

1 Kevin I. Shenkman (SBN 223315)  
2 Mary R. Hughes (SBN 226622)  
3 Andrea A. Alarcon (SBN 319536)  
4 **SHENKMAN & HUGHES**  
5 28905 Wight Road  
6 Malibu, California 90265  
7 Telephone: (310) 457- 0970

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Superior Court of California,  
County of Los Angeles  
6/26/2024 8:45 AM  
David W. Slayton,  
Executive Officer/Clerk of Court,  
By Y. Tarasyuk, Deputy Clerk

8 Morris Baller (SBN 48928)  
9 Laura L. Ho (SBN 173179)  
10 Anne Bellows (SBN 293722)  
11 Ginger L. Grimes (SBN 307168)  
12 **GOLDSTEIN, BORGEN, DARDARIAN & HO**  
13 155 Grand Avenue, Suite 900  
14 Oakland CA 94612  
15 Telephone: (510) 763-9800

16 Milton C. Grimes (SBN 59437)  
17 **LAW OFFICES OF MILTON C. GRIMES**  
18 3774 West 54th Street  
19 Los Angeles, California 90043  
20 Telephone: (323) 295-3023

21 Robert Rubin (SBN 85084)  
22 **LAW OFFICE OF ROBERT RUBIN**  
23 3012 Excelsior Blvd. # 802  
24 Minneapolis, MN 55416  
25 Telephone: (415) 298-4857

26 Attorneys for Plaintiffs

27 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
28 **COUNTY OF LOS ANGELES**

29 PICO NEIGHBORHOOD ASSOCIATION and  
30 MARIA LOYA,

31 Plaintiffs,

32 v.

33 CITY OF SANTA MONICA, and DOES 1  
34 through 100, inclusive,

35 Defendants.

CASE NO. BC616804

**DECLARATION OF KEVIN SHENKMAN  
IN SUPPORT OF EX PARTE  
APPLICATION TO ADVANCE HEARING  
DATE ON MOTION TO RE-ISSUE  
JUDGMENT CONSISTENT WITH  
GUIDANCE FROM THE CALIFORNIA  
SUPREME COURT**

Date: June 27, 2024

Time: 8:30 a.m.

Dept.: 16

1 I, Kevin I. Shenkman, declare as follows:

2 1. I am an attorney duly licensed to practice law before all courts of the State  
3 of California and I am a principal of Shenkman & Hughes PC, attorneys of record for  
4 Plaintiffs in the above-captioned case. The facts set forth in this declaration are within  
5 my personal knowledge and, if called as a witness, I could and would competently testify  
6 as follows:

7  
8 **Ex Parte Notice**

9 2. I provided *ex parte* notice to all parties by email on June 26, 2024, and  
10 followed up that email with phone calls to Defendant's counsel, Douglas Sloan and Kahn  
11 Scolnick, at approximately 8:00 a.m. on June 26, 2024, all well in advance of the 10:00  
12 a.m. deadline on June 26, 2024 to do so. Attached hereto as **Exhibit A** is a true and  
13 correct copy of my June 26, 2024 email to Defendant's counsel. Defendant's counsel,  
14 acknowledged his receipt of the *ex parte* notice, and indicated that Defendant would  
15 oppose the relief sought by the instant application.

16  
17 **Scheduling the Underlying Motion**

18 3. The remittitur in this case issued on April 15, 2024. Soon thereafter,  
19 recognizing that the findings and analysis of this Court after a six-week trial mirror the  
20 instruction of the California Supreme Court, and thus compel the same conclusions this  
21 Court already reached, I contacted Department 9 (where this case was previously  
22 assigned) to schedule a motion to re-issue judgment. The courtroom clerk for  
23 Department 9 scheduled that motion for hearing on July 24, 2024. Department 9 is a  
24 courtroom within the complex division, and does not utilize the online reservation  
25 system.

26  
27 4. On June 24, 2024, I received the Court's Order reassigning the above-  
28 captioned case to Department 16 for all purposes. I immediately called the courtroom  
clerk for Department 16 to inquire whether the hearing date previously set by Department

1 9 for the Motion remained. The courtroom clerk stated that all reserved hearing dates are  
2 vacated when a case is reassigned. The courtroom clerk advised me to reserve the first  
3 available hearing date through the online reservation system, file the desired motion, and  
4 then file an ex parte application to advance the hearing date. I immediately reserved the  
5 first available date through the online reservation system – September 18, 2024.

6 5. On June 25, 2024, I e-filed Plaintiffs’ Motion to Reissue Judgment  
7 Consistent With Guidance From the California Supreme Court, and served Defendant’s  
8 counsel with that motion and all supporting papers.

9  
10 **Irreparable Harm/Exigent Circumstance Justifying *Ex Parte* Relief**

11 6. The underlying Motion to Reissue Judgment seeks entry of a judgment that  
12 would impact the method of electing members of Defendant’s city council. The next  
13 election for Defendant’s city council is currently scheduled for November 5, 2024, along  
14 with the election for many other offices (e.g. President, U.S. Senate, Congress, California  
15 Assembly, etc.) The nominating period for that city council election – the first step in the  
16 election process – is currently scheduled to close August 15, 2024. If judgment is not  
17 entered by that time, minority voters in Santa Monica will be forced to endure another  
18 discriminatory at-large election that violates the California Voting Rights Act.

19 7. The underlying Motion to Reissue Judgment was scheduled to be heard  
20 July 24, 2024 in Department 9 – sufficiently in advance of the close of the nominating  
21 period – before this case was reassigned to Department 16 on June 21, 2024. However,  
22 that hearing date was vacated when the above-captioned case was reassigned, and the  
23 first available hearing date at that point was September 18, 2024. By September 18,  
24 2024, it may be infeasible to begin a district-based election coinciding with the  
25 November 5, 2024 statewide general election. Therefore, Plaintiff seeks the limited relief  
26 of advancing a hearing date on an *ex parte* basis.

27 8. The relief sought through this ex parte application could not have been  
28 obtained through a regularly noticed motion because the Court’s reservation system has  
no available hearing dates until September 18, 2024. This ex parte application could not

1 have been filed substantially earlier because this case was just recently reassigned to  
2 Department 16. Before that reassignment, there was no need for this ex parte application,  
3 as the underlying Motion to Reissue Judgment was scheduled to be heard on July 24,  
4 2024.

5  
6 I declare under penalty of perjury under the laws of the State of California that the  
7 foregoing is true and correct.

8 Executed this 26th day of June 2024, at Malibu, California.

9  
10 *Kevin Shenkman*

11 Kevin Shenkman  
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# EXHIBIT A

## ex parte notice

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From: Kevin Shenkman (shenkman@sbcglobal.net)

To: kscolnick@gibsondunn.com; douglas.sloan@santamonica.gov

Date: Tuesday, June 25, 2024 at 10:21 PM PDT

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Kahn and Doug -

I am writing to provide notice that we will be appearing in Department 16 of the Los Angeles Superior Court, located at 111 N. Hill St., Los Angeles, CA, at 8:30 a.m. on Thursday, June 25, 2024 to seek ex parte relief - namely, advancing the hearing date of Plaintiffs' motion to reissue judgment in Case No. BC616804.

Please let me know whether Defendant will oppose the requested relief, and feel free to call me at 310-457-0970. Frankly, I think it is in the best interests of all parties concerned, including Defendant, to gain the certainty concerning the November 2024 election that will come with the Court ruling on Plaintiffs' motion to reissue judgment as soon as is practicable.

-Kevin

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 28905 Wight Rd., Malibu, California 90265.

On June 26, 2024, I served true copies of the following document(s) described as

**SHENKMAN DECLARATION**

on the interested parties in this action as follows:

Douglas Sloan  
SANTA MONICA CITY ATTORNEY  
1685 Main Street, Room 310  
Santa Monica, CA 90401  
Tel: (310) 458-8336

Theodore Boutrous, Marcellus McRae, Kahn Scolnick,  
Michelle Maryott, Tiaunia Henry, Helen Galloway, William  
Thomson  
GIBSON DUNN & CRUTCHER  
333 S. Grand Ave.  
Los Angeles, CA 90071

**BY ELECTRONIC SERVICE:** I caused the document(s) in .pdf format to be delivered electronically to the persons listed in the Service List by email(s).

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

Executed on June 26, 2024 at Malibu, California.

/s/Kevin Shenkman  
Kevin Shenkman