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[Exempt from filing fees
Gov. Code § 6103]

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6 Attorneys for Defendant CITY OF
HUNTINGTON BEACH

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **IN AND FOR THE COUNTY OF ORANGE**

11 CITIZEN'S ASSOCIATION OF SUNSET
BEACH,

Petitioner/Plaintiff,

13 vs.

15 ORANGE COUNTY LOCAL AGENCY
FORMATION COMMISSION, a governmental
16 entity; the CITY OF HUNTINGTON BEACH, a
municipal corporation; and DOES 1 through 50,
17 inclusive,

18 Respondents/Defendants.

CASE NO.: 30-2010-00431832

(Assigned for all purposes to the Hon. Frederick
Horn)

**[PROPOSED] ORDER ON RESPONDENT
CITY OF HUNTINGTON BEACH'S
OBJECTIONS TO PLAINTIFF'S
EVIDENCE**

Date: January 19, 2010
Time: 1:30 p.m.
Dept.: C-31

Colantuono & Levin, PC
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Los Angeles, CA 90071

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OBJECTIONS TO EVIDENCE SUBMITTED BY PLAINTIFFS

Objections to Markovitz Declaration

Material Objected to:	Grounds for Objection:	Ruling
<p>Plaintiff Jack Markovitz' Decl. ¶ 2, ln. 23-26:</p> <p>"I have personally met with many residents of Sunset Beach who are greatly concerned and upset about Huntington Beach's efforts to annex Sunset Beach. Many of the residents were more interested in trying to incorporate Sunset Beach as a city than becoming part of Huntington Beach."</p>	<p>Hearsay, (Evid. Code § 1200). Irrelevant (Evid. Code §§ 210, 350-51.).</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
<p>Plaintiff Jack Markovitz' Decl. ¶ 3 ln. 1-3:</p> <p>"... largely in response to the failed efforts of the Sunset Beach Community Association (SBCA") to move forward with trying to incorporate Sunset Beach as city."</p>	<p>Irrelevant (Evid. Code §§ 210, 350-51.)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
<p>Plaintiff Jack Markovitz' Decl. ¶ 4, ln. 4-7:</p> <p>"Through the SBCA, residents of Sunset Beach obtained an independent financial study for incorporating Sunset Beach as a city, submitted an application to the OC LAFCO to incorporate Sunset Beach, and raised \$100,000.00 to submit to the OC LAFCO as was required to complete the incorporation application"</p>	<p>Lack of foundation. Lack of personal knowledge (Evid. Code § 702(a). Irrelevant (Evid. Code §§ 210, 350-51). Hearsay, (Evid. Code § 1200)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>

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Material Objected to:	Grounds for Objection:	Ruling
<p>Plaintiff Jack Markovitz’ Decl. ¶ 4, ln.7-9:</p> <p>“The incorporation effort stalled a few months later when the SBCA treasurer inexplicably refused to send the check for \$100,000.00 to the OC LAFCO to complete the incorporation application process”</p>	<p>Lack of foundation. Lack of personal knowledge (Evid. Code § 702(a).) Irrelevant (Evid. Code §§ 210, 350-51.) Hearsay, (Evid. Code § 1200).</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
<p>Plaintiff Jack Markovitz’ Decl. ¶ 5, ln. 10-11:</p> <p>“Soon thereafter, the SBCA Board voted to return the \$100,000.00 to the OC LAFCO to the individuals who contributed the money.”</p>	<p>Hearsay, (Evid. Code § 1200). Irrelevant (Evid. Code §§ 210, 350-51.) Lack of foundation.</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
<p>Plaintiff Jack Markovitz’ Decl. ¶ 7, ln. 14-15:</p> <p>“Many Sunset Beach residents like me are also concerned about the prospect of having to pay increased taxes after the annexation by Huntington Beach”</p>	<p>Hearsay, (Evid. Code § 1200). Irrelevant (Evid. Code §§ 210, 350-51.)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
<p>Plaintiff Jack Markovitz’ Decl. ¶ 7, ln. 16-17:</p> <p>“... (which is related to Huntington Beach pension obligations dating back many years).</p>	<p>Lack of foundation. Lack of personal knowledge (Evid. Code § 702(a).) Irrelevant (Evid. Code §§ 210, 350-51.) Improper legal opinion.</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>

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Material Objected to:	Grounds for Objection:	Ruling
<p>Plaintiff Jack Markovitz’ Decl. ¶ 8, In. 18-20:</p> <p>“For many months, until November of 2010, the Huntington Beach City Council repeatedly said publicly that post-annexation the City would not impose its utility tax and property tax override on Sunset Beach residents”</p>	<p>Hearsay, (Evid. Code § 1200).</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
<p>Plaintiff Jack Markovitz’ Decl. ¶ 12, In. 7-8:</p> <p>“Many Sunset Beach residents, including myself, considered this to be a classic bait and switch tactic.”</p>	<p>Hearsay, (Evid. Code § 1200). Irrelevant (Evid. Code §§ 210, 350-51.).</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
<p>Plaintiff Jack Markovitz’ Decl. ¶ 14, In. 17-19:</p> <p>“I am appalled by the fact that the OC LAFCO and the City of Huntington Beach are moving forward with this annexation with total disregard for the constitutional rights of the residents of Sunset Beach under Proposition 218.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350-51.). Improper legal opinion.</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>

DATED: _____

By: _____

Judge of the Superior Court of Orange County

Colantuono & Levin, PC
300 S. Grand Avenue, Suite 2700
Los Angeles, CA 90071

1 **PROOF OF SERVICE**

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3 I, Martha C. Rodriguez, declare:

4 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a
5 party to the within action. My business address is 300 S. Grand Avenue, Suite 2700, Los Angeles,
6 California 90071. On January 5, 2011, I served the document(s) described as **[PROPOSED]**
ORDER ON RESPONDENT CITY OF HUNTINGTON BEACH'S OBJECTIONS TO
PLAINTIFF'S EVIDENCE on the interested parties in this action as follows:

7 By placing a true copy thereof enclosed in a sealed envelope addressed as follows:

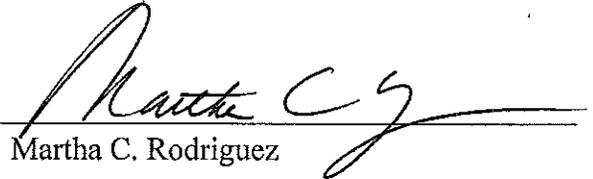
8 Dale A. Stern, Esq.
9 John C. McCarron, Esq.
10 STERN, VAN VLECK & MCCARRON, LLP
11 925 L Street, Suite 850
12 Sacramento, CA 95814
13 Counsel for Petitioner

14 Scott C. Smith
15 BEST BEST & KRIEGER
16 5 Park Plaza, Suite 1500
17 Irvine, CA 92614
18 Counsel for Orange County LAFCO

19 **BY OVERNIGHT DELIVERY:** I deposited such envelope in a facility regularly
20 maintained by FEDERAL EXPRESS with delivery fees fully provided for or delivered the envelope
21 to a courier or driver of FEDERAL EXPRESS authorized to receive documents at 300 S. Grand
22 Avenue, Suite 2700, Los Angeles, California 90071 with delivery fees fully provided for.

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

25 Executed on January 5, 2011, at Los Angeles, California.

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Martha C. Rodriguez