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15 Attorneys for Plaintiffs

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **COUNTY OF LOS ANGELES**

18 PICO NEIGHBORHOOD ASSOCIATION and  
19 MARIA LOYA,

20 Plaintiffs,

21 v.

22 CITY OF SANTA MONICA, and DOES 1  
through 100, inclusive,

23 Defendants.

CASE NO. BC616804

**DECLARATION OF KEVIN SHENKMAN  
IN SUPPORT OF PLAINTIFFS'  
OPENING BRIEF REGARDING  
APPROPRIATE REMEDIES**

Hearing Date: December 7, 2018

Hearing Time: 9:30 a.m.

Dept.: 28

[Assigned to the Honorable Yvette Palazuelos]

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**DECLARATION OF KEVIN I. SHENKMAN**

1. I, Kevin I. Shenkman, declare I am attorney licensed to practice law before all courts of the State of California, and I am a partner at Shenkman & Hughes P.C., attorneys of record for Plaintiffs in this case. The facts set forth in this declaration are within my personal knowledge and, if called upon to testify, I would competently testify as follows:

2. Attached hereto as Exhibit 1 is a true and correct copy of an email exchange between me and Khan Scolnick, one of Defendant's attorneys, on November 15 and 16, 2018. In his email, Mr. Scolnick indicates that Defendant intends to continue imposing its at-large election system, which this Court has ruled violates both the California Voting Rights Act and the Equal Protection Clause of the California Constitution, until its not-yet-filed appeals are exhausted.

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

Executed this 19th day of November, 2018, in Thousand Oaks, California.



\_\_\_\_\_  
Kevin Shenkman

# EXHIBIT 1

## RE: Santa Monica 2018 election

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From: Scolnick, Kahn A. (KScolnick@gibsondunn.com)

To: shenkman@sbcglobal.net

Cc: mcussimonio@parrislawyers.com; egordon@parrislawyers.com; aalarcon@shenkmanhughes.com; miltgrim@aol.com; rrparris@parrislawyers.com; robertrubinsf@gmail.com; ccinnater@parrislawyers.com; THenry@gibsondunn.com; MMcRae@gibsondunn.com; WThomson@gibsondunn.com; avargas@parrislawyers.com; KScolnick@gibsondunn.com

Date: Friday, November 16, 2018 01:05 PM PST

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Thanks for reaching out, Kevin. As you know, we have only a tentative ruling from the court that contains no explanation of the bases for that tentative ruling. For all the reasons set forth in our closing brief, we remain of the view that the tentative ruling is incorrect. Moreover, the court has not decided whether there is any other electoral system that would remedy any purported violations of the CVRA or Equal Protection Clause – those issues are now being briefed.

Yesterday, we filed a request for a statement of decision, asking the court to explain the legal and factual bases for the tentative ruling. Once we see the court's explanation for its tentative ruling, we will address that explanation and hope to persuade the trial court that it should change its tentative ruling in the City's favor. If we are unable to do so, and the trial court enters a final ruling in plaintiffs' favor, the City currently plans to appeal from that ruling.

In short, there is not yet a final ruling in plaintiffs' favor. In the absence of a final ruling, the current election system, the one selected by the voters in accordance with the City's charter, remains in place, and the City will proceed as it ordinarily would, based on the election results from the current election system.

Kahn A. Scolnick

### GIBSON DUNN

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**From:** Kevin Shenkman <shenkman@sbcglobal.net>

**Sent:** Thursday, November 15, 2018 7:12 PM

**To:** Scolnick, Kahn A. <KScolnick@gibsondunn.com>; Marci Cussimonio <mcussimonio@parrislawyers.com>; Ellery Gordon <egordon@parrislawyers.com>; Andrea Alarcon <aalarcon@shenkmanhughes.com>; Milton Grimes <miltgrim@aol.com>; Rex Parris <rrparris@parrislawyers.com>; Robert Rubin <robertrubinsf@gmail.com>; Cheryl Cinnater <ccinnater@parrislawyers.com>; Henry, Tiaunia <THenry@gibsondunn.com>; McRae, Marcellus <MMcRae@gibsondunn.com>; Thomson, William E. <WThomson@gibsondunn.com>; Anna Vargas <avargas@parrislawyers.com>

**Subject:** Santa Monica 2018 election

[External Email]

Counsel,

In light of the Court's ruling finding that Santa Monica's at-large election system violates both the CVRA and the Equal Protection Clause, we should discuss the appropriate treatment of the 2018 election. I haven't seen any statement by the City concerning what it plans to do. Specifically, does the City plan to certify the results of that election and seat the illegally-elected council members in spite of the Court's decision?

Thank you in advance for your prompt response.

-Kevin Shenkman

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This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

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[ x ] **BY ELECTRONIC SERVICE as follows:** Based on a court order, or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addressed listed on the attached Service List.

Executed on November 19, 2018, at Lancaster, California.

X (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

  
Cheryl Cinnater

1 **SERVICE LIST**

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