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 CITY OF SANTA MONICA

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 18 **FOR THE COUNTY OF LOS ANGELES**

19 PICO NEIGHBORHOOD ASSOCIATION and  
 20 MARIA LOYA;

21 Plaintiffs,

22 v.

23 CITY OF SANTA MONICA; and DOES 1-100, in-  
 24 clusive,

25 Defendants.

CASE NO. BC616804

**DECLARATION OF DANIEL R. ADLER IN  
 SUPPORT OF THE CITY OF SANTA MON-  
 ICA'S MOTION FOR AN ORDER REJECT-  
 ING PLAINTIFFS' UNTIMELY SERVICE  
 ARGUMENT BASED ON THE ABSENCE  
 OF ANY PREJUDICE**

Complaint Filed: April 12, 2016  
 Hearing Date: June 14, 2018, 8:45 am  
 Reservation ID: 170614226861  
 Trial Date: July 30, 2018

*Assigned to Judge Yvette Palazuelos, Dep't 28*

1  
2 **DECLARATION OF DANIEL R. ADLER**

3 I, Daniel R. Adler, declare as follows:

4 1. I am an attorney duly admitted to practice law before all Courts of the State of Califor-  
5 nia. I am an associate at Gibson, Dunn & Crutcher LLP and counsel for the City of Santa Monica.  
6 Unless otherwise stated, I have personal knowledge of the matters stated in this Declaration, about  
7 which I could and would testify competently if called as a witness. I make this declaration in support  
8 of the City of Santa Monica's Motion for an Order Rejecting Plaintiffs' Untimely Service Argument  
9 Based on the Absence of Any Prejudice or, in the Alternative, Granting Relief under Code of Civil  
10 Procedure Section 437(b).

11 2. The City in fact served its Motion for Summary Judgment and supporting documents  
12 via USPS Priority Mail, although because of an oversight this is not made explicit in the Proof of  
13 Service.

14 3. According to the website of the United States Postal Service, items sent via Priority  
15 Mail from the Los Angeles office of Gibson, Dunn & Crutcher LLP (which is located within the 90071  
16 ZIP code and signified by the red location marker on the true and correct copy of the USPS Priority  
17 Mail delivery map attached as Exhibit A), are expected to reach a wide range of local destinations  
18 within a single day. These destinations, which are shaded in dark blue on the delivery map attached as  
19 Exhibit A, include Malibu, which is where plaintiffs' lead counsel, Mr. Shenkman, lives and works.  
20 (The ZIP codes for Malibu, including the ZIP code for Mr. Shenkman's residential and work address,  
21 which is 90265, begin with the three-digit prefix 902, which falls within the dark-blue, one-day-service  
22 portion of the delivery map attached as Exhibit A.)

23 4. The Motion and supporting materials mailed to Mr. Shenkman were tracked by the  
24 Postal Service using the number 9114901075742891926760. USPS records confirm that Mr.  
25 Shenkman received the City's Motion on March 30, 2018, at 1:24 PM, the day after it was mailed.  
26 Attached as Exhibit B is a true and correct copy of the USPS tracking report for the envelope delivered  
27 to Mr. Shenkman.

28 5. Subdivision (a)(2) of section 437c of the Code of Civil Procedure provides that if notice

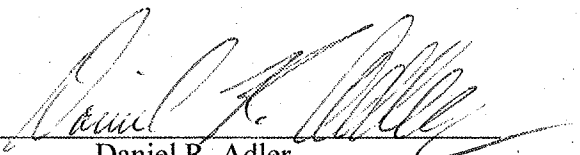
1 is served via “express mail, or another method of delivery providing for overnight delivery, the required  
2 75-day period of notice shall be increased by two court days.”

3 6. Service on plaintiffs’ counsel would have been timely but for the fact that March 30 was  
4 not a court day, as it was César Chávez Day.

5 7. Plaintiffs’ Proof of Service for their opposition and supporting documents states that  
6 those documents were sent to counsel for the City via mail on May 31, 2018. Despite my best efforts,  
7 I have been unable to locate those documents. I have spoken with personnel in my Firm’s mail room,  
8 other counsel for the City, and the secretaries for those counsel, and although they were all notified  
9 before the deadline for plaintiffs’ opposition to be on the lookout for the documents, no one has reported  
10 seeing, hearing about, or receiving them. Accordingly, the City’s only copies of plaintiffs’ opposition  
11 and supporting documents are black-and-white scans of low quality that were transmitted electronically  
12 on the evening of May 31, 2018. As a result, counsel for the City has found it difficult to read and  
13 evaluate certain pages in plaintiffs’ filing, including color-coded maps and copies of newspaper arti-  
14 cles. I further understand that counsel for the City has asked counsel for plaintiffs to send additional  
15 paper copies of the opposition and supporting documents, but that so far no such copies have been  
16 received.

17 8. I also understand that counsel for the City were personally served with *other* papers—  
18 namely, a Demand for Production of Documents, Set Four, and a Supplemental Demand for Production  
19 of Documents, Set One—on June 1, 2018. I do not know why the messenger or messengers sent by  
20 plaintiffs were not also equipped with plaintiffs’ opposition and supporting papers.

21 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
22 true and correct. Executed this 15th day of June, 2018, in Los Angeles, California.

23  
24  
25   
26 Daniel R. Adler

# **EXHIBIT A**

**USPS.COM**

**Priority Mail® Delivery Map**  
ZIP Code™: 900

**PRIORITY**  
★ **MAIL** ★

1 DAY
2 DAY
3 DAY



# **EXHIBIT B**

ALERT: AS OF APRIL 30, USPS.COM NO LONGER SUPPORTS OUTDATED B...

**USPS Tracking**<sup>®</sup>

FAQs > (<http://faq.usps.com/?articleId=220900>)

**Track Another Package** +

**Tracking Number:** 9114901075742891926760

Remove X

Your item was delivered in or at the mailbox at 1:24 pm on March 30, 2018 in MALIBU, CA 90265.

 **Delivered**

March 30, 2018 at 1:24 pm  
Delivered, In/At Mailbox  
MALIBU, CA 90265

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**Tracking History**



**March 30, 2018, 1:24 pm**

Delivered, In/At Mailbox  
MALIBU, CA 90265

Your item was delivered in or at the mailbox at 1:24 pm on March 30, 2018 in MALIBU, CA 90265.

**March 30, 2018, 8:32 am**

Out for Delivery  
MALIBU, CA 90265

**March 30, 2018, 8:22 am**

Sorting Complete

MALIBU, CA 90265

**March 30, 2018, 7:27 am**

Arrived at Post Office

MALIBU, CA 90265

**March 30, 2018, 3:05 am**

Departed USPS Regional Facility

LOS ANGELES CA DISTRIBUTION CENTER

**March 29, 2018, 9:49 pm**

Arrived at USPS Regional Facility

LOS ANGELES CA DISTRIBUTION CENTER

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## Product Information

**Postal Product:**

**Features:**

USPS Tracking®

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See Less 

**Can't find what you're looking for?**



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**PROOF OF SERVICE**

I, Tiaunia Henry, declare:

I am employed in the County of Los Angeles, State of California. My business address is 333 South Grand Avenue, Los Angeles, California 90071. I am over the age of eighteen years and not a party to the action in which this service is made.

On June 15, 2018, I served the Declaration of Daniel R. Adler on the interested parties in this action by causing the service delivery of the above document as follows:

Kevin I. Shenkman, Esq.  
Mary R. Hughes, Esq.  
John L. Jones, Esq.  
SHENKMAN & HUGHES PC  
28905 Wight Road  
Malibu, California 90265  
[shenkman@sbcglobal.net](mailto:shenkman@sbcglobal.net)  
[mrhughes@shenkmanhughes.com](mailto:mrhughes@shenkmanhughes.com)  
[jjones@shenkmanhughes.com](mailto:jjones@shenkmanhughes.com)

R. Rex Parris  
Robert Parris  
Jonathan Douglass  
PARRIS LAW FIRM  
43364 10th Street West  
Lancaster, California 93534  
[rrparris@parrislawyers.com](mailto:rrparris@parrislawyers.com)  
[jdouglass@parrislawyers.com](mailto:jdouglass@parrislawyers.com)

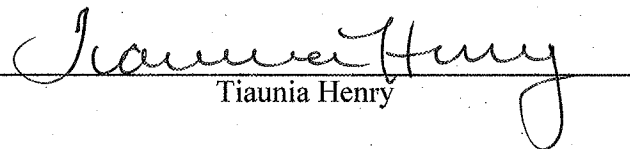
Milton Grimes  
LAW OFFICES OF MILTON C. GRIMES  
3774 West 54th Street  
Los Angeles, California 90043  
[miltgrim@aol.com](mailto:miltgrim@aol.com)

Robert Rubin  
LAW OFFICE OF ROBERT RUBIN  
131 Steuart Street, Suite 300  
San Francisco, California 94105  
[robertrubinsf@gmail.com](mailto:robertrubinsf@gmail.com)

- BY PERSONAL SERVICE:** A true and correct copy of the above document was provided by Kahn Scolnick to R. Rex Parris on June 15, 2018.
- BY ELECTRONIC SERVICE:** I caused the documents to be emailed to the persons at the electronic service addresses listed above.

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

Executed on June 15, 2018, in Los Angeles, California.

  
Tiaunia Henry