

22 Defendants.
23

CASE NO.: 21STCV08597

Assigned to Hon. Richard L. Fruin

**DEFENDANT CITY OF SANTA
MONICA'S OBJECTIONS TO
PLAINTIFFS' EVIDENCE SUBMITTED IN
OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT
OR, IN THE ALTERNATIVE, SUMMARY
ADJUDICATION**

Date: May 6, 2022

Time: 9:15 A.M.

Dept.: 15

Action Filed: March 4, 2021

Trial Date: June 13, 2022

1 Pursuant to California Rules of Court 3.1352 and 3.1354, Defendant City of Santa Monica
2 (“City”) hereby submits its objections to evidence submitted as part of Plaintiffs’ Evidence in
3 Opposition to Defendant’s Motion for Summary Judgment¹ (filed on or about April 13, 2022).
4

5 **I. INTRODUCTION**

6 Each of the declarations submitted by Plaintiffs in opposition to the City’s motion are riddled
7 with speculation, unsupported factual assumptions, improper legal conclusions, improper opinions,
8 and misleading characterizations of the content of the exhibits. These evidentiary defects result in the
9 declarations failing to comply with section 437c of the Code of Civil Procedure, which requires that
10 declarations set forth admissible evidence testified to a person with knowledge who is competent to
11 testify to such matters.

12 Furthermore, in the interest of judicial efficiency, the City has not made every potential
13 objection that could be made (especially where most of the statements are irrelevant and
14 argumentative). However, the lack of any such objection should not be construed as the City’s
15 agreement with any such statements or any waiver of such objections at trial or in any other motion
16 or filing. The City reserves all such rights.

17
18
19
20
21
22
23
24
25
26
27

¹ Plaintiffs incorrectly summarize the City’s motion in their caption and elsewhere as one merely for
28 summary judgment, even though the City moved for summary judgment or, in the alternative,
summary adjudication.

II. OBJECTIONS

Material Objected to:	Grounds for Objection:	Ruling on Objection
<p>1. Declaration of Wilfredo Trivino-Perez in Opposition to Defendant’s Motion for Summary Judgment (“Trivino-Perez Declaration”), page 2, lines 24-28: “Defendant has repeatedly claimed that Mr. Shenkman has drafted various court filings in this case, insinuating that I am incapable of litigating this case. I agree with Mr. Shenkman’s sentiment expressed in his deposition when presented with this same accusation – that it is insulting and even racist, as the premise of Defendant’s accusations is that a Latino attorney could not litigate this case.”</p>	<p>Lack of relevance (Evid. Code, § 350); lack of personal knowledge (Evid. Code, § 702(a)); improper opinion testimony (Evid. Code, § 800); lacks foundation (Evid Code, § 403); misleading and argumentative (Evid. Code, § 352).</p>	<p>Sustained Overruled _____ Hon. Richard L. Fruin</p>
<p>2. Trivino-Perez Declaration, page 2, lines 19-23: “Consistent with the ruling of this Court, Plaintiffs produced all emails and text messages responsive to discovery requests, regardless of technical issues experienced by Mr. de la Torre.”</p>	<p>Lack of personal knowledge (Evid. Code, § 702(a)); lacks foundation (Evid Code, § 403).</p>	<p>Sustained Overruled _____ Hon. Richard L. Fruin</p>

Material Objected to:	Grounds for Objection:	Ruling on Objection
<p>3. Trivino-Perez Declaration, Exhibit E (amended response to Special Interrogatory No. 8).</p>	<p>Proposed amended answer to interrogatory No. 8 does not demonstrate that it contains “information subsequently discovered, inadvertently omitted, or mistakenly stated in the initial interrogatory” (Code Civ. Proc., § 2030.031(a); see also <i>D’Amico v. Board of Medical Examiners</i> (1974) 11 Cal.3d 1, 21 [“when discovery has produced an admission or concession on the part of the party opposing summary judgment which demonstrates that there is no factual issue to be tried,” court may disregard controverting affidavits]; <i>Whitmire v. Ingersoll-Rand Co.</i> (2010) 184 Cal.App.4th 1078, 1088–89 [trial court properly disregarded testimony that contradicted earlier discovery response without reasonable explanation for contradiction].); Incomplete (Evid. Code § 356).</p>	<p>Sustained</p> <p>Overruled</p> <hr/> <p>Hon. Richard L. Fruin</p>
<p>4. Declaration of Oscar de la Torre in Opposition to Defendant’s Motion for Summary Judgment (“De la Torre Declaration”), page 2, lines 8-9: “Particularly because of their tendency to disadvantage minority voters, at-large elections . . .”</p>	<p>Lack of relevance (Evid. Code, § 350); improper expert opinion (Evid. Code, § 801); lack of personal knowledge/speculation (Evid. Code, § 702(a)); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); lacks foundation (Evid. Code, § 403).</p>	<p>Sustained</p> <p>Overruled</p> <hr/> <p>Hon. Richard L. Fruin</p>

Material Objected to:	Grounds for Objection:	Ruling on Objection
5. De la Torre Declaration, page 2, lines 9-11: “. . . at-large elections, like those employed by the City of Santa Monica to elect its city council, are despised within the Latino civil rights community.”	Lack of relevance (Evid. Code, § 350); lack of personal knowledge/speculation (Evid. Code, § 702(a)); lacks foundation (Evid. Code, § 403).	Sustained Overruled _____ Hon. Richard L. Fruin
6. De la Torre Declaration, Page 2, lines 18-20 “he was the first Latino to ever campaign in the Pico Neighborhood, and was fully aware of the concentrated poverty, racial segregation, environmental dumping and gang violence that plagued my generation.	Lack of relevance (Evid. Code, § 350); improper lay opinion (Evid. Code, § 800); improper expert opinion (Evid. Code, § 801); lack of personal knowledge/speculation (Evid. Code, § 702(a)); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).	Sustained Overruled _____ Hon. Richard L. Fruin
7. De la Torre Declaration, page 2, lines 24 “where Latino and African American residents are concentrated.”	Lack of relevance (Evid. Code § 350); improper lay opinion (Evid. Code, § 800); improper expert opinion (Evid. Code, § 801); lack of personal knowledge/speculation (Evid. Code, § 702(a)); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); vague as to time, misleading and argumentative. (Evid. Code, § 352).	Sustained Overruled _____ Hon. Richard L. Fruin
8. De la Torre Declaration, page 2, line 27 – page 3, line 2-3. “The Pico Neighborhood is much less wealthy than other parts of the city, and has long been the dumping ground for all the city’s undesirable, and even toxic elements.”	Lack of relevance (Evid. Code, § 350); improper lay opinion (Evid. Code, § 800); improper expert opinion (Evid. Code, § 801); lack of personal knowledge/speculation (Evid. Code, § 702(a)); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); vague as to time, misleading and argumentative. (Evid. Code, § 352).	Sustained Overruled _____ Hon. Richard L. Fruin

Material Objected to:	Grounds for Objection:	Ruling on Objection
<p>9. De la Torre Declaration, page 3 lines 3-6 “the Los Angeles Superior Court found in the Voting Rights Case, that the at-large system of election has resulted in a lack of representation on the city Council for the Pico Neighborhood, and in turn, the City Council being unresponsive to the needs of the Pico Neighborhood, especially its minority residents.”</p>	<p>Lack of relevance (Evid. Code, § 350); improper lay opinion (Evid. Code, § 800); improper expert opinion (Evid. Code, § 801); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); vague as to time, misleading and argumentative. (Evid. Code, § 350); misstates the record (Evid. Code, § 352); impermissible testimony regarding the contents of a document (Evid. Code, § 1523).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>
<p>10. De la Torre Declaration, page 3, line 8: At-large elections are a “historic wrong.”</p>	<p>Lack of relevance (Evid. Code, § 350); improper lay opinion (Evid. Code, § 800); improper expert opinion (Evid. Code, § 801); lack of personal knowledge/speculation (Evid. Code, § 702(a)); lacks foundation (Evid. Code, § 403); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>
<p>11. De la Torre Declaration, page 3, line 11: “Everyone agreed; the discriminatory at-large election system had to go.”</p>	<p>Lack of relevance (Evid. Code, § 350); improper lay opinion (Evid. Code, § 800); improper expert opinion (Evid. Code, § 801); lack of personal knowledge (Evid. Code, § 702(a)); lack of foundation (Evid. Code, § 403); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>

Material Objected to:	Grounds for Objection:	Ruling on Objection
<p>12. De la Torre Declaration, page 3, line 22-23: “[F]ive of the six other Santa Monica neighborhood organizations joined the PNA in urging a change to the discriminatory at-large election system.”</p>	<p>Lack of relevance (Evid. Code, § 350); improper lay opinion (Evid. Code, § 800); improper expert opinion (Evid. Code, § 801); lack of personal knowledge (Evid. Code, § 702(a)); misleading and argumentative (Evid. Code, § 352); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>
<p>13. De la Torre Declaration, page 4, lines 2-3: “Disturbed by the mismanagement of the City of Santa Monica, and the continued harm inflicted upon the Pico Neighborhood . . .”</p>	<p>Lack of relevance (Evid. Code, § 350); improper lay opinion (Evid. Code, § 800); improper expert opinion (Evid. Code, § 801); lack of personal knowledge (Evid. Code, § 702(a)); misleading and argumentative (Evid. Code, § 352); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>
<p>14. De la Torre Declaration, page 4, lines 4-5: “In order to compete with the incumbent councilmembers, and their vast financial resources . . .”</p>	<p>Lack of relevance (Evid. Code, § 350); lack of personal knowledge/speculation (Evid. Code, § 702).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>
<p>15. De la Torre Declaration, page 4, lines 8-10: “[W]e all expressed our support for adopting district-based elections and, relatedly, ending the expensive and misguided fight against the CVRA in the Voting Rights Case.”</p>	<p>Lack of relevance (Evid. Code, § 350); improper lay opinion (Evid. Code, § 800); improper expert opinion (Evid. Code, § 801); lack of personal knowledge (Evid. Code, § 702(a)); misleading and argumentative; (Evid. Code, § 352); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); hearsay (Evid. Code, § 1200).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>

Material Objected to:	Grounds for Objection:	Ruling on Objection
16. De la Torre Declaration, page 4, lines 10-11: "All of the incumbent council members seeking re-election expressed their opposition to district elections."	Relevance (Evid. Code, § 350); hearsay (Evid. Code, § 1200).	Sustained Overruled <hr/> Hon. Richard L. Fruin
17. De la Torre Declaration, page 4, lines 20-23: "When Santa Monia voters elected me, they knew that I support district-based elections, and that I have been very critical of the City's insistence on spending tens of millions of dollars to fight against the voting rights of its citizens. The voters elected me to stop that waste and to implement district-based elections."	Lack of relevance; improper lay opinion (Evid. Code, § 800); improper expert opinion (Evid. Code, § 801); lack of personal knowledge/speculation (Evid. Code, § 702); lack of foundation (Evid. Code, § 403); misleading and argumentative (Evid. Code, § 352); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).	Sustained Overruled <hr/> Hon. Richard L. Fruin
18. De la Torre Declaration, page 4, line 27-page 5 line 3: "George Cardona . . . wrote to the Fair Political Practices Commission ("FPPC") seeking an opinion on whether I had a conflict of interest that would prevent me from participating in city council meetings, discussions and votes concerning the Voting Rights Case."	Impermissible testimony regarding the contents of a document (Evid. Code, § 1523).	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/> <hr/> Hon. Richard Fruin
19. De la Torre Declaration, page 5, lines 6-7: "Mr. Cardona initially agreed that we would draft that letter together . . ."	Hearsay (Evid. Code, § 1200).	Sustained Overruled <hr/> Hon. Richard L. Fruin

Material Objected to:	Grounds for Objection:	Ruling on Objection
20. De la Torre Declaration, page 5, lines 10-12 “Mr. Cardona placed an item on the agenda for the January 26, 2021 city council meeting.”	Lack of foundation (Evid. Code, § 403); speculation (Evid. Code, § 702); misstates the record (Evid. Code, § 352).	Sustained Overruled _____ Hon. Richard L. Fruin
21. De la Torre Declaration, page 5, lines 17-19: “At that council meeting, some city council members expressed a desire to hear from the FPPC before deciding on any action . . .”	Hearsay (Evid. Code, § 1200); impermissible testimony regarding the contents of a document Evid. Code, § 1523); less satisfactory evidence (Evid. Code, § 412).	Sustained Overruled _____ Hon. Richard L. Fruin
22. De la Torre Declaration, page 5, lines 22-23: “voted to . . . exclude me from all discussions, meetings and decisions concerning the Voting Rights Case.”	Hearsay (Evid. Code, § 1200); impermissible testimony regarding the contents of a document Evid. Code, § 1523); misstates the record (Evid. Code, § 352).	Sustained Overruled _____ Hon. Richard L. Fruin
23. De la Torre Declaration, page 5, lines 25-26: “The FPPC laid out the relevant facts and law, and concluded that I do not have a conflict of interest that precludes me from participating in meetings, discussions or votes concerning the Voting Rights Act Case.”	Hearsay (Evid. Code, § 1200); impermissible testimony regarding the contents of a document Evid. Code, § 1523); misstates the record (Evid. Code, § 352).	Sustained Overruled _____ Hon. Richard L. Fruin
24. De la Torre Declaration, page 6, lines 3-4: “Upon receiving the FPPC opinion, I requested that I not be excluded from council meetings, but Mr. Cardona refused, and refused to even discuss the matter.”	Hearsay (Evid. Code, § 1200); impermissible testimony regarding the contents of a document Evid. Code, § 1523); misstates the record (Evid. Code, § 352).; Less satisfactory evidence (Evid. Code, § 412).	Sustained Overruled _____ Hon. Richard L. Fruin

Material Objected to:	Grounds for Objection:	Ruling on Objection
<p>25. De la Torre Declaration, page 6, lines 9-11: “However, when that item was to come up at the meeting, Mr. Cardona instead told the City Council that the item violated the City Council rules because it sought to reverse a previous vote within one year of that vote. By a 4 to 3 vote the City Council refused to allow even consideration of the item.”</p>	<p>Hearsay (Evid. Code, § 1200); impermissible testimony regarding the contents of a document Evid. Code, § 1523); less satisfactory evidence (Evid. Code, § 412).</p>	<p>Sustained Overruled _____ Hon. Richard L. Fruin</p>
<p>26. De la Torre Declaration, page 6, lines 18-20: “They had no choice but to file that case, because the City of Santa Monica ignored their efforts to bring the City’s election system into compliance with the law before they filed that case.”</p>	<p>Lack of relevance (Evid. Code, § 350); improper lay opinion (Evid. Code, § 800); improper expert opinion (Evid. Code, § 801); lack of personal knowledge (Evid. Code, § 702(a)); misleading and argumentative (Evid. Code, § 352); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).</p>	<p>Sustained Overruled _____ Hon. Richard L. Fruin</p>
<p>27. De la Torre Declaration, page 6, lines 20-21: “Other Santa Monica city councilmembers expressed their opposing views at trial and in the press.”</p>	<p>Lack of relevance (Evid. Code, § 350); hearsay (Evid. Code, § 1200).</p>	<p>Sustained Overruled _____ Hon. Richard L. Fruin</p>
<p>28. De la Torre Declaration, page 6, lines 25-26: “In their testimony and op-ed, those councilmembers expressed their view that Santa Monica should keep it’s [sic] at-large election system.”</p>	<p>Lack of relevance (Evid. Code, § 350); hearsay (Evid. Code, § 1200).</p>	<p>Sustained Overruled _____ Hon. Richard L. Fruin</p>

Material Objected to:	Grounds for Objection:	Ruling on Objection
29. De la Torre Declaration, page 7, lines 3-7: “Indeed, I would not gain any such advantage. Rather, I support them because district-based elections will ensure that every community in Santa Monica has fair representation on their city council for decades into the future.”	Improper lay opinion (Evid. Code, § 800); improper expert opinion (Evid. Code, § 801); lack of personal knowledge (Evid. Code, § 702(a)); misleading and argumentative (Evid. Code, § 352); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).	Sustained Overruled _____ Hon. Richard L. Fruin
30. De la Torre Declaration, page 7, lines 7-8: “Neither I, nor my wife, nor the PNA has any financial stake in the Voting Rights Act case at all.”	Lack of personal knowledge (Evid. Code, § 702(a)); misleading and argumentative (Evid. Code, § 352); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).	Sustained Overruled _____ Hon. Richard L. Fruin
31. De la Torre Declaration, page 7, lines 9-11: “Rather as demonstrated by the Los Angeles Superior Court’s Judgment in that case, the relief sought is a change in the election system – a change that will benefit all Santa Monica residents.”	Improper lay opinion (Evid. Code, § 800); improper expert opinion (Evid. Code, § 801); lack of personal knowledge/speculation (Evid. Code, § 702); misleading and argumentative Evid. Code, § 352); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).	Sustained Overruled _____ Hon. Richard L. Fruin
32. De la Torre Declaration, page 7, lines 11-12: “[W]ith the understanding that if they are successful they may be awarded attorneys’ fees and costs.”	Lack of personal knowledge/speculation (Evid. Code, § 702).	Sustained Overruled _____ Hon. Richard L. Fruin
33. De la Torre Declaration, page 7, lines 14-15: “My wife and I, and the Pico Neighborhood Association board, all understand that we cannot share in any of those attorneys’ fees”	Lack of personal knowledge/speculation (Evid. Code, § 702).	Sustained Overruled _____ Hon. Richard L. Fruin

Material Objected to:	Grounds for Objection:	Ruling on Objection
<p>34. De la Torre Declaration, page 7, lines 15-20): “The arrangement with the attorneys prosecuting the Voting Rights Case has always been that they will be entitled to any award of attorneys’ fees and costs, and accordingly they will pay all costs associated with that case – nobody else (including Ms. Loya and the Pico Neighborhood Association) has any potential financial benefit or potential financial loss from the Voting Rights Case.”</p>	<p>Lack of personal knowledge/speculation (Evid. Code, § 702); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).</p>	<p>Sustained Overruled _____ Hon. Richard L. Fruin</p>
<p>35. De la Torre Declaration, page 7, lines 22-23: “Nor do I (nor my wife, nor the PNA) have any personal interest in the Voting Rights Case different than Santa Monica voters generally.”</p>	<p>Lack of personal knowledge/speculation (Evid. Code, § 702); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).</p>	<p>Sustained Overruled _____ Hon. Richard L. Fruin</p>
<p>36. De la Torre Declaration, page 7, lines 23-25: “If the plaintiffs are successful in the Voting Rights Case, all Santa Monica voters (including me and my wife) will enjoy district-based representation on their city council, and an undiluted vote for who represents them.”</p>	<p>Lack of personal knowledge/speculation (Evid. Code, § 702); misleading and argumentative (Evid. Code, § 352); improper expert opinion (Evid. Code, § 801); improper testimony as to legal conclusions (<i>Summers v. A.L. Gilbert Co.</i> (1999) 69 Cal.App.4th 1155, 1179); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).</p>	<p>Sustained Overruled _____ Hon. Richard L. Fruin</p>
<p>37. De la Torre Declaration, page 7, lines 25-27: “If the Plaintiff are unsuccessful in the Voting Rights Case, all Santa Monica voters (including me and my wife) will suffer under the at-large election system for years to come.”</p>	<p>Lack of personal knowledge/speculation (Evid. Code, § 702); misleading and argumentative (Evid. Code, § 352); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).</p>	<p>Sustained Overruled _____ Hon. Richard L. Fruin</p>

Material Objected to:	Grounds for Objection:	Ruling on Objection
38. De la Torre Declaration, page 7, lines 27-28: "Neither my wife, nor the PNA, nor I will receive anything different than every other Santa Monica voter."	Lack of personal knowledge/speculation (Evid. Code, § 702); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).	Sustained Overruled _____ Hon. Richard L. Fruin
39. De la Torre Declaration, page 8, lines 11-12: "Regardless of topic, I would never reveal confidential information from a closed session to anyone not authorized to receive that confidential information."	Speculation (Evid. Code, § 702), <i>In re Salvador M.</i> (2005) 133 Cal.App.4th 1415, 1422).	Sustained Overruled _____ Hon. Richard L. Fruin
40. De la Torre Declaration, page 8, lines 14-16: "Last year, I voluntarily recused myself from council decisions concerning the hundreds of child sex abuse cases against Defendant arising out of the sex abuse perpetrated by Eric Uller and other employees of Defendant."	Lack of personal knowledge/speculation (Evid. Code, § 702); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).	Sustained Overruled _____ Hon. Richard L. Fruin
41. De la Torre Declaration, page 8, lines 21-22: "I explained that I had relationships with several of the victims of the child sex abuse that Defendant facilitated . . . "	Lack of personal knowledge/speculation (Evid. Code, § 702); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); misleading and argumentative (Evid. Code, § 352).	Sustained Overruled _____ Hon. Richard L. Fruin
42. De la Torre Declaration, page 8, lines 26-28: "I voluntarily recused myself from the child sex abuse cases because at least one of my family members was sexually abused by Eric Uller"	Lack of personal knowledge/speculation (Evid. Code, § 702); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); misleading and argumentative (Evid. Code, § 352).	Sustained Overruled _____ Hon. Richard L. Fruin

Material Objected to:	Grounds for Objection:	Ruling on Objection
43. De la Torre Declaration, page 9, lines 2-3: "That family member, of course, unlike my wife in the Voting Rights Case, has a financial interest in his sex abuse case."	Improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473).	Sustained Overruled _____ Hon. Richard L. Fruin
44. De la Torre Declaration, page 9, lines 7-9: "Yet, Defendant attempts to use my voluntary recusal against me, and force me to identify my family member who was sexually abused by Defendant's employee."	Lack of personal knowledge/speculation (Evid. Code, § 702); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); misleading and argumentative (Evid. Code, § 352).	Sustained Overruled _____ Hon. Richard L. Fruin
45. De la Torre Declaration, page 9, lines 9-11: "This just serves to demonstrate the depths to which Defendant's council majority and city attorney's office will sink to silence me and maintain their entrenched political power."	Lack of personal knowledge/speculation (Evid. Code, § 702); improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); misleading and argumentative (Evid. Code, § 352).	Sustained Overruled _____ Hon. Richard L. Fruin
46. De la Torre Declaration, Exhibit A.	Lack of foundation/hearsay (Evid. Code, §§ 1200, 1271); lack of authentication (Evid. Code, § 1400).	Sustained Overruled _____ Hon. Richard L. Fruin
47. De la Torre Declaration, Exhibit B.	Lack of foundation/hearsay (Evid. Code, §§ 1200, 1271); lack of authentication (Evid. Code, § 1400).	Sustained Overruled _____ Hon. Richard L. Fruin

Material Objected to:	Grounds for Objection:	Ruling on Objection
<p>48. Declaration of Kevin Shenkman in Opposition to Defendant’s Motion for Summary Judgment (“Shenkman Declaration”), page 2, lines 21-25: “As demonstrated by the operative complaint, the Voting Rights Case seeks only non-monetary relief – an injunction and declaration from the court, implementing district-based elections for the Santa Monica City Council.”</p>	<p>Impermissible testimony regarding the contents of a document (Evid. Code, § 1523).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>
<p>49. Shenkman Declaration, page 3, lines 8-10: “Consistent with the relief requested in the operative complaint, the Judgment awards the plaintiffs injunctive and declaratory relief – specifically the implementation of district-based elections – but no monetary relief.”</p>	<p>Impermissible testimony regarding the contents of a document (Evid. Code, § 1523).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>
<p>50. Shenkman Declaration, page 3, lines 10-11: “Division Eight of the Second District Court of Appeal reversed that judgment . . .”</p>	<p>Impermissible testimony regarding the contents of a document (Evid. Code, § 1523).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>
<p>51. Shenkman Declaration, page 3, lines 11-12: “[B]ut the California Supreme Court granted review and depublished the intermediate appellate court’s decision.”</p>	<p>Impermissible testimony regarding the contents of a document (Evid. Code, § 1523).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>

Material Objected to:	Grounds for Objection:	Ruling on Objection
52. Shenkman Declaration, page 3, lines 19-21: “In <i>Jauregui v. City of Palmdale</i> , for example, the Los Angeles Superior Court awarded over \$4 million in attorneys’ fees and expenses through two disputed fees motions.”	Lack of relevance (Evid. Code, § 350).	Sustained Overruled _____ Hon. Richard L. Fruin
53. Shenkman Declaration, page 3, lines 21-23: “The CVRA affords standing to ‘[a]ny voter who is a member of a protected class and who resides in a political subdivision where a violation ... is alleged.”	Lack of relevance (Evid. Evid. Code, § 350); improper testimony as to legal conclusions (<i>Summers v. A.L. Gilbert Co.</i> (1999) 69 Cal.App.4th 1155, 1179).	Sustained Overruled _____ Hon. Richard L. Fruin
54. Shenkman Declaration, page 3, lines 24-27: “Moreover, voters who wish to challenge an at-large election system under the CVRA have no prospect of financial gain through such a lawsuit, because the only financial relief available is attorneys’ fees and costs, and non-attorneys cannot share in that recovery.”	Improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473), lack of personal knowledge (Evid. Code, § 702(a)), improper testimony as to legal conclusions (<i>Summers v. A.L. Gilbert Co.</i> (1999) 69 Cal.App.4th 1155, 1179).	Sustained Overruled _____ Hon. Richard L. Fruin
55. Shenkman Declaration, page 4, lines 1-2: “They have no prospect for any financial gain or financial loss from those cases.”	Improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473) improper testimony as to legal conclusions (<i>Summers v. A.L. Gilbert Co.</i> (1999) 69 Cal.App.4th 1155, 1179).	Sustained Overruled _____ Hon. Richard L. Fruin

Material Objected to:	Grounds for Objection:	Ruling on Objection
56. Shenkman Declaration, page 4, lines 6-7: "Neither I, nor any of the attorneys of Shenkman & Hughes PC, have provided Councilman de la Torre with any gift of legal services."	Improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); improper testimony as to legal conclusions (<i>Summers v. A.L. Gilbert Co.</i> (1999) 69 Cal.App.4th 1155, 1179); lack of personal knowledge/speculation (Evid. Code, § 702).	Sustained Overruled <hr/> Hon. Richard L. Fruin
57. Shenkman Declaration, page 4, lines 7-9: "I understand that Defendant claims my advice to Councilman de la Torre in December 2020 and January 2021 constitutes a gift of legal services; it was not."	Improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); improper testimony as to legal conclusions (<i>Summers v. A.L. Gilbert Co.</i> (1999) 69 Cal.App.4th 1155, 1179).	Sustained Overruled <hr/> Hon. Richard L. Fruin
58. Shenkman Declaration, page 4, lines 10-12: "Rather, while I suppose my thoughts may always be informed by my knowledge of the law, my advice to Councilman de la Torre was more of a political nature than a legal nature."	Improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); improper testimony as to legal conclusions (<i>Summers v. A.L. Gilbert Co.</i> (1999) 69 Cal.App.4th 1155, 1179); impermissible testimony regarding the contents of a document (Evid. Code, § 1523); speculation (Evid. Code, § 702).	Sustained Overruled <hr/> Hon. Richard L. Fruin
59. Shenkman Declaration, page 4, lines 12-14: "Indeed my advice was related to his position as a member of the Santa Monica City Council and to assist him to carry out the duties of his office."	Improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); improper testimony as to legal conclusions (<i>Summers v. A.L. Gilbert Co.</i> (1999) 69 Cal.App.4th 1155, 1179); hearsay (Evid. Code, § 1200).	Sustained Overruled <hr/> Hon. Richard L. Fruin
60. Shenkman Declaration, page 4, lines 22-25: "Most of my firm's practice involves claims with one-way fee-shifting statutes – voting rights, class actions and Private Attorney General cases, for example."	Lack of relevance (Evid. Code, § 350).	Sustained Overruled <hr/> Hon. Richard L. Fruin

Material Objected to:	Grounds for Objection:	Ruling on Objection
<p>61. Shenkman Declaration, page 4 line 27 to page 5, line 2: “The then-contemplated case challenging the exclusion of Councilman de la Torre, in my view, would similarly present an opportunity to recover attorneys’ fees from Defendant under Code of Civil Procedure section 1021.5 and/or Government Code section 54960.5.”</p>	<p>Improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); improper testimony as to legal conclusions (<i>Summers v. A.L. Gilbert Co.</i> (1999) 69 Cal.App.4th 1155, 1179); impermissible testimony regarding the contents of a document (Evid. Code, § 1523).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>
<p>62. Shenkman Declaration, page 5, lines 4-8: “We never charge our clients or potential clients for any such pre-filing investigation, but that does not make such pre-filing investigation a gift rather, we perform such pre-filing investigations with the understanding that we may later recover fees for that work from a defendant. (See <i>Stokus v. Marsh</i> (1990) 217 Cal.App.3d 647, 654-656.)”</p>	<p>Improper testimony as to legal conclusions (<i>Summers v. A.L. Gilbert Co.</i> (1999) 69 Cal.App.4th 1155, 1179); misleading and argumentative (Evid. Code, § 352); impermissible testimony regarding the contents of a document (Evid. Code, § 1523); hearsay (Evid. Code, § 1200).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>
<p>63. Shenkman Declaration, page 5, lines 20-23: “My discussions and communications with Councilman de la Torre and his attorney, Mr. Trivino-Perez, are no more a gift of legal services to Councilman de la Torre than my discussions and many hours of deposition testimony are a gift of legal services to Defendant.”</p>	<p>Improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); improper testimony as to legal conclusions (<i>Summers v. A.L. Gilbert Co.</i> (1999) 69 Cal.App.4th 1155, 1179); argumentative (Evid. Code, § 352).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>
<p>64. Shenkman Declaration, page 6, lines 1-3: “But in all of my involvement in this case, I was always acting as a witness, or representing my firm (Shenkman & Hughes PC) or its clients (e.g. Maria Loya), which do not include Councilman de la Torre.”</p>	<p>Improper testimony as to ultimate conclusions (<i>Towns v. Davidson</i> (2007) 147 Cal.App.4th 461, 473); improper testimony as to legal conclusions (<i>Summers v. A.L. Gilbert Co.</i> (1999) 69 Cal.App.4th 1155, 1179); argumentative (Evid. Code, § 352).</p>	<p>Sustained Overruled <hr/>Hon. Richard L. Fruin</p>

Material Objected to:	Grounds for Objection:	Ruling on Objection
65. Shenkman Declaration, Exhibit B.	Lack of foundation/hearsay (Evid. Code, §§ 1200, 1271).	Sustained Overruled _____ Hon. Richard L. Fruin
66. Declaration of Elias Serna in Opposition to Defendant’s Motion for Summary Judgment, page 2, lines 11-12: “I . . . will vigorously prosecute the above-captioned case”	Lack of relevance (Evid. Code, § 350); lack of personal knowledge/speculation (Evid. Code, § 702(a)).	Sustained Overruled _____ Hon. Richard L. Fruin

Dated: April 28, 2022

BERRY SILBERBERG STOKES PC
CAROL M. SILBERBERG

By /s/ Carol M. Silberberg
Carol M. Silberberg

Attorneys for Defendant
CITY OF SANTA MONICA