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8 9	SUPERIOR COURT O	OF THE STATE OF CALIFORNIA
10		Y OF LOS ANGELES
11	OSCAR DE LA TORRE and ELIAS	) Case No.: 21STCV08597
12	SERNA Plaintiffs,	PLAINTIFFS' OBJECTIONS TO THE DECLARATION OF FRANK
13	v.	ZERUNYAN
14	CITY OF SANTA MONICA and DOES 1 through 10, inclusive	Dept. 15 [Hon. Richard Fruin]
15	DOES I through 10, inclusive	[110ff. Klenaru Frum]
16 17	Defendants.	
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EVIDENTIARY OBJECTIONS TO THE DECLARATION OF FRANK ZERUNYAN

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The Entirety of Zerunyan's Declaration Is Improper Opinion on the Law.

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

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

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

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

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Material Objected to:  Grounds for Objection  Ruling on the Objection  Sustained:  Overruled:  Sustained:  Overruled:  Vouriled:  Sustained:  Overruled:  Vouriled:	3			,
Irrelevant (Evid. Code §350). Mr.   Zerunyan's opinions about how 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 government differs from federal government or state legislatures."	4	Material Objected to:	Grounds for Objection	Ruling on the
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 group, or to win by all governance. This is one significant way local government differs from federal government or state legislatures."  Zerunyan's opinions about how city councilmembers "should govern without the city councilmembers "should govern without divisons inposed by local government that ignores the realities of Santa Monica, has no relevance to any issue in this case.  Not a proper subject of expert opinion (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.	5			Objection
experience, research, and city councilmembers "should govern," in some idealized view of local government that ignores the realities of Santa Monica, has no relevance to any issue in this case.    10	6	Zerunyan Declaration, p. 2	Irrelevant (Evid. Code §350). Mr.	
expertise, a councilmember is a nonpartisan elected local government that ignores the 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 government differs from federal government or state legislatures."  Overruled:  Judge:  Judge:  Wot a proper subject of expert opinion (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.	7	lines 6-10: "Based on my	Zerunyan's opinions about how	Sustained:
local government that ignores the realities of Santa Monica, has no relevance to any issue in this case.    13   Santa Monica, has no relevance to any issue in this case.     14   Santa Monica, has no relevance to any issue in this case.     15   Santa Monica, has no relevance to any issue in this case.     16   Political interest and even the media. Therefore, partisan ideology, trying to represent only a particular group, or to win by all is, or ought to be, is not a proper subject of the testimony of any witness, including experts.     16   Political interest and even the media. Therefore, partisan ideology, trying to represent only a particular group, or to win by all is, or ought to be, is not a proper subject of the testimony of any witness, including experts.     18   Santa Monica, has no relevance to any issue in this case.     19   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this case.     11   Santa Monica, has no relevance to any issue in this case.     12   Santa Monica, has no relevance to any issue in this case.     12   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this case.     10   Santa Monica, has no relevance to any issue in this ca	8	experience, research, and	city councilmembers "should	
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 government differs from federal government or state legislatures."  office to serve the public and realities of Santa Monica, has no relevance to any issue in this case.  Not a proper subject of expert opinion (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.	9	expertise, a councilmember	govern," in some idealized view of	Overruled:
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."  should govern without the relevance to any issue in this case.  Not a proper subject of expert opinion (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.	10	is a nonpartisan elected	local government that ignores 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."  Not a proper subject of expert opinion (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.	11	office to serve the public and	realities of Santa Monica, has no	Judge:
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."  Not a proper subject of expert opinion (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.	12	should govern without the	relevance to any issue in this case.	
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."  opinion (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.	13	divisions imposed by		
partisan ideology, trying to represent only a particular group, or to win by all is, or ought to be, is not a proper means necessary is antithetical to local governance. This is one significant way local government differs from federal government or state legislatures."  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.	14	political interest and even	Not a proper subject of expert	
represent only a particular group, or to win by all is, or ought to be, is not a proper means necessary is antithetical to local governance. This is one significant way local government differs from federal government or state legislatures."  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.	15	the media. Therefore,	<b>opinion</b> (Evid. Code §§ 310, 800).	
group, or to win by all is, or ought to be, is not a proper subject of the testimony of any witness, including experts.  governance. This is one significant way local government differs from federal government or state legislatures."	16	partisan ideology, trying to	As explained more fully above, Mr.	
means necessary is subject of the testimony of any antithetical to local governance. This is one significant way local government differs from federal government or state legislatures."	17	represent only a particular	Zerunyan's view of what the law	
antithetical to local governance. This is one significant way local government differs from federal government or state legislatures."	18	group, or to win by all	is, or ought to be, is not a proper	
governance. This is one significant way local government differs from federal government or state legislatures."	19	means necessary is	subject of the testimony of any	
significant way local government differs from federal government or state legislatures."	20	antithetical to local	witness, including experts.	
government differs from federal government or state legislatures."  26 27	21	governance. This is one		
federal government or state legislatures."  26	22	significant way local		
25 legislatures." 26 27	23	government differs from		
26       27	24	federal government or state		
27	25	legislatures."		
	26			
28	27			
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1	Material Objected to:	<b>Grounds for Objection</b>	Ruling on the
2			Objection
3	Zerunyan Decl. p. 2, lines	Irrelevant (Evid. Code §350). Mr.	Sustained:
4	11-13: "Where city	Zerunyan's opinions about the	
5	councilmembers are elected	desirability of at-large elections,	Overruled:
6	at large, such as in Rolling	has no relevance to any issue in	
7	Hills Estates or Santa	this case. The Legislature, by	Judge:
8	Monica, a councilmember is	enacting several bills over the past	
9	elected to represent	twenty years (e.g. Sen. Bill 976	
10	everyone. As such, a	(2002), Sen. Bill 493 (2015),	
11	councilmember must listen	Assem. Bill 277 (2015), Assem.	
12	to all views and owes a duty	Bill 2220 (2016), and Sen. Bill 442	
13	of loyalty to the public,	(2021)), has indicated it views at-	
14	which is like a fiduciary	large elections with disfavor.	
15	duty."		
16		Not a proper subject of expert	
17		<b>opinion</b> (Evid. Code §§ 310, 800).	
18		As explained more fully above, Mr.	
19		Zerunyan's view of what the law	
20		is, or ought to be, concerning the	
21		duties of a city council member is	
22		not a proper subject of the	
23		testimony of any witness, including	
24		experts.	
25			
26		Improper legal conclusion. (See	
27		Hayman v. Block (1986) 176	
28		Cal.App.3d 629, 638-639	

1	Material Objected to:	Grounds for Objection	Ruling on the
2			Objection
3		["affidavits must cite evidentiary	
4		facts, not legal conclusions or	
5		'ultimate' facts"]; Marriage of	
6		Heggie (2002) 99 Cal.App.4 <sup>th</sup> 28,	
7		30 n. 3 ["The proper place for	
8		argument is in points and	
9		authorities, not declarations."].)	
10	Zerunyan Decl. p. 2, lines	Irrelevant (Evid. Code §350). Mr.	
11	14-22: "City councils, as	Zerunyan's opinions about how	Sustained:
12	local democratic institutions,	city councils should function, or	
13	act by majority (or	what is "democracy in action," in	Overruled:
14	sometimes a super majority),	some idealized view of local	
15	and the entity is larger than	government that ignores the	Judge:
16	any individual	realities of Santa Monica, has no	
17	councilmember. The city	relevance to any issue in this case.	
18	council is the final arbiter of		
19	the issues before it. If people	Not a proper subject of expert	
20	do not like the actions taken	<b>opinion</b> (Evid. Code §§ 310, 800).	
21	by the city council, then	As explained more fully above, Mr.	
22	people have the power to	Zerunyan's view of what the law	
23	vote councilmembers out of	is, or ought to be, concerning, for	
24	office or petition for a recall.	example, the propriety of courts	
25	That is democracy in action.	reviewing the decisions of a city	
26	Alternatively, and where	council, is not a proper subject of	
27	appropriate, a person can	the testimony of any witness,	
28	also file a writ of mandamus	including experts.	

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

1	Material Objected to:	<b>Grounds for Objection</b>	Ruling on the
2			Objection
3	California law, that ethical	Improper legal conclusion. (See	
4	framework is expressed	Hayman v. Block (1986) 176	
5	through the common law	Cal.App.3d 629, 638-639	
6	conflicts doctrine (also	["affidavits must cite evidentiary	
7	sometimes referred to as the	facts, not legal conclusions or	
8	common law bias doctrine),	'ultimate' facts"]; Marriage of	
9	the Political Reform Act,	Heggie (2002) 99 Cal.App.4 <sup>th</sup> 28,	
10	and Government Code	30 n. 3 ["The proper place for	
11	Section 1090. Adhering to	argument is in points and	
12	the ethical framework in	authorities, not declarations."].)	
13	these laws is akin to the		
14	minimum standard of care		
15	for public officials. The		
16	rules and principles that		
17	arise from these laws and		
18	doctrines are based on the		
19	ethical principles of		
20	autonomy, veracity,		
21	undivided loyalty,		
22	disinterested zeal, and the		
23	public interest."		
24			
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1	Matarial Objects Jan	Conserved of face Objections	DP 4b .
2	Material Objected to:	Grounds for Objection	Ruling on the Objection
3	Zerunyan Decl. p. 3, lines 3-	Not a proper subject of expert	Sustained:
4	9: "AB1234, enacting		Sustained:
5	Government Code Sections	opinion (Evid. Code §§ 310, 800).	Orramala di
	53234 et seq., requires that	As explained more fully above, Mr.	Overruled:
6	elected and appointed	Zerunyan's view of what the law	
7	officials take two hours of	requires is not a proper subject of	Judge:
8	ethics training every two	the testimony of any witness,	
9	years. The ethics training	including experts.	
10	includes training on '[l]aws		
11	relating to personal financial	Improper legal conclusion. (See	
12	gain by public servants,	Hayman v. Block (1986) 176	
13	including, but not limited to,	Cal.App.3d 629, 638-639	
14	laws prohibiting bribery and	["affidavits must cite evidentiary	
15	conflict-of-interest laws,' as	facts, not legal conclusions or	
16	well as '[l]aws relating to	'ultimate' facts"]; Marriage of	
17	fair processes, including, but	Heggie (2002) 99 Cal.App.4th 28,	
18	not limited to, common law	30 n. 3 ["The proper place for	
19	bias prohibitions, due	argument is in points and	
20	process requirements,	authorities, not declarations."].)	
21	incompatible offices,	· · · · · · · · · · · · · · · · · · ·	
22	competitive bidding		
23	requirements for public		
24	contracts, and		
25	disqualification from		
26	participating in decisions affecting family members.'		
27	(Gov. Code, § 53234.)"		
	(Gov. Code, § 33234.)		
28			

1	Material Objected to:	Grounds for Objection	Ruling on the
2			Objection
3	Zerunyan Decl. p. 3, lines 9-	Not a proper subject of expert	
4	13 and Ex. B: "I have taken	<b>opinion</b> (Evid. Code §§ 310, 800).	Sustained:
5	such trainings numerous	As explained more fully above, Mr.	
6	times during my time as a	Zerunyan's view of what the law	Overruled:
7	public official and they	is, or ought to be, concerning, for	
8	generally cover all three	example, conflicts of interest, is not	Judge:
9	parts of this framework –	a proper subject of the testimony of	
10	common law conflicts (or	any witness, including experts.	
11	bias), the Political Reform		
12	Act, and Government Code	Improper legal conclusion. (See	
13	Section 1090. An example	Hayman v. Block (1986) 176	
14	of such training materials	Cal.App.3d 629, 638-639	
15	similar to ones I have	["affidavits must cite evidentiary	
16	received is attached at	facts, not legal conclusions or	
17	Exhibit B"	'ultimate' facts"]; Marriage of	
18		Heggie (2002) 99 Cal.App.4 <sup>th</sup> 28,	
19		30 n. 3 ["The proper place for	
20		argument is in points and	
21		authorities, not declarations."].)	
22			
23		Inadmissible Hearsay. (Evid.	
24		Code § 1200). The "training	
25		materials," attached as Exhibit B,	
26		are out-of-court statements of	
27		others which Mr. Zerunyan seeks	
28		to have this Court accept as an	

	Material Objected to:	Grounds for Objection	Ruling on the
2			Objection
;		accurate description of the law.	
.		That is no substitute for the law	
;		and actual legal authority.	
,	Zerunyan Decl. p. 3, lines	Irrelevant (Evid. Code §350). Mr.	
,	14-18: "In light of this	Zerunyan's opinions about how	Sustained:
3	framework and	city councilmembers "must want to	
,	responsibility as a locally	practice [] ethics," what some	Overruled:
)	elected official, public	unidentified councilmembers have	
	officials must want to	done for unidentified "various	Judge:
2	practice these ethics, not just	reasons," and whether "democracy	
;	learn them. Therefore, in my	has to be ethical," has no relevance	
-	experience, councilmembers	to any issue in this case.	
;	disqualify themselves for		
,	various reasons, including	Not a proper subject of expert	
,	ethical conflicts that	<b>opinion</b> (Evid. Code §§ 310, 800).	
3	inevitably arise.	As explained more fully above, Mr.	
,	Disqualification, whether by	Zerunyan's view of what the law	
)	city council vote or by self-	is, or ought to be, is not a proper	
	recusal, is not undemocratic	subject of the testimony of any	
2	at all – it is ethical. And	witness, including experts. Nor is	
;	democracy has to be	Mr. Zerunyan's view of democracy	
ı	ethical."	and what is "undemocratic."	
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1	Material Objected to:	<b>Grounds for Objection</b>	Ruling on the
2			Objection
3	Zerunyan Decl. p. 3, lines	Not a proper subject of expert	
4	19-27: "The doctrine of	opinion (Evid. Code §§ 310, 800).	Sustained:
5	common law conflicts,	As explained more fully above, Mr.	
6	which are sometimes	Zerunyan's view of what the law	Overruled:
7	referred to as common law	is, or ought to be, concerning, for	
8	bias, requires public officials	example, conflicts of interest, is not	Judge:
9	to act without personal	a proper subject of the testimony of	
10	interest and for the benefit of	any witness, including experts.	
11	the public, regardless of		
12	whether specific financial	Improper legal conclusion. (See	
13	interests are at stake. These	Hayman v. Block (1986) 176	
14	are the same ethical	Cal.App.3d 629, 638-639	
15	considerations of undivided	["affidavits must cite evidentiary	
16	loyalty, disinterested skill,	facts, not legal conclusions or	
17	and fairness that also apply	'ultimate' facts"]; Marriage of	
18	where financial interests are	Heggie (2002) 99 Cal.App.4 <sup>th</sup> 28,	
19	also at stake. In my	30 n. 3 ["The proper place for	
20	experience, common law	argument is in points and	
21	conflicts still arise and the	authorities, not declarations."].)	
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		

1	Material Objected to:	Grounds for Objection	Ruling on the
2			Objection
3	collectively at the three main		
4	sources of law – common		
5	law conflicts, the Political		
6	Reform Act, and		
7	Government Code Section		
8	1090 – and always have in		
9	mind the public interest."		
10			
11	Zerunyan Decl. p. 4, lines 1-	Not a proper subject of expert	
12	3: "Furthermore, much like	<b>opinion</b> (Evid. Code §§ 310, 800).	Sustained:
13	financial conflicts, these	As explained more fully above, Mr.	
14	ethical considerations not	Zerunyan's view of what the law	Overruled:
15	only include whether an	is, or ought to be, concerning, for	
16	actual conflict exists, but	example, conflicts of interest, is not	Judge:
17	also includes whether there	a proper subject of the testimony of any witness, including experts.	
18	is a perception of such	any witness, including experts.	
19	common law conflict."	Improper legal conclusion. (See	
20		Hayman v. Block (1986) 176	
21		Cal.App.3d 629, 638-639	
22		["affidavits must cite evidentiary	
23		facts, not legal conclusions or	
24		'ultimate' facts"]; Marriage of	
25		Heggie (2002) 99 Cal.App.4 <sup>th</sup> 28,	
26		30 n. 3 ["The proper place for	
27		argument is in points and	
28		authorities, not declarations."].)	

1	Material Objected to:	<b>Grounds for Objection</b>	Ruling on the
2			Objection
3	Zerunyan Decl. p. 4, lines 3-		
4	6: "That is why, in my	Irrelevant (Evid. Code §350).	Sustained:
5	experience, most	What other (unidentified)	
6	councilmembers when	councilmembers did in different	Overruled:
7	presented with any type of	(unexplained) circumstances	
8	potential conflict issue,	different than those presented in	Judge:
9	whether common law or	this case, has no relevance to any	
10	otherwise, will recuse	issue in this case.	
11	themselves out of an		
12	abundance of caution and to	Speculation. (Evid. Code § 803)	
13	preserve public integrity and	Mr. Zerunyan has no way to know	
14	safeguard the institution of	why the unnamed councilmembers	
15	the respective city council."	recused themselves. (Trujillo v.	
16		First Am. Registry, Inc. (2008) 157	
17		Cal. App. 4th 628, 635	
18		["opposition to summary judgment	
19		will be deemed insufficient when it	
20		is essentially conclusionary,	
21		argumentative or based on	
22		conjecture and speculation"].)	
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Mate	erial Objected to:	Grounds for Objection	Ruling on the
			Objection
Zeru	nyan Decl. p. 4, lines 7-	Not a proper subject of expert	Sustained:
11: '	'Common law conflicts	<b>opinion</b> (Evid. Code §§ 310, 800).	
can a	rise where there are	As explained more fully above, Mr.	Overruled:
decis	ions involving close	Zerunyan's view of what the law	
famil	ial relations, whether	is, or ought to be, concerning, for	Judge:
that p	person receives	example, conflicts of interest, is not	
comp	pensation or not or	a proper subject of the testimony of	
whet	her that spouse received	any witness, including experts.	
direc	t relief or not. In my		
expe	rience, it is presumed	Improper legal conclusion. (See	
that a	close familial	Hayman v. Block (1986) 176	
relati	onship can and likely	Cal.App.3d 629, 638-639	
impa	cts one's judgment,	["affidavits must cite evidentiary	
raise	s such ethical issues	facts, not legal conclusions or	
such	as autonomy, undivided	'ultimate' facts"]; Marriage of	
loyal	ties, fairness and	Heggie (2002) 99 Cal.App.4 <sup>th</sup> 28,	
disin	terested skill, and gives	30 n. 3 ["The proper place for	
rise t	o a common law	argument is in points and	
confl	ict of interest."	authorities, not declarations."].)	
		<del></del>	

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

l.			
1	Material Objected to:	<b>Grounds for Objection</b>	Ruling on the
2			Objection
3	Zerunyan Decl. p. 4, lines	Not a proper subject of expert	
4	17-19: "Common law	<b>opinion</b> (Evid. Code §§ 310, 800).	Sustained:
5	conflicts can also arise when	As explained more fully above, Mr.	
6	a public official crosses the	Zerunyan's view of what the law	Overruled:
7	line to being partisan, closed	is, or ought to be, concerning, for	
8	minded, and becoming	example, conflicts of interest, is not	Judge:
9	embroiled in the underlying	a proper subject of the testimony of	
10	decision before the public	any witness, including experts.	
11	official."		
12		Improper legal conclusion. (See	
13		Hayman v. Block (1986) 176	
14		Cal.App.3d 629, 638-639	
15		["affidavits must cite evidentiary	
16		facts, not legal conclusions or	
17		'ultimate' facts"]; Marriage of	
18		Heggie (2002) 99 Cal.App.4 <sup>th</sup> 28,	
19		30 n. 3 ["The proper place for	
20		argument is in points and	
21		authorities, not declarations."].)	
22			
23	Zerunyan Decl. p. 4, lines	Not a proper subject of expert	Sustained:
24	20-26: "While it is my	<b>opinion</b> (Evid. Code §§ 310, 800).	
25	opinion based on my	As explained more fully above, Mr.	Overruled:
26	experience and expertise that	Zerunyan's view of what the law	
27	Mr. De la Torre is entitled to	is, or ought to be, concerning, for	Judge:
28	advocate for his position to	example, conflicts of interest, is not	

1	Material Objected to:	Grounds for Objection	Ruling on the
2			Objection
3	effectuate the policy change	a proper subject of the testimony of	
4	with regard to district-based	any witness, including experts.	
5	elections, such as during		
6	public comment or 13 items	Improper legal conclusion. (See	
7	– and I defend his right to do	Hayman v. Block (1986) 176	
8	so – but based on the facts I	Cal.App.3d 629, 638-639	
9	have seen, he improperly	["affidavits must cite evidentiary	
10	seeks to participate in closed	facts, not legal conclusions or	
11	sessions regarding the	'ultimate' facts"]; Marriage of	
12	litigation on the California	Heggie (2002) 99 Cal.App.4 <sup>th</sup> 28,	
13	Voting Rights Act	30 n. 3 ["The proper place for	
14	("CVRA") despite his	argument is in points and	
15	admitted bias, despite his	authorities, not declarations."].)	
16	lack of autonomy, and		
17	despite his relationship with		
18	his wife, the plaintiff in that		
19	litigation, and his ongoing		
20	relationship with Kevin		
21	Shenkman, one of the		
22	attorneys for the plaintiffs in		
23	the CVRA litigation."		
24			
25			
26			
27			
28			

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

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

1	Material Objected to:	<b>Grounds for Objection</b>	Ruling on the
2			Objection
3		Councilmember de la Torre to do,	
4		not what Mr. Zerunyan thinks he	
5		should do.	
6			
7	Zerunyan Decl. p. 5, lines	Not a proper subject of expert	
8	10-15: "In fact, neither I,	<b>opinion</b> (Evid. Code §§ 310, 800).	Sustained:
9	nor would I expect my	As explained more fully above, Mr.	
10	colleagues, would insist on	Zerunyan's view of what the law	Overruled:
11	participating in such closed	is, or ought to be, concerning, for	
12	sessions where such	example, conflicts of interest, is not	Judge:
13	conflicts existed. It actually	a proper subject of the testimony of	
14	surprises me that	any witness, including experts.	
15	Councilmember De la Torre		
16	has taken such positions here	Improper legal conclusion. (See	
17	because his actions	Hayman v. Block (1986) 176	
18	undermine public confidence	Cal.App.3d 629, 638-639	
19	and trust. If it were me in	["affidavits must cite evidentiary	
20	these circumstances, I would	facts, not legal conclusions or	
21	have taken affirmative	'ultimate' facts"]; Marriage of	
22	actions to ensure that I had	Heggie (2002) 99 Cal.App.4 <sup>th</sup> 28,	
23	no connection to discussions	30 n. 3 ["The proper place for	
24	concerning the underlying	argument is in points and	
25	CVRA litigation to ensure	authorities, not declarations."].)	
26	that public confidence and		
27	trust remained."	Irrelevant (Evid. Code §350).	
28		What Mr. Zerunyan's would or	

1	Material Objected to:	Grounds for Objection	Ruling on the
2			Objection
3		wouldn't do under certain	
4		circumstances has no relevance to	
5		any issue in this case. The question	
5		in this case is what the law requires	
7		Councilmember de la Torre to do,	
3		not what Mr. Zerunyan would do.	
9			
)	Zerunyan Decl. p. 5, lines	Not a proper subject of expert	
1	16-19: "Additionally, Mr.	<b>opinion</b> (Evid. Code §§ 310, 800).	Sustained:
2	De la Torre asserts that the	As explained more fully above, Mr.	
3	city council lacks authority	Zerunyan's view of what the law	Overruled:
4	to disqualify a city council	is, or ought to be, concerning, for	
5	member. In my experience,	example, the Brown Act, is not a	Judge:
5	and based on the doctrine of	proper subject of the testimony of	
7	home rule that applies to	any witness, including experts.	
3	charter cities, the city		
9	council decides its	Improper legal conclusion. (See	
)	organizational and	Hayman v. Block (1986) 176	
1	democratic structure. The	Cal.App.3d 629, 638-639	
2	city council can and must be	["affidavits must cite evidentiary	
3	able to act to preserve itself	facts, not legal conclusions or	
4	and ensure that it acts in	'ultimate' facts"]; Marriage of	
5	compliance with the law."	Heggie (2002) 99 Cal.App.4th 28,	
5		30 n. 3 ["The proper place for	
7		argument is in points and	
3		authorities, not declarations."].)	

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

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

1	Material Objected to:	<b>Grounds for Objection</b>	Ruling on the
2			Objection
3	to attend closed sessions, it		
4	would also effectively mean		
5	that conflict of interest laws		
6	have no application when		
7	legislative bodies are		
8	meeting to discuss litigation		
9	or other proper closed		
10	session topics, which makes		
11	no sense. Of course, it is my		
12	desire that all my colleagues		
13	are present when discussing		
14	an important issue (so long		
15	as they do not have a		
16	disqualifying conflict), but		
17	only a quorum is required."		
18			
10			

DATED: April 3, 2022

Respectfully submitted:
TRIVINO-PEREZ & ASSOCIATES

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