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Attorneys for Proposed Defendants,
FRANK QUINTERO and CITY OF GLENDALE

**BEFORE THE ATTORNEY GENERAL
OF THE STATE OF CALIFORNIA**

THE PEOPLE OF THE STATE OF
CALIFORNIA on the RELATION of
JOHN RANDO and MARIANO A.
RODAS,

Plaintiff,

vs.

FRANK QUINTERO, individually and in
his official capacity as Glendale City
Councilmember; CITY OF GLENDALE,

Defendants.

OPINION NO.: 13-504

*(Assigned to Marc J. Nolan, Deputy Attorney
General)*

**VERIFIED STATEMENT OF FACTS IN
SUPPORT OF PROPOSED
DEFENDANTS' OPPOSITION TO
RELATORS JOHN RANDO'S AND
MARIANO RODAS' APPLICATION
FOR LEAVE TO SUE IN QUO
WARRANTO**

*[Filed Concurrently With Opposition; & Index
Of Exhibits]*

I, Andrew C. Rawcliffe, declare as follows:

1. I am an attorney at law duly authorized to practice before this Court and all the
Courts of this state and I am a Deputy City Attorney for the City of Glendale, City Attorney's
Office, counsel for proposed defendants in the above-entitled action. I have personal knowledge
of the facts stated herein, except those stated upon information and belief and as to those matters,
I believe them to be true. If called upon to testify as to any matters stated herein, I could and

1 would competently do so. I submit this declaration in support of proposed defendants, CITY OF
2 GLENDALE's and FRANK QUNITERO's, opposition to Proposed Relators, JOHN RANDO's
3 and MARIANO A. RODAS', application for leave to sue in quo warranto.

4 2. On April 2, 2013, the City of Glendale held a municipal election.

5 3. Councilman Rafi Manoukian, who had 14 months left on his term, was elected to
6 City Treasurer.

7 4. This resulted in a vacancy on the City Council.

8 5. Pursuant to Article VI, Section 13(b) of the Charter, the Council was required to
9 either appoint a councilmember within thirty days or hold a special election within 120 days to
10 fill the vacancy for the remainder of the unexpired term. Attached hereto as **Exhibit 4** is a true
11 and correct copy of City of Glendale Charter.

12 6. Article VI, Section 13 did not and does not impose any limitations on who the
13 Council can appoint to fill a vacancy on the Council. (**Exh. 4**)

14 7. The only limitation to elected office is found in Article VI, Section 1, which
15 provides that "[e]ach candidate for member of council shall be a qualified elector pursuant to
16 State law." (**Exh. 4**)

17 8. Because the cost of holding a special election to fill the vacancy was approximately
18 \$800,000, the Council decided to make an appointment to the vacant council position.

19 9. In making the appointment, the Council reached out to six former mayors,
20 requesting that they apply for the vacant position.

21 10. The rationale being that a former mayor was unlikely to run in a future election but
22 would have sufficient institutional knowledge to help with the city's business.

23 11. On April 23, 2013, the Council unanimously appointed Councilman Quintero, who
24 had retired as Mayor of the City on April 15, 2013, to the vacant Council position.

25 12. His term ends in June 2014 (12 months).

26 13. The City will hold a municipal election in June 2014 to elect Councilman
27 Quintero's successor.
28

1 14. Article VI, Section 12 of the Charter (hereinafter "Section 12") is entitled "City
2 Councilmembers holding other offices." (**Exh 4.**)

3 15. Attached hereto as **Exhibit 1** is a true and correct copy of Ordinance 4601.

4 16. Attached hereto as **Exhibit 2** is a true and correct copy of 1982 Election Results.

5 17. Attached hereto as **Exhibit 3** is a true and correct copy of 1982 Ballot Pamphlet.

6 18. The electorate amended Section 12 by Charter Amendment JJ on November 2,
7 1982 to provide: "A councilmember shall not hold any other city office or city employment
8 except as authorized by State law or ordinarily necessary in the performance of the duties as a
9 councilmember. No former councilmember may hold any compensated city office or city
10 employment until two (2) years after leaving the office of councilmember." (**Exhs. 1-4**)

11 19. Prior to Charter Amendment JJ's passage, Section 12 provided:"No members of
12 the council shall be eligible to any office of employment, except an elected office, during a term
13 for which he was elected." (**Exh. 3**)

14 20. The ballot pamphlet that was distributed to the electorate did not contemplate or
15 inform the electorate that Charter Amendment JJ's two year hiatus on City employment applied
16 to elected office. (**Exh 3.**)

17 21. Instead, the ballot pamphlet explained that the primary emphasis of Charter
18 Amendment JJ was to clarify that Section 12's ban on employment only applied to employment
19 with the City and had no effect on outside employment. (**Exh. 3**)

20 22. It also explained that the second sentence of Charter Amendment JJ extended
21 Section 12's ban on city employment for an additional two years after the councilmember left
22 elected office. (**Exh. 3**)

23 23. As explained in the City Attorney's Impartial Legal Analysis, this amendment was
24 necessary because prior to Charter Amendment JJ a strict reading of Section 12 would have
25 prohibited councilmembers from holding any outside employment. (**Exh. 3**)

26 24. The legal opinion at the time, therefore, was that Section 12 applied only to City
27 employment. (**Exh. 3**)

1 25. The ballot argument in favor of Charter Amendment JJ, which was signed by the
2 five Councilmembers, explained that the purpose of the second sentence of Section 12 was to
3 prohibit councilmembers from using undue influence to obtain *employment* with the City after
4 leaving office. (**Exh. 3**)

5 26. Specifically, the ballot argument in favor of Charter Amendment JJ stated as
6 follows: “The amendment clarifies the language in the present Charter which leaves in question
7 the right of a council person to be employed while on the Council. It clearly states that a council
8 member may not hold another city office nor may a council member use his influence to obtain
9 employment with the City until two years after leaving his council office. (**Exh. 3**)

10 27. Nothing in the Impartial Legal Analysis or Arguments pertaining to Charter
11 Amendment JJ contemplated that extending the ban on city employment for two years after a
12 councilmember left office would also impact (or ban) a councilmember’s constitutional right to
13 hold elected office for two years after leaving office. (**Exh. 3**)

14 28. The ballot Argument against Charter Amendment JJ stated as follows: “This two-
15 year restriction against a dedicated, experience ex-council-person continuing to serve the City of
16 Glendale is without merit. [¶] What truly valid reason could there be for the people of the city to
17 handicap themselves by having to wait two years to receive the services of someone who may be
18 needed ‘right now’? [¶] Couldn’t an attorney who has had four or more years on the council
19 become a most valuable part of the legal department? Perhaps even the manager? [¶] Couldn’t a
20 doctor work for the public health as an employee? [¶] Why not even a city manager, if the office
21 was available? [¶] With no logical reason for the to limit its own freedom by this proposed
22 change, vote ‘no’ and give it ever possible advantage to secure the best talent available.
23 (**Exh 3.**)

24 29. Attached hereto as **Exhibit 5** is a true and correct copy of City Council Minutes,
25 dated 11/28/95.

26 30. Attached hereto as **Exhibit 6** is a true and correct copy of City Council
27 Interdepartmental Communications, dated 11/21/95.
28

- 1 31. Attached hereto as **Exhibit 7** is a true and correct copy of Verbal Motion, dated
2 11/28/95.
- 3 32. Attached hereto as **Exhibit 8** is a true and correct copy of Videos – Glendale
4 Housing Authority, Redevelopment Agency & City Council dated 11/28/95.
- 5 33. Attached hereto as **Exhibit 9** is a true and correct copy of City Council Minutes,
6 dated 12/12/95.
- 7 34. Attached hereto as **Exhibit 10** is a true and correct copy of Motion dated 12/12/95.
- 8 35. Attached hereto as **Exhibit 11** is a true and correct copy of Videos – Glendale
9 Redevelopment Agency & City Council, dated 12/12/95.
- 10 36. Attached hereto as **Exhibit 12** is a true and correct copy of City Council Minutes,
11 dated 1/9/96.
- 12 37. Attached hereto as **Exhibit 13** is a true and correct copy of Motion, dated 1/9/96.
- 13 38. Attached hereto as **Exhibit 14** is a true and correct copy of Videos – Glendale
14 Redevelopment Agency & City Council, dated 1/9/96.
- 15 39. Attached hereto as **Exhibit 15** is a true and correct copy of City Council Minutes,
16 dated 2/6/96.
- 17 40. Attached hereto as **Exhibit 16** is a true and correct copy of Motion, dated 2/6/96.
- 18 41. Attached hereto as **Exhibit 17** is a true and correct copy of Videos – Glendale
19 Redevelopment Agency & City Council, dated 2/6/96.
- 20 42. Attached hereto as **Exhibit 18** is a true and correct copy of City Council Minutes,
21 dated 2/20/96.
- 22 43. Attached hereto as **Exhibit 19** is a true and correct copy of City Council
23 Interdepartmental Communications, dated 2/20/96.
- 24 44. Attached hereto as **Exhibit 20** is a true and correct copy of Motion, dated 2/20/96.
- 25 45. Attached hereto as **Exhibit 21** is a true and correct copy of Videos – Glendale
26 Redevelopment Agency & City Council, dated 2/20/96.
- 27 46. Attached hereto as **Exhibit 22** is a true and correct copy of City Council Minutes,
28 dated 10/29/96.

1 47. Attached hereto as **Exhibit 23** is a true and correct copy of City Council
2 Interdepartmental Communications, dated 10/29/96.

3 48. Attached hereto as **Exhibit 24** is a true and correct copy of Motion, dated 10/29/96.

4 49. Attached hereto as **Exhibit 25** is a true and correct copy of Videos – Glendale City
5 Council, dated 10/29/96.

6 50. Attached hereto as **Exhibit 26** is a true and correct copy of City Council Minutes,
7 dated 11/12/96.

8 51. Attached hereto as **Exhibit 27** is a true and correct copy of Motion, dated 11/12/96.

9 52. Attached hereto as **Exhibit 28** is a true and correct copy of Videos – Glendale City
10 Council, dated 11/12/96.

11 53. In 1995 through 1996, the Council debated placing a term-limit Charter
12 Amendment on the ballot that included a two year hiatus period before serving on Council again.
13 (**Exhs. 5-28**)

14 54. The City Attorney was directed to prepare a ballot measure to amend the Charter
15 that provided in pertinent part: No person shall be eligible to serve another full or partial term
16 until at least two (2) years has elapsed without the person having served as an elected or
17 appointed Councilmember (or School Board or College Board member should either or both
18 consent by October 1, 1996), since the time the person has completed serving two consecutive
19 full terms. (**Exh 16; Exh. 17** on DVD 1 at 1:26:57-2:03:09)

20 55. During the Council's debate on term-limits, consistent opposition was voiced to
21 amending the Charter to impose term-limits on elected office. (**Exh. 11** on DVD 1 at 1:13:37-
22 2:02:11 and DVD 2 at 4:06-9:06; **Exh. 14** on DVD 1 at 1:39:18-2:03:14 and DVD 2 at 13:18-
23 24:30; **Exh. 17** on DVD 1 at 1:26:57-2:03:09 and all of DVD 2; **Exh. 21** on DVD 1 at 1:22:53-
24 1:39:00; **Exh. 25** on DVD 2 at 39:21-44:52; **Exh. 28** on DVD 2 at 37:09-49:17)

25 56. A competing proposal called the Voter's Rights Amendment was even submitted to
26 the Council on February 20, 1996. (**Exh. 20; Exh. 21** on DVD 1 at 1:22:53-1:39:44)

1 57. The Voter's Rights Amendment was an anti-term-limit proposal that would amend
2 the Charter to explicitly state that there are no term-limits on elected office and would abrogate
3 the Council's power to impose such limitations. (**Exh. 19; Exh. 21** on DVD 1 at 1:22:53-1:39:44)

4 58. In analyzing the legality of the Voter's Rights Act, the City Attorney noted "that
5 this is somewhat an idle or redundant act in that the Charter currently does not limit the number
6 of terms that an elected official may serve." (**Exh. 19**, p. 3 fn. 4)

7 59. The City Attorney reiterated these comments to Council when he explained during
8 the meeting that he found it a "redundant or idle act. [Because] . . . right now [the Charter has]
9 no term limits for elected officials and restating that in more specific terms is essentially a
10 redundant act." (**Exh. 21** on DVD 1 at 1:29:10-1:29:38)

11 60. After six meetings, the Council unanimously withdrew the Charter Amendment
12 that would have imposed a term-limit and a two year hiatus period on elected offices. (**Exh. 27;**
13 **Exh. 28** on DVD 2 at 37:09-49:17)

14 61. The Council passed an ordinance banning the sale of firearms on municipal
15 property and to end the Glendale Gun Sown on March 19, 2013 (hereinafter "Ban").

16 62. Councilman Qunintero was the City's Mayor at the time and voted in favor of the
17 Ban's passage.

18 63. Attached hereto as **Exhibit 29** is a true and correct copy of Video – Glendale
19 Housing Authority Joint City Council & Successor Agency Special City Council, dated 1/15/13.

20 64. Attached hereto as **Exhibit 30** is a true and correct copy of Video – Glendale
21 Housing Authority Glendale City Council, dated 1/22/13.

22 65. Attached hereto as **Exhibit 31** is a true and correct copy of Video – Glendale
23 Housing Authority Glendale City Council, dated 3/12/13.

24 66. Attached hereto as **Exhibit 32** is a true and correct copy of Video – Glendale
25 Housing Authority Joint Council/Housing/Successor Agency Special City Council Glendale City
26 Council, dated 3/19/13.

27 67. The Relators' counsel, Sean Brady, was representing the opponents of the Ban and
28 threatened the City with litigation if it passed. (**Exh 31** at 35:45-39:40, 59:10-1:00:49).

68. Mr. Brady was explicit when he stated that the opponents would sue the City if the Ban passed and warned that litigation would be costly. (**Exh 31** at 35:45-39:40, 59:10-1:00:49)

69. Even the Relators, John Rando and Mariano A. Rodas, are affiliated with, and ardent opponents of the Ban. (**Exh. 29** at 1:26:08-1:31:16; **Exh. 30** at 51:09-53:17, 1:11:48-1:14:05; **Exh. 31** at 48:26-50:04; **Exh. 32** at 20:14-21:49)

70. During the City Council's debate on the Ban, the Relators were among the most vociferous opponents of the Ban. (**Exh. 29** at 1:26:08-1:31:16; **Exh. 30** at 51:09-53:22, 1:11:48-1:14:05; **Exh. 31** at 48:26-50:04; **Exh. 32** at 20:14-21:49)

71. Among the comments made during Mr. Rando's four appearances before the Council were: calling the Ban a racist and xenophobic law; implying that the councilmembers were supporting a new kind of racism; and engaging in numerous ethnic stereotypes to illustrate his opposition to the Ban. (**Exh. 29** at 1:26:08-1:31:16; **Exh. 30** at 51:09- 53:22; **Exh. 31** at 48:26-50:04; **Exh. 32** at 20:14-21:49)

72. The ballot pamphlet did not make reference to Article IV, Sections 1 or 3. (**Exh. 3**)

73. The ballot pamphlet did not define the phrase “compensated city office or city employment” as including “elected offices.” (**Exh. 3**)

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

Executed this 7th day of June 2013 at Glendale, California.

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Andrew C. Rawcliffe

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State California I am over the age of 18 and not a party to this action. My business address is 613 East Broadway, Suite 220, Glendale, California 91206.

On June 7, 2013, I served the foregoing document described as **VERIFIED STATEMEN OF FACT IN SUPPORT OF PROPOSED DEFENDANTS' OPPOSITION TO RELATORS JOHN RANDO'S AND MARIANO RODAS' APPLICATION FOR LEAVE TO SUE IN QUO WARRANTO** on THE INTERESTED PARTIES named below by enclosing a copy in a sealed envelope addressed as follows:

C.D. MICHEL SEAN A. BRADY MICHEL & ASSOCIATES, LLP 180 E. OCEAN BLVD., SUITE 200 LONG BEACH, CA 90802	Attorneys for Plaintiff
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☐ (BY MAIL) I deposited the envelope with the United States Postal Service with the postage fully prepaid.

☒ (BY MAIL) I placed the envelope for collection and mailing on the date shown above, at this office, in Glendale, California, following our ordinary business practices.

I am readily familiar with this office's practice of collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service in a sealed envelope with postage fully prepaid.

☐ (BY FACSIMILE) By transmitting a copy of the above listed document by a "FAX" machine to the FAX number listed above and/or on the attached mailing list.

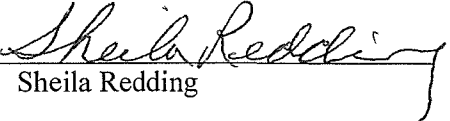
☐ (BY E-MAIL) By transmitting a copy of the above listed document via e-mail to the e-mail address listed above and/or on the attached mailing list.

☐ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

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

☐ (Federal) I declare under penalty of perjury that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 7, 2013, at Glendale, California.


Sheila Redding