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6

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 COUNTY OF SANTA CLARA
9

10 THE PEOPLE OF THE STATE OF
CALIFORNIA *ex rel.* SAN JOSE POLICE
11 OFFICERS' ASSOCIATION,

12 *Plaintiff,*

13 v.

14 CITY OF SAN JOSE, and CITY COUNCIL
OF SAN JOSE,

15 *Defendants.*
16

Case No. 1-13-CV-245503

**SAN JOSE POLICE OFFICERS' ASSOCIATION'S
EVIDENTIARY OBJECTIONS TO THE
DECLARATIONS AND EVIDENCE SUBMITTED
BY PROPOSED INTERVENORS**

Date: April 5, 2016
Time: 9:00 a.m.
Dept.; 7
Judge: Hon. Beth McGowen

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<u>Proposed Intervenors’ Proffered Evidence</u>	<u>The SJPOA’s Objection(s)</u>	<u>Ruling</u>
<u>Declaration of Peter Constant</u>		
<p>1. Constant Decl., ¶10</p> <p>As a City Councilmember who was deeply involved in working to find solutions to the City's structural budget deficit, I recognized expanding pension costs as a key driver of San Jose's rising debt obligations. Beginning in 2011, I worked closely with Mayor Reed and the San Jose City Attorney to design and draft Measure B.</p>	<p>Relevance (Evidence Code § 350)</p> <p>The present lawsuit seeks a determination of whether Measure B was permissibly placed on the ballot in the first place or whether doing so violated the Meyers-Milias-Brown Act (“MMBA”), Government Code section 3500 <i>et seq.</i> If it was not validly placed on the ballot, and because Constant it is not covered by the MMBA, he can have no legally-cognizable interest in the outcome of this matter. As such, Constant’s backing of Measure B is irrelevant.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement this statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of Mr. Constant are inadmissible.</p>	<p><input type="checkbox"/> Overruled</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p> <hr/>
<p>2. Constant Decl., ¶11</p> <p>As a principle architect and drafter of Measure B, I publicly supported the measure and campaigned vigorously for its passage. I conducted a number of town halls, community meetings, debates, and media interviews in support of</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of Mr. Constant’s backing of Measure B.</p>	<p><input type="checkbox"/> Overruled</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p> <hr/>

<u>Proposed Intervenors’ Proffered Evidence</u>	<u>The SJPOA’s Objection(s)</u>	<u>Ruling</u>
Measure B.		
<p>3. Constant Decl., ¶12</p> <p>On June 5, 2012, San Jose voters—including the voters of District 1 whom I represented overwhelmingly approved Measure B.</p>	<p>Relevance (Evidence Code § 350)</p> <p>The present lawsuit seeks a determination of whether Measure B was permissibly placed on the ballot in the first place or whether doing so violated the Meyers-Miliias-Brown Act (“MMBA”), Government Code section 3500 <i>et seq.</i> If it was not validly placed on the ballot, the voters’ approval of Measure B was <i>ultra vires</i>. As such, the passage of Measure B is irrelevant to this lawsuit.</p>	<p><input type="checkbox"/> Overruled</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p> <hr/>
<p>4. Constant Decl., ¶13</p> <p>The development and passage of Measure B was one of my key achievements as a City Councilmember. I believe Measure B provides the reforms necessary to ensure the City of San Jose can meet its future pension obligations, including obligations to me personally as a former San Jose police officer, by providing for the long term stability of the retirement fund. For example, Section 1511-A of Measure B discontinues the Supplemental Retiree Benefit Reserve ("SRBR"), and returns its assets "to the appropriate retirement trust fund." It further provides that "[a]ny supplemental The SRBR was designed to allow the retirees to benefit when the money in the fund of the retirement system grows because of superior investment</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of Mr. Constant’s backing of Measure B.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of Mr. Constant are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	<p><input type="checkbox"/> Overruled</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p> <hr/>

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<u>Proposed Intervenors' Proffered Evidence</u>	<u>The SJPOA's Objection(s)</u>	<u>Ruling</u>
<p>performance. However, as recognized by all parties in San Jose Police Officers' Association v. City of San Jose, excess earnings are not "free". "Skimming" excess assets when earnings are high and not returning funds in years in which the system has losses, does in fact have a cost to the system. (Statement of Decision in San Jose Police Officers' Association v. City of San Jose (and Consolidated Actions and Related Cross-Complaint), Santa Clara Superior Court No. 1-12-CV 225296, pp. 24-25 ("Consolidated Cases").) I believe Section 1511-A increases the long term stability of the retirement fund. Nullification of Measure B would result in reinstatement of the SRBR, in my view, to the long term detriment of the retirement fund. I am informed and believe that the City proposes in its settlement discussions with Relator that the SRBR will be replaced with a Guaranteed Purchasing Power provision ("GPP") for all current and future Tier 1 retirees. The GPP is designed to maintain the monthly allowance for Tier 1 retirees at 75% of purchasing power effective the date of the retiree's retirement. The GPP has the potential to eliminate the savings realized from the elimination of the SRBR as it has the potential to drain the retirement fund as inflation rises. The City's own</p>		

<u>Proposed Intervenors' Proffered Evidence</u>	<u>The SJPOA's Objection(s)</u>	<u>Ruling</u>
<p>experts concluded the cost of the GPP would be significant if inflation returns at high levels. Unlike SRBR, under the proposed Settlement Framework, the City apparently could not choose to not pay the GPP as inflation rises and the retirement fund suffers the negative impacts. (City of San Jose Memorandum to the Honorable Mayor and City Council from Jennifer Schembri and Jennifer A. Maguire, dated July 24, 2015, p. 39, Ex. 2 to RJN.)</p>		
<p>5. Constant Decl., ¶14 San Jose's regularly scheduled general municipal election occurred in November 2014. I initiated a campaign to run for the office of Mayor in August of 2013, but because of a death in my family, could not continue the campaign and closed my committee in March 2014. Nevertheless, I followed the 2014 Mayoral and City Council campaigns closely. Arguably, the dominant election issue in the mayoral race was pension reform. San Jose's mayoral candidates were sharply divided on the issue. Candidate Dave Cortese, backed by the City's unions, campaigned against Measure B. Conversely, then-city council member and current Mayor, Sam Liccardo, campaigned in favor of the measure, thereby earning him the support of much of the local</p>	<p>Relevance (Evidence Code § 350) See objection above concerning the irrelevance of Mr. Constant's backing of Measure B. The support or opposition of other individuals regarding Measure B are equally irrelevant to the issue in this lawsuit.</p>	<p><input type="checkbox"/> Overruled <input type="checkbox"/> Sustained Grounds: _____</p>

<p>1 <u>Proposed Intervenors’</u> 2 <u>Proffered Evidence</u></p>	<p> <u>The SJPOA’s Objection(s)</u></p>	<p> <u>Ruling</u></p>
<p>3 business community. Sam 4 Liccardo was elected Mayor. I 5 watched Mayor Liccardo's March 6 5, 2016 State of the City address 7 online here: 8 <http://sanjose.granicus.comNew 9 Publisher.php?view_id=51> in 10 which Mayor Liccardo states at 11 22:03: ". . . and in November I 12 will ask you to approve a ballot 13 measure to secure the three billion 14 dollars of savings in future 15 pension and retiree medical costs 16 that we were able to reach through 17 negotiations with our employees. 18 Together we can conclude the 19 most extensive pension reform 20 negotiated in any city in this 21 state."</p>		
<p>22 6. Constant Decl., ¶15 23 In 2015, after my service as a City 24 Councilmember ended, I became a 25 Senior Fellow at the Reason 26 Foundation and Director of the 27 Pension Integrity Project. The 28 Reason Foundation produces public policy research that advances a free society. The Pension Integrity Project provides education, policy options, and actuarial analysis for stakeholders to design pension reform proposals. My credentials and effectiveness as a Senior Fellow and Director at the Reason Foundation are based in part on my key role in leading the reforms adopted by Measure B. I have traveled throughout the country in my capacity as a City</p>	<p>Relevance (Evidence Code § 350) Mr. Constant’s career path following his term as a member of the San Jose City Council is irrelevant to the issue in this lawsuit—i.e., whether Measure B was ever legally placed on the ballot. Equally irrelevant to whether Measure B was legally placed on the ballot is Mr. Constant’s belief that his reputation and credentials may be impacted by the fate of Measure B. Indeed, the reputational interest asserted by Constant is “too indirect and insubstantial to be ‘legally protectable.’” (<i>Floyd v. City of New York</i> (2nd Cir. 2014) 770 F.3d 1051, 1060-61.)</p>	<p><input type="checkbox"/> Overruled <input type="checkbox"/> Sustained Grounds:</p> <hr/>

<u>Proposed Intervenor's Proffered Evidence</u>	<u>The SJPOA's Objection(s)</u>	<u>Ruling</u>
<p>1 Councilmember and now as a 2 Senior Fellow and Director at the 3 Reason Foundation discussing my 4 experience in San Jose regarding 5 Measure B and providing 6 expertise, guidance, education, 7 and recommendations to state and 8 local jurisdictions regarding 9 pension reform. Attached hereto 10 as Exhibit B is a true and correct 11 copy of the list of my speaking 12 engagements related to Measure B 13 and/or pension reform issues from 14 2011 to present.</p>		
<p>12 7. Constant Decl., ¶16 13 I have been directly involved in 14 designing, drafting, and 15 negotiating a pension reform plan 16 for the state of Arizona, which 17 was passed with strong bipartisan 18 support in both the Arizona Senate 19 and House of Representatives and 20 was signed by Arizona Governor 21 Doug Ducey on February 16, 22 2016. The plan will now go before 23 Arizona voters on May 17, 2016. 24 Attached hereto as Exhibit C is a 25 true and correct copy of a 26 newspaper article from the 27 Arizona Republic published on 28 February 17, 2016 discussing the passage of the pension reform proposal and identifying me as a "key participant in the negotiations." The article is also available online at: <http://www.azcentral.com/story/news/arizona/politics/2016/02/16/arizona-pension-reform-signedgov-doug-ducey-but-voters-have-</p>	<p>Relevance (Evidence Code § 350) Manifestly the origin and fate of an Arizona ballot measure is irrelevant to this lawsuit regarding Measure B.</p>	<p><input type="checkbox"/> Overruled <input type="checkbox"/> Sustained Grounds: _____</p>

<u>Proposed Intervenors’ Proffered Evidence</u>	<u>The SJPOA’s Objection(s)</u>	<u>Ruling</u>
say/80471656/#>.		
<p>8. Constant Decl., ¶17</p> <p>My credentials based on my involvement with Measure B and its viability after being mostly sustained in the Consolidated Cases were important to my credibility and effective work in Arizona. In fact, Measure B was so important that I am informed and believe the current president of the SJPOA communicated with key Arizona stakeholders in an attempt to undermine my negotiation efforts claiming Measure B had been a debacle rather than a successful reform campaign.</p>	<p>Relevance (Evidence Code § 350)</p> <p>Manifestly the origin and fate of an Arizona ballot measure is irrelevant to this lawsuit regarding Measure B. Mr. Constant’s career path following his term as a member of the San Jose City Council is also irrelevant to the issue in this lawsuit—i.e., whether Measure B was ever legally placed on the ballot. Equally irrelevant to whether Measure B was legally placed on the ballot is Mr. Constant’s belief that his reputation and credentials may be impacted by the fate of Measure B. The reputational interest asserted by Constant is “too indirect and insubstantial to be ‘legally protectable.’” (<i>Floyd v. City of New York</i> (2nd Cir. 2014) 770 F.3d 1051, 1060-61.)</p> <p>Lack of Foundation (Evidence Code § 400 et seq.) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>Mr. Constant’s speculation regarding the actions of the SJPOA president are inadmissible</p>	<p><input type="checkbox"/> Overruled</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p> <hr/>
<p>9. Constant Decl., ¶18</p> <p>I believe there is a substantial probability a court-imposed nullification of Measure B would harm my reputation and integrity as a successful pension reform professional advocate.</p>	<p>Relevance (Evidence Code § 350)</p> <p>Mr. Constant’s career path following his term as a member of the San Jose City Council is irrelevant to the issue in this lawsuit—i.e., whether Measure B was ever legally placed on the ballot. Equally irrelevant to</p>	<p><input type="checkbox"/> Overruled</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p> <hr/>

<u>Proposed Intervenors’ Proffered Evidence</u>	<u>The SJPOA’s Objection(s)</u>	<u>Ruling</u>
	whether Measure B was legally placed on the ballot is Mr. Constant’s belief that his reputation and credentials may be impacted by the fate of Measure B. The reputational interest asserted by Constant is “too indirect and insubstantial to be ‘legally protectable.’” (<i>Floyd v. City of New York</i> (2nd Cir. 2014) 770 F.3d 1051, 1060-61.)	
<p>10. Constant Decl., ¶19</p> <p>While I was aware the City was discussing a settlement with the SJPOA regarding the implementation of Measure B, it was uncertain whether that would occur because other unions and retirees affected by Measure B needed to agree to a settlement as well. I am informed and believe that the City Council approved the terms of a settlement with the Federated unions at its December 15, 2015 meeting and authorized the City Manager to negotiate and execute a Retirement Memorandum of Agreement between the City and Federated Bargaining Units. (City of San Jose, City Council Agenda, December 15, 2015 Synopsis, p. 13, Ex. 8 to RJN.) In the Federated Alternative Pension Reform Settlement Framework summary, the City disclosed that once a global settlement is reached, the quo warranto process would begin in court, which the City characterized as "a legal</p>	<p>Improper Opinion (Evidence Code § 800 et seq.)</p> <p>The opinion or beliefs of Constant as to the status of this litigation are improper and inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 et seq.)</p> <p>Statements concerning the legal significance of various events on this litigation, as well as the status of this litigation, are improper legal conclusions.</p>	<p><input type="checkbox"/> Overruled</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p> <hr/>

<u>Proposed Intervenor's Proffered Evidence</u>	<u>The SJPOA's Objection(s)</u>	<u>Ruling</u>
<p>proceeding used to overturn a ballot measure post-election". (Federated Alternative Pension Reform Settlement Framework — Executive Summary, dated February 24, 2016 (City of San Jose), p. 1, Ex. 9 to RJN.) The summary indicates the quo warranto process has not yet begun pending ongoing negotiations, and further states, "The parties will agree upon and submit a factual stipulation and stipulated judgment in the quo warranto case finding that Measure B is invalid." (Ibid.) To my knowledge, and based on the public representations of the City, the quo warranto process has not yet begun, and the proposed stipulation and proposed judgment have not yet been finalized or made public, as was represented to this Court at the Case Management Conference in this matter on February 18, 2016. I am also informed and believe the City and SJPOA are planning for the intervention of the Local 230 union in this action. (Addendum #2 to July 15, 2015 Alternative Pension Reform Settlement Framework Between the City of San Jose and the San Jose Police Officers' Association (POA), The International Association of Firefighters, Local 230 (IAFF); Proposed Quo Warranto Implementation Plan, August 14, 2015 (Attachment B to the August 17, 2015 Supplemental</p>		

<p>1 <u>Proposed Intervenors’</u> 2 <u>Proffered Evidence</u></p>	<p> <u>The SJPOA’s Objection(s)</u></p>	<p> <u>Ruling</u></p>
<p>3 Memorandum), p. 1, Ex. 4 to 4 RJN). When I became aware that 5 the quo warranto process had not 6 yet begun, but certain 7 contingencies have been 8 eliminated, I secured and met with 9 legal counsel in January and 10 February 2016 to likewise seek 11 intervention in support of the City 12 of San Jose's defense of Measure 13 B.</p>		
<p>10 <u>Declaration of Mark Hinkle</u></p>		
<p>11 11. Hinkle Decl., ¶2 12 SVTA is a long standing non- 13 profit organization with 14 numerous functions, such as 15 protecting the rights and interests 16 of taxpayers against government 17 over-spending, including for 18 pension and retirement benefits. 19 SVTA’s political action 20 committee was primarily formed 21 to support Measure B, City of 22 San Jose’s “The Sustainable 23 Retirement Benefits and 24 Compensation Act,” at the June 25 5, 2012 election. SVTA’s 26 political committee was one of 27 only two such committees 28 primarily formed to support Measure B. To my knowledge, SVTA has never before formed a political committee primarily to support a particular ballot measure but did so in the case of Measure B because of the centrality of that measure to the core purpose of the organization.</p>	<p>Relevance (Evidence Code § 350) SVTA’s backing of Measure B arose after Measure B was placed on the ballot. The present lawsuit seeks a determination of whether Measure B was permissibly placed on the ballot in the first place or whether doing so violated the Meyers-Milias-Brown Act (“MMBA”), Government Code section 3500 <i>et seq.</i> If it was not validly placed on the ballot, and because SVTA it is not covered by the MMBA, SVTA can have no legally-cognizable interest in the outcome of this matter. As such, its backing of Measure B after it was placed on the ballot is irrelevant.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702) No foundation or stated basis for personal knowledge is provided for the statement that “SVTA has never before formed a political committee</p>	<p><input type="checkbox"/> Overruled <input type="checkbox"/> Sustained Grounds: _____</p>

<u>Proposed Intervenors’ Proffered Evidence</u>	<u>The SJPOA’s Objection(s)</u>	<u>Ruling</u>
	primarily to support a particular ballot measure.”	
<p>12. Hinkle Decl., ¶3</p> <p>SVTA’s membership includes residents and voters in the City of San Jose who supported and voted for Measure B, and who have a direct interest in this matter as described in more detail below.</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of SVTA’s post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement this statement.</p>	<input type="checkbox"/> Overruled <input type="checkbox"/> Sustained Grounds: _____ _____
<p>13. Hinkle Decl., ¶4</p> <p>SVTA officially endorsed a “yes” vote on Measure B. SVTA also raised \$45,000 in support of Measure B.</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of SVTA’s post-ballot-placement backing of Measure B.</p>	<input type="checkbox"/> Overruled <input type="checkbox"/> Sustained Grounds: _____ _____
<p>14. Hinkle Decl., ¶5</p> <p>In addition to raising campaign money in support of Measure B, SVTA actively campaigned for Measure B. Before the election in June 2012, SVTA held monthly “Taxpayer Toolkit” meetings where SVTA discussed the benefits of Measure B to the City’s economy with taxpayers and voters of San Jose. SVTA also sent email blasts to its members and donors within SVTA database in support of Measure B.</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of SVTA’s post-ballot-placement backing of Measure B.</p>	<input type="checkbox"/> Overruled <input type="checkbox"/> Sustained Grounds: _____ _____
<p>15. Hinkle Decl., ¶6</p> <p>SVTA’s then president, John Roeder, had a constituent meeting with Mayor Chuck Reed and one</p>	<p>Relevance (Evidence Code § 350)</p>	<input type="checkbox"/> Overruled <input type="checkbox"/> Sustained Grounds: _____ _____

<u>Proposed Intervenors’ Proffered Evidence</u>	<u>The SJPOA’s Objection(s)</u>	<u>Ruling</u>
<p>1 2 3 separately with City Council 4 Member Peter Constant to discuss 5 the need for and benefits of 6 Measure B.</p>	<p>See objection above concerning the irrelevance of SVTA’s post-ballot- placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement this statement.</p>	<hr/>
<p>10 16. Hinkle Decl., ¶7 11 Mr. Roeder also signed the ballot 12 argument in favor of Measure B, 13 on behalf of the SVTA.</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of SVTA’s post-ballot- placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement this statement.</p>	<p><input type="checkbox"/> Overruled <input type="checkbox"/> Sustained Grounds:</p> <hr/>
<p>18 17. Hinkle Decl., ¶8 19 SVTA members believe that the 20 City’s increased retirement 21 obligations have been causing 22 service cuts throughout the City of 23 San Jose and creating 24 unsustainable and impossible-to- 25 fund liabilities for the City’s 26 taxpayers.</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of SVTA’s post-ballot- placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement this statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p>	<p><input type="checkbox"/> Overruled <input type="checkbox"/> Sustained Grounds:</p> <hr/>

<u>Proposed Intervenors’ Proffered Evidence</u>	<u>The SJPOA’s Objection(s)</u>	<u>Ruling</u>
<p>18. Hinkle Decl., ¶9</p> <p>Measure B was designed to protect the City’s employees, residents and voters who are among SVTA members. Measure B also empowered SVTA members who are the City of San Jose voters to approve future retirement benefit increases. SVTA members believe that Measure B will ensure that the City can provide reasonable and sustainable post-employment benefits while delivering essential services to the City’s residents. Invalidation of Measure B will eliminate San Jose voters’ power to approve future retirement benefit increases.</p>	<p>The opinion or beliefs of SVTA and its members are inadmissible.</p> <p>Relevance (Evidence Code § 350) See objection above concerning the irrelevance of SVTA’s post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702) No foundation or stated basis for personal knowledge is provided for the statement this statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>) The opinion or beliefs of SVTA and its members are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>) Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	<p><input type="checkbox"/> Overruled <input type="checkbox"/> Sustained Grounds: _____</p>
<p>19. Hinkle Decl., ¶10</p> <p>SVTA’s members voted for and supported Measure B because it will require any future retirement benefit increases to be approved by the voters.</p>	<p>Relevance (Evidence Code § 350) See objection above concerning the irrelevance of SVTA’s post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702) No foundation or stated basis for personal knowledge is provided for the statement this statement.</p>	<p><input type="checkbox"/> Overruled <input type="checkbox"/> Sustained Grounds: _____</p>

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<u>Proposed Intervenors’ Proffered Evidence</u>	<u>The SJPOA’s Objection(s)</u>	<u>Ruling</u>
	<p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of SVTA and its members are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	
<u>Declaration of Steven Haug</u>		
<p>20. Haug Decl., ¶5</p> <p>I serve as the treasurer for the Silicon Valley Taxpayers Association (“SVTA”). I have experience in finance and accounting from working on financial software projects and performing accounting for my personal business. This experience assisted me in understanding financial benefits of Measure B, "The Sustainable Retirement Benefits and Compensation Act", to the City of San Jose.</p>	<p>Relevance (Evidence Code § 350)</p> <p>Mr. Haug’s backing of Measure B arose after Measure B was placed on the ballot. The present lawsuit seeks a determination of whether Measure B was permissibly placed on the ballot in the first place or whether doing so violated the Meyers-Milias-Brown Act (“MMBA”), Government Code section 3500 <i>et seq.</i> If it was not validly placed on the ballot, and because Mr. Haug it is not covered by the MMBA, he can have no legally-cognizable interest in the outcome of this matter. As such, his backing of Measure B after it was placed on the ballot is irrelevant.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of Mr. Haug are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p>	<p><input type="checkbox"/> Overruled</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p> <hr/>

<u>Proposed Intervenors’ Proffered Evidence</u>	<u>The SJPOA’s Objection(s)</u>	<u>Ruling</u>
	Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.	
<p>21. Haug Decl., ¶6</p> <p>I supported Measure B. As a registered voter of San Jose, I voted for the passage of Measure B on June 5, 2012. As a registered voter of San Jose, I benefited in a direct way from passage of Measure B. Section 1504-A of Measure B empowered me and all San Jose voters to approve future increases in retiree payments and health benefits”</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of Mr. Haug’s post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement this statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of Mr. Haug are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	<p><input type="checkbox"/> Overruled</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p> <hr/>
<p>22. Haug Decl., ¶7</p> <p>Measure B was approved by a majority of San Jose voters. I believe without Measure B, rising pension costs will be passed down to taxpayers, including me, or City services to its residents will continue to be curtailed to support increasing pension costs. Also, if Measure B is invalidated, I will be</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of Mr. Haug’s post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p>	<p><input type="checkbox"/> Overruled</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p> <hr/>

<u>Proposed Intervenors’ Proffered Evidence</u>	<u>The SJPOA’s Objection(s)</u>	<u>Ruling</u>
<p>deprived of the express authority granted to me and other San Jose voters to approve increases in pension and retiree healthcare benefits.</p>	<p>No foundation or stated basis for personal knowledge is provided for the statement this statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of Mr. Haug are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	
<p>23. Haug Decl., ¶8</p> <p>I also believe that without Measure B the residents of San Jose, such as myself, will face higher city costs and reduced services as city funds are shifted from important city services to pay for increased pension and related employee and retiree costs. Measure B will lessen the pressure on the City's finances.</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of Mr. Haug’s post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement this statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of Mr. Haug are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	<p><input type="checkbox"/> Overruled</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p> <hr/>

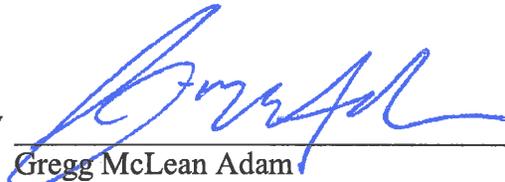
<u>Proposed Intervenors’ Proffered Evidence</u>	<u>The SJPOA’s Objection(s)</u>	<u>Ruling</u>
<p>24. Haug Decl., ¶9</p> <p>I believe the settlement framework modifying Measure B, as well as any judgment nullifying Measure B, would personally harm me as a voter of San Jose by nullifying my constitutional right to vote and join with other like-minded voters to enact Measure B pension reforms. As a resident of San Jose, I have a direct and personal interest in ensuring the City directs its limited resources to essential services and maintains its fiscal viability free from increased pension obligations.</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of Mr. Haug’s post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement this statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of Mr. Haug are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	<p><input type="checkbox"/> Overruled</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p> <hr/>
<p>25. Haug Decl., ¶10</p> <p>I will also be personally impacted if Measure B is nullified or modified, because the prospect of increased local taxes to support rising pension costs and essential municipal services, and ensure the city's solvency would put a strain on my fixed income from the limited retirement benefits I receive and could make it impossible for me to be able to afford my home. I voted for Measure B so that San Jose residents and voters like myself</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of Mr. Haug’s post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement this statement.</p>	<p><input type="checkbox"/> Overruled</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p> <hr/>

<u>Proposed Intervenors' Proffered Evidence</u>	<u>The SJPOA's Objection(s)</u>	<u>Ruling</u>
are authorized to approve pension increases.	<p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of Mr. Haug are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	

Dated: March 23, 2015

MESSING ADAM & JASMINE LLP

By



Gregg McLean Adam
 Attorney for Relator-Plaintiff
 San Jose Police Officers' Association

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