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

28 PICO NEIGHBORHOOD
ASSOCIATION and MARIA LOYA,
Plaintiffs,

v.

CITY OF SANTA MONICA, and
DOES 1 through 100, inclusive,
Defendants.

Case No.: BC616804

**PLAINTIFFS' OBJECTION TO
DEFENDANTS' REQUEST FOR JUDICIAL
NOTICE**

Date: May 22, 2017
Time: 8:45 a.m.
Dept.: 28

29 Plaintiffs Maria Loya and Pico Neighborhood Association (collectively, "Plaintiffs") respectfully
30 submit the following Objection to Defendant City of Santa Monica ("Defendant")'s Request for Judicial
31 Notice (the "RJN").

1 **I. INTRODUCTION**

2 While much of the documents attached to Defendant's RJN are irrelevant to the issues presented in
3 its demurrer, and even irrelevant to this case more generally, Plaintiffs do not object to this Court taking
4 judicial notice of those documents. After all, why bother arguing over documents that are immaterial, even
5 if the inferences Defendant draws from those documents – inferences which are certainly not subject to
6 judicial notice – are unsupported by the documents.

7 But Defendant's attempt to have this Court take judicial notice of the content, and perhaps veracity,
8 of opinions expressed on Defendant's website goes too far. There is simply no basis for this Court to take
9 judicial notice of a portion of Defendant's website that purports to summarize the history of Santa Monica
10 and its charters, and opines on the reasons for adoption of those charters. In fact, taking judicial notice of
11 Defendant's webpage, and the statements therein, would be entirely contrary to both Cal. Evid. Code § 452
12 and the clear California precedent interpreting it.

13
14 **II. JUDICIAL NOTICE OF THE STATEMENTS CITED BY DEFENDANTS IS CONTRARY**
15 **TO LAW.**

16 As part of its Exhibit E, a combination of multiple documents, Defendant seeks judicial notice of
17 statements and opinions made on its own website (pages 23-25 of Ex. E to Defendant's RJN). Those
18 statements and opinions, which purport to be a summary of Santa Monica's history and charters, are of
19 questionable authorship and veracity, making them unsuitable for judicial notice.

20 Under Evidence Code § 452(h) judicial notice may be taken only of:

21 Facts and propositions that are *not reasonably subject to dispute* and are
22 capable of immediate and accurate determination by resort to *sources of*
23 *reasonably indisputable accuracy.*

24 Cal. Evid. Code § 452(h) (emphasis added). The California Supreme Court has held that even judicial
25 notice of the authenticity and contents of an official document does not establish the truth of the recitals
26 therein, nor does it render inadmissible hearsay admissible. *Mangini v. R.J. Reynolds Tobacco Co.* (1994) 7
27 Cal. 4th 1057, 1063 (truth of government reports of tobacco use not judicially noticeable); *see also People*
28 *v. Long* (1970) 7 Cal. App. 3d 586, 591 (“While the courts take judicial notice of public records they do not

1 take notice of the truth of the matters stated therein”); *Marocco v. Ford Motor Co.* (1970) 7 Cal. App. 3d
2 84, 88 (judicial notice of the authenticity and contents of an official document does not establish the truth of
3 the recitals therein, nor does it render inadmissible hearsay admissible).


4 In this case, Defendant apparently seeks judicial notice of the *truth* of the statements and opinions
5 on its own website that satisfy neither of the two criteria set forth in Evid. Code § 453(h). In particular,
6 Defendant would have this Court take judicial notice of *Defendant's* website, including a summary prepared
7 by *Defendant* or one of its agents, that claims certain reasons why its 1946 charter was adopted. Of course,
8 neither Defendant's website nor the self-serving opinions expressed therein were created
9 contemporaneously with the 1946 charter enactment. Rather, those opinions and characterizations of Santa
10 Monica's history and charters reflect only the unsupported views of an unknown author paid by *Defendant*.
11 Indeed, there is even no indication of who the author of the website is – it appears to be Defendant itself,
12 what sources the author used to come to his/her opinions, or if the author has studied the history of Santa
13 Monica and its charters in any significant detail that might enable the author to opine on why Defendant
14 adopted various city charters. On the contrary, the statements of which Defendants seek to have this Court
15 take judicial notice, are nothing more than inadmissible hearsay.

16
17 The reason(s) Defendant adopted its current at-large election system in 1946 is the subject of
18 considerable dispute in this case, and therefore is not subject to judicial notice. That Defendant indicates on
19 Defendant's website that Defendant adopted the 1946 charter provisions for wholesome reasons, does
20 nothing to make that disputed fact any more amenable to resolution on a demurrer. Rather, regardless of
21 what Defendant puts on its own website, that disputed issue should be decided on the merits, not on a
22 demurrer.

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24 Respectfully submitted:

25 SHENKMAN & HUGHES,

26
27 By:



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