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FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

FEB 14 2014

By *Quade Ortega*
Deputy

1 BRIGGS LAW CORPORATION [FILE: 1757.00]
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7
8 Attorneys for Plaintiff and Petitioner Gabriel Hernandez

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN BERNARDINO

11 GABRIEL HERNANDEZ,
12 Plaintiff and Petitioner,
13 vs.
14 TOWN OF APPLE VALLEY; and DOES 1 through
15 100,
16 Defendants and Respondents;
17 WAL-MART STORES, INC.; DOES 101 through
18 1,000,
19 Real Parties in Interest.

CASE NO. CIVDS 1312548
**VERIFIED FIRST AMENDED
COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF AND PETITION
FOR WRIT OF MANDATE UNDER THE
RALPH M. BROWN ACT AND
CALIFORNIA CONSTITUTION**
Action filed: October 15, 2013
Department: S35 (Cohn)

20
21 Plaintiff and Petitioner Gabriel Hernandez alleges as follows:

22 **Parties**

- 23 1. Gabriel Hernandez is a natural person who resides in Apple Valley, is registered to vote,
24 and is a California resident and citizen.
25 2. Defendant and Respondent TOWN OF APPLE VALLEY is a "local agency" within the
26 meaning of Government Code Section 54951. Defendant and Respondent TOWN OF APPLE
27 VALLEY's town council is a "legislative body" within the meaning of Government Code Section
28 54952.

1 Trails Highway (SR-18), at the southeasterly corner of the intersection of Dale Evans Parkway and
2 Thunderbird Road?" The ballot measure will make no mention of a "Wal-Mart Initiative Measure."

3 9. The initiative measure circulated for signatures made no mention of being the "Wal-Mart
4 Initiative Measure."

5 10. The initiative measure circulated indicated that the specific plan that showed a Wal-Mart
6 store would be repealed and instead providing a site plan showing a "Major Tenant" in its place.

7 11. A request for cure of the violations of the Brown Act alleged in this pleading was made
8 in writing on September 12, 2013. The violations have not been cured. A true and correct copy of the
9 cure request is attached to this pleading as Exhibit "A."

10 **FIRST CAUSE OF ACTION:**
11 **Violation of the Ralph M. Brown Act--Actions Not Appearing on the Agenda**
12 **(Against All Respondents and Real Parties in Interest)**

13 12. Paragraphs 1 through 10 are fully incorporated into this paragraph.

14 13. Government Code Section 54954.2(a)(1) requires the legislative body of a local agency
15 (or the body's designee), at least 72 hours before a regular meeting, to post an agenda containing a brief
16 general description of each item of business to be transacted or discussed at the meeting. A brief
17 general description of an item generally need not exceed 20 words. Section 54954.2(a)(2) prohibits the
18 legislative body from taking action on or discussing any item not appearing on the posted agenda for
19 the body's regular meeting.

20 14. Agenda Item 16 for the August 13, 2013 Apple Valley Town Council meeting was for
21 the "Wal-Mart Initiative Measure." In fact, what was being discussed and acted on was represented to
22 the voters as the "Dale Evans Parkway Commercial Specific Plan" initiative measure.

23 15. As the "Dale Evans Parkway Commercial Specific Plan" initiative measure did not
24 appear on the agenda, no action could be taken on that initiative measure.

25 16. The agenda did not include any description of the "Wal-Mart Initiative Measure," such
26 as whether the measure dealt with a land use issue or some other issue. If the initiative measure was
27 a land use issue, the agenda did not say if a general plan amendment, specific plan issue or some other
28 action was taken place. If the initiative was a land use issue, the agenda did not indicate what property
or properties would be impacted.

1 17. The agenda did not say whether the initiative measure was related to a new initiative
2 measure, the petition that was recently circulated, an initiative measure that had previously been
3 adopted, or something else entirely.

4 18. The agenda did not say anything about an election or that the Town Council would be
5 taking any action. Instead, the recommendation was to “provide direction to staff.” To say that the
6 recommendation is to “provide direction to staff” gives the public the impression that staff may be
7 directed to give a report or prepare a resolution for future consideration; to say “provide direction to
8 staff” does not alert the public that the Town Council would be taking action other than to give
9 instructions to prepare for a future action.

10 19. Respondent’s legislative body violated the Brown Act when it approved actions relating
11 to the “Dale Evans Parkway Commercial Specific Plan” initiative measure because this initiative
12 measure was not described on the agenda.

13 20. Respondent’s legislative body violated the Brown Act when it took actions to adopt three
14 resolutions and a memorandum of understanding when no action other than to provide instructions was
15 described on the agenda.

16 21. Petitioner has been harmed as a result of Respondents’ violations of the Brown Act
17 because he has been denied the benefits and protections provided by compliance with the Act. By way
18 of example and not limitation, Petitioner did not participate in the decision-making process because the
19 agenda did not alert him to the actual topic being considered and because he did not know any
20 resolutions or agreements were under consideration for approval or adoption.

21 22. As a result of the Brown Act violations, Petitioner is seeking mandamus, injunctive and
22 declaratory relief as provided under Government Code Section 54960. Petitioner is also seeking
23 mandamus or an injunction, as appropriate, for the purpose of obtaining a judicial determination that
24 the actions taken at the August 13, 2013 City Council meeting not appearing on the agenda are null and
25 void. Petitioner also seeks all other remedies provided under the Brown Act and other laws.

SECOND CAUSE OF ACTION
Improper Use of Initiative
(Against All Respondents and Real Parties in Interest)

23. Paragraphs 1 through 22 are fully incorporated into this paragraph.

24. California Constitution article II, section 12 provides: "No amendment to the Constitution, and no statute proposed by the electors by the Legislature or by initiative, that names any individual to hold any office, or names or identifies any private corporation to perform any function or to have any power or duty, may be submitted to the electors or have any effect."

25. Wal-Mart Stores, Inc., is a private corporation.

26. The "Dale Evans Parkway Commercial Specific Plan" identifies Wal-Mart Stores, Inc.

A. By way of example and not limitation, Wal-Mart Stores, Inc., has demonstrated that it was the fee title holder at the time the Wal-Mart Initiative was circulated and approved and continues to be the fee title holder.

B. By way of example and not limitation, the *Victor Valley Daily Press* reported that Walmart asked the Town for the ballot measure. A true and correct copy of the news article is attached hereto as Exhibit "B."

C. By way of example and not limitation, Wal-Mart Stores, Inc., provided substantial monetary and non-monetary support to "Apple Valley Consumers for Choice," the sponsor of the Initiative Measure. The contributions included \$515,000.00 in monetary support in October 2013; \$100,000.00, in May 2013; \$75,000.00, in August 2013; \$10,000.00, in May 2013; and over \$10,000.00 in non-monetary support in 2013. Wal-Mart Stores, Inc.'s Form 497 for the \$515,000.00 monetary payment is attached hereto as Exhibit "C." As a for-profit entity with a fiduciary duty to its shareholders to maximize profits, Wal-Mart Stores, Inc., would not have spent this amount of money on the Initiative if it was not the Initiative's intended beneficiary.

D. The ballot argument in favor of Measure D (the Initiative Measure) indicates that the Initiative is for the benefit of Walmart. The ballot material says: "VOTING YES ON MEASURE D will approve an upgraded new Walmart store and other businesses at the corner of Dale Evans Parkway and Thunderbird Road." A true and correct copy of the "ARGUMENT IN FAVOR OF MEASURE D" is attached hereto as Exhibit "D."

1 E. The Initiative Measure identifies “developer” to be the individual or entity
2 proposing any development within the Specific Plan area. Wal-mart Stores, Inc. is the entity proposing
3 development within the Specific Plan area. In fact, the ballot argument in favor of the Initiative says:
4 “Walmart proposed a new, upgraded store offering more affordable, fresh groceries and expanded retail
5 choices for Apple Valley’s hardworking families.”

6 27. The Initiative identifies Wal-Mart Stores, Inc., as performing certain functions and
7 having certain powers and duties.

8 A.. By way of example and not limitation, the Initiative contains references such as:

- 9 i. “developer is responsible for,”
- 10 ii. “developer is responsible to ensure,”
- 11 iii. “Developer shall,”
- 12 iv. “developer shall be responsible for,”
- 13 v. “developer shall agree,”
- 14 vi. that certain actions “shall not relieve the developer of this obligation,”
- 15 vii. “fees shall be paid by the developer,”
- 16 viii. “developer must,”
- 17 ix. “developer will be required to,”
- 18 x. “developer will also be responsible for,” and
- 19 xi. “Developer will implement.”

20 B. By way of further example and not limitation:

- 21 i. The Initiative applies to a single piece of property;
- 22 ii. The Initiative has the same or substantially similar objectives to those
23 identified in the list of objectives set forth in Walmart’s EIR;

24 iii. The Initiative is narrowly tailored to provide for the identical or nearly
25 identical development activity reviewed in the EIR (the maximum building area in the specific plan
26 happens to be exactly 246,034 square feet, which is the precise building area contemplated in the EIR);

27 C. By way of further example and not limitation, the Initiative provides benefits to
28 Wal-Mart Stores, Inc.

1 **Prayer**

2 FOR ALL THESE REASONS, Petitioner respectfully prays for the following relief against
3 Defendants/Respondents and Defendants/Real Parties in Interest (and any and all other parties who may
4 oppose Petitioner in this proceeding):

5 A. *On the First Cause of Action:*

6 1. A judgment determining or declaring that Defendants/Respondents failed to
7 comply fully with the Brown Act with respect to the actions taken on the "Dale Evans Parkway
8 Commercial Specific Plan" initiative measure;

9 2. A judgement determining or declaring that Defendants/Respondents failed to
10 comply fully with the Brown Act with respect to the actions taken on the "Dale Evans Parkway
11 Commercial Specific Plan" initiative measure, rendering the actions taken and any and all consequences
12 thereof null and void;

13 3. A judgment determining or declaring that Defendants/Respondents must fully
14 comply with the Brown Act before any discussion may take place or any action may be taken in
15 connection with the "Dale Evans Parkway Commercial Specific Plan" initiative measure;

16 4. Injunctive relief prohibiting Defendants/Respondents from discussing or taking
17 any action in connection with the "Dale Evans Parkway Commercial Specific Plan" initiative measure
18 or "Dale Evan Parkway Commercial Specific Plan" unless or until they have fully complied with the
19 Brown Act and all other applicable laws; and

20 5. Any and all other relief that may be authorized by the Brown Act but is not
21 explicitly or specifically requested elsewhere in this Prayer.

22 B. *On the Second Cause of Action:*

23 1. A judgment determining or declaring that the "Dale Evans Parkway Commercial
24 Specific Plan" initiative measure failed to comply fully with the California Constitution and/or other
25 applicable laws and that the initiative measure and the petition on which it was based were illegal in
26 at least some respect, rendering the initiative measure's enactment null and void; and

27 2. Injunctive relief prohibiting Defendants/Respondents and Defendants/Real
28 Parties in Interest (and any and all persons acting at the request of, in concert with, or for the benefit of

1 one or more of them) from taking any action on any aspect of, in furtherance of, in reliance on, or
2 otherwise based on the "Dale Evan Parkway Commercial Specific Plan" initiative measure unless and
3 until the initiative measures complies with all applicable provisions of the California Constitution
4 and/or other applicable laws, as determined by the Court.

5 C. All attorney fees and other legal expenses incurred in connection with this proceeding,
6 including but not limited to reasonable attorney fees as authorized by the Code of Civil Procedure and
7 the Government Code.

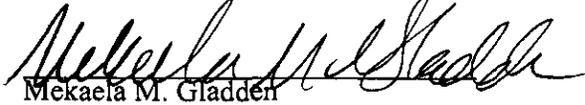
8 D. Any and all further relief that this Court may deem appropriate.

9
10 Date: February 13, 2014.

Respectfully submitted,

11 BRIGGS LAW CORPORATION

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13 By:


Mekaela M. Gladden

14 Attorneys for Plaintiff and Petitioner Gabriel Hernandez
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**Verified First Amended Complaint for Declaratory and Injunctive Relief and Petition for Writ of
Mandate Under the Ralph M. Brown Act and California Constitution**

Exhibit "A"

BRIGGS LAW CORPORATION

San Diego Office:
814 Morena Boulevard, Suite 107
San Diego, CA 92110

Telephone: 619-497-0021
Facsimile: 619-515-410

Please respond to: Inland Empire Office

2013 SEP 12 PM 2: 53

Inland Empire Office:
99 East "C" Street, Suite 111
Upland, CA 91786

Telephone: 909-949-7115
Facsimile: 909-949-7121

BLC File(s): 1757.00

September 12, 2013

Town of Apple Valley
c/o Town Clerk
14955 Dale Evans Parkway
Apple Valley, CA 92307

Via Personal Delivery and Facsimile: (760) 961-6241

Re: Request to Cure Violation of Ralph M. Brown Act

Dear Apple Valley Town Council:

I am writing on behalf of Gabriel Hernandez to request the cure of a violation of the Ralph M. Brown Act (Government Code Section 54950 *et seq.*) committed by the Town Council at its meeting on August 13, 2013, with respect to Item 16 on its agenda for that meeting. "At least 72 hours before a regular meeting, the legislative body . . . shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting. . . ." GOV'T CODE § 54954.2(a). "No action or discussion shall be undertaken on any item not appearing on the posted agenda. . . ." *Id.*, § 54954.2(b). There are two major problems with the agenda that was posted.

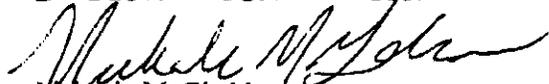
The first problem with the agenda is that it refers to a "Wal-Mart Initiative Measure," but there was no "Wal-Mart Initiative Measure" being considered. The agenda did not refer to the "Dale Evans Parkways Commercial Specific Plan" initiative measure even though that turned out to be the initiative measure under consideration. As the "Dale Evans Parkways Commercial Specific Plan" initiative measure was not identified on the agenda, no action legally could have been taken on that initiative measure.

The second problem with the agenda is that it indicates that the recommendation was to "provide direction to staff." Looking at the agenda, my client thought that the Town Council would be giving direction to staff to either prepare a report or a resolution. Instead of giving staff direction, the Town Council adopted a resolution calling a special municipal election. The adoption of a resolution calling an election was not an action identified on the agenda. Therefore, under the Ralph M. Brown Act, no such action could legally be taken.

Thank you for your prompt attention to this important matter.

Sincerely,

BRIGGS LAW CORPORATION


Micaela M. Gladden

**Verified First Amended Complaint for Declaratory and Injunctive Relief and Petition for Writ of
Mandate Under the Ralph M. Brown Act and California Constitution**

Exhibit "B"



DAILY PRESS
VVDailyPress.com

Apple Valley Wal-Mart showdown gains momentum

Rene De La Cruz, Staff Writer

2013-09-14 19:12:26



APPLE VALLEY • The special stand-alone election in November that will decide the fate of a new Wal-Mart Supercenter is already heating up.

Wal-Mart asked the town for a ballot measure after submitting nearly 9,000 signatures from residents who want the retail giant to come to town.

In August, the town council allowed the citizens of Apple Valley to vote Nov. 19 for or against the store, which is planned for the corner of Dale Evans Parkway and Thunderbird Road.

As ballot Measure D was prepared, arguments for and against the project were filed by two separate groups.

An argument for the project was filed by Mayor Pro Tem Art Bishop, Councilman Scott Nassif, Apple Valley Chamber of Commerce President Janice Moore, small business owner Pat Orr and Town Planning Commissioner Bob Tinsley.

Dated Aug. 26, their argument claims that voting yes on Measure D will bring 85 quality jobs, offer one-stop shopping for families and help seniors on fixed incomes through low prices and \$4 prescription drugs.

"Apple Valley spent over six years conducting extensive studies and listening to public comment on the proposed new store," the statement reads. "The project was fully vetted by the planning commission and town council, which voted to approve the new upgraded Wal-Mart."

The report urges voters to vote yes for new jobs, increased tax revenue and more affordable fresh groceries.

On Aug. 27, the group Citizens for Smart Growth, led by Bob Sagona, David Mueller, John Putko, Georgette Phillips and Richard Turnbull, filed an argument against the Wal-Mart initiative.

The group urges a "no" vote on the ballot because "the location selected by Wal-Mart requires the Town of Apple Valley to change our general plan and make another exception to it similar to last year's McRae Group rezoning."

The group states that the town expended thousands of dollars, hiring numerous consultants to establish a general plan that citizens agreed to after public hearings.

"We set precedent and defeat the purpose of the plan by allowing deep pockets ... to decide how our town will develop," the group stated.

The group agrees that the town could use a Wal-Mart Supercenter for sales tax and jobs but disagrees with the location, which may potentially sacrifice the environment.

Critics say Measure D would allow a change to the town's development code that defies the California Environmental Quality Act.

The group also mentions Wal-Mart's push for five local Supercenters, which will connect to a wastewater infrastructure that needs \$91 million in improvements.

They are highly critical of the proposed site, stating that the store "will sell alcohol within 600 feet of where Apple Valley students swim (and) children play at Civic Park."

On Sept. 5, a rebuttal to the argument against Measure D was submitted to the town by Moore, Mayor Curt Emick, Town Councilman Larry Cusack, Apple Valley Unified School District Board Member Dennis Bender and Mojave Water Agency Board Member Cari Coleman. They support a yes vote because they believe the project would provide new quality jobs with benefits to both part-time and full-time employees and hundreds of much-needed new construction jobs.

The rebuttal states that a yes vote would "help put an end to the outside influence and special interest that have stood in the way of this beautiful, upgraded store from opening."

In a second and final rebuttal received by the town Sept. 5, Citizens for Smart Growth said the claim that special interests control the opposition was unfounded. They said the 30-acre location would abut property zoned as estate residential since 2009.

"The intent to sell cheap drugs and alcohol near children, at the swimming pool and Civic Park is outrageous!" Citizens for Smart Growth said in its final statement.

The group claims that Wal-Mart has a history of hiring "their own, out of area, contractors" for store construction.

Citizens for Smart Growth questioned whether there was a true mandate to put the measure on the ballot, stating "Supporters boast 9,000 signatures gathered, but only 5,546 were validated. ... Supporters insinuate that Wal-Mart provides fresh groceries and inexpensive prescriptions, which is ludicrous."

Rene De La Cruz may be reached at 760-951-6227 or at RDeLaCruz@VVDailyPress.com.

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**Verified First Amended Complaint for Declaratory and Injunctive Relief and Petition for Writ of
Mandate Under the Ralph M. Brown Act and California Constitution**

Exhibit "C"

Late Contribution Report

Type or print in ink.
Amounts may be rounded to whole dollars.

LATE CONTRIBUTION REPORT

NAME OF FILER Wal*Mart Stores, Inc.		Date of This Filing 10/15/2013	Date Stamp Page 1 of 3	CALIFORNIA FORM 497 For Official Use Only
AREA CODE/PHONE NUMBER	I.D. NUMBER (if applicable) 496052	Report No. 163301-74		
STREET ADDRESS		<input type="checkbox"/> Amendment to Report No. _____ (explain below)		
CITY Bentonville	STATE AR	ZIP CODE 72716	No. of Pages 3	

Late Contribution(s) Received

DATE RECEIVED	FULL NAME, MAILING ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE *	IF AN INDIVIDUAL ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	AMOUNT RECEIVED
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		

*Contributor Codes
 IND - Individual
 COM - Recipient Committee (other than PTY or SCC)
 OTH - Other
 PTY - Political Party
 SCC - Small Contributor Committee

Reason for Amendment:

Late Contribution Report

Type or print in ink.
Amounts may be rounded to whole dollars.

LATE CONTRIBUTION REPORT

NAME OF FILER Wal*Mart Stores, Inc.		Date of This Filing 10/15/2013	Date Stamp Page 2 of 3	CALIFORNIA FORM 497 For Official Use Only
AREA CODE/PHONE NUMBER	I.D. NUMBER (if applicable) 496052	Report No. 163301-74		
STREET ADDRESS		<input type="checkbox"/> Amendment to Report No. _____ (explain below)		
CITY Bentonville	STATE AR	ZIP CODE 72716		
		No. of Pages 3		

Late Contribution(s) Made

DATE MADE	FULL NAME, MAILING ADDRESS AND ZIP CODE OF RECIPIENT (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CANDIDATE AND OFFICE OR MEASURE AND JURISDICTION	AMOUNT OF CONTRIBUTION	DATE OF ELECTION (IF APPLICABLE)
10/14/2013	Apple Valley Consumers for Choice Sacramento, CA 95814 ID# 1357686 Memo Reference: EXP:S497:758	Apple Valley Consumers for Choice	\$515,000.00	

Reason for Amendment:

Memo Reference: EXP-S497.758
Through Intermediary Citizens for Jobs & Economic Growth 330 Encinitas Blvd. Suite 101 Encinitas, CA 92024

**Verified First Amended Complaint for Declaratory and Injunctive Relief and Petition for Writ of
Mandate Under the Ralph M. Brown Act and California Constitution**

Exhibit "D"

ARGUMENT IN FAVOR OF MEASURE D

2013 21 26 11 18

Vote YES on D: New Quality Jobs and Affordable, Fresh Groceries for Apple Valley Residents

Walmart has proudly served the Apple Valley community since 1996 and employs over 1,300 local residents at their Distribution Center and existing store. In 2007, Walmart proposed a new, upgraded store offering more affordable, fresh groceries and expanded retail choices for Apple Valley's hardworking families. The community overwhelmingly supports the proposal.

That is why **NEARLY 9,000 RESIDENTS SIGNED PETITIONS** to put Measure D on the ballot.

VOTING YES ON MEASURE D will approve an upgraded new Walmart store and other businesses at the corner of Dale Evans Parkway and Thunderbird Road. It will provide more **local shopping choices, more affordable fresh groceries, and quality new jobs.**

VOTING YES ON MEASURE D will also create hundreds of much-needed new construction jobs.

It's simple. **YES ON Measure D** will:

- Bring 85 quality new jobs to Apple Valley, with benefits available to both part-time and full-time employees, once eligible;
- Offer one-stop shopping for hardworking Apple Valley families who want the best value for their dollar;
- Help seniors on fixed incomes through low prices and \$4 prescription drugs;

Apple Valley has spent over six years conducting extensive studies and listening to public comment on the proposed new store. The project was **fully vetted by the Planning Commission and Town Council** which voted to approve the new, upgraded Walmart.

However outside special interests have made every effort to keep this store from opening. Enough is enough. It is time for voters to end the delays and bring a beautiful new store to the community.

Say **YES** to new jobs, increased tax revenue, and more affordable fresh groceries.

VOTE YES ON D!

Art Bishop, Mayor Pro Tem, Town of Apple Valley
Scott Nassif, Councilmember, Town of Apple Valley
Janice Moore, President, Apple Valley Chamber of Commerce
Pat Orr, Small Business Owner
Bob Tinsley, Planning Commissioner, Town of Apple Valley

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF San Diego

I have read the foregoing Verified First Amended Complaint for Declaratory and Injunctive Relief and Petition for Writ of Mandate Under the Ralph M. Brown Act and California Constitution and know its contents.

CHECK APPLICABLE PARAGRAPH

- I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true. I am an Officer a partner a of

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

- I am one of the attorneys for Gabriel Hernandez a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on February 14, 20 14, at San Diego, California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Mekaela M. Gladden Type or Print Name

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of State of California. I am over the age of 18 and not a party to the within action; my business address is,

On, 20, I served the foregoing document described as

- by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list: by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

- BY MAIL I deposited such envelope in the mail at California. The envelope was mailed with postage thereon fully prepaid. As follows I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

- Executed on, 20, at California. (BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee. Executed on, 20, at California. (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct. (Federal) declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

(By MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG) (FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)

PROOF OF SERVICE

1. My name is Keri Taylor. I am over the age of eighteen. I am employed in the State of California, County of San BERNARDINO.

2. My business _____ residence address is Briggs Law Corporation, 99 East "C" St., STE 111 Upland, CA 91786

3. On February 14, 2014, I served _____ an original copy a true and correct copy of the following documents: Verified First Amended Complaint for Declaratory and Injunctive Relief and Petition for Writ of Mandate Under the Ralph M. Brown Act and California Constitution

4. I served the documents on the person(s) identified on the attached mailing/service list as follows:

by personal service. I personally delivered the documents to the person(s) at the address(es) indicated on the list.

by U.S. mail. I sealed the documents in an envelope or package addressed to the person(s) at the address(es) indicated on the list, with first-class postage fully prepaid, and then I

deposited the envelope/package with the U.S. Postal Service

placed the envelope/package in a box for outgoing mail in accordance with my office's ordinary practices for collecting and processing outgoing mail, with which I am readily familiar. On the same day that mail is placed in the box for outgoing mail, it is deposited in the ordinary course of business with the U.S. Postal Service.

I am a resident of or employed in the county where the mailing occurred. The mailing occurred in the city of Upland, California.

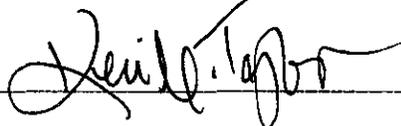
by overnight delivery. I sealed the documents in an envelope/package provided by an overnight-delivery service and addressed to the person(s) at the address(es) indicated on the list, and then I placed the envelope/package for collection and overnight delivery in the service's box regularly utilized for receiving items for overnight delivery or at the service's office where such items are accepted for overnight delivery.

by facsimile transmission. Based on an agreement of the parties or a court order, I sent the documents to the person(s) at the fax number(s) shown on the list. Afterward, the fax machine from which the documents were sent reported that they were sent successfully.

by e-mail delivery. Based on an agreement of the parties or a court order, I sent the documents to the person(s) at the e-mail address(es) shown on the list. I did not receive, within a reasonable period of time afterward, any electronic message or other indication that the transmission was unsuccessful.

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

Date: February 14, 2014

Signature: 

1 **SERVICE LIST**

2 *Gabriel Hernandez v. Town of Apple Valley, et al.*
3 Superior Court of the State of California - County of San Bernardino - Central Division
4 CASE NO. CIVDS 1312548

5 Piero C. Dallarda Attorneys for Defendant and Respondent
6 Danielle G. Sakai Town of Apple Valley
7 Valerie D. Escalante
8 Best Best & Krieger, LLP
9 3390 University Avenue, 5th Floor
10 Riverside, CA 92501
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