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17 **UNITED STATES DISTRICT COURT**

18 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

19
20 LA ALLIANCE FOR HUMAN
21 RIGHTS, et al.,
22 Plaintiffs,
23 v.
24 CITY OF LOS ANGELES, et al.,
25 Defendants.
26

CASE NO. 2:20-cv-02291 DOC (KES)
**COUNTY OF LOS ANGELES’
RESPONSE TO LA ALLIANCE
FOR HUMAN RIGHTS’ WITNESS
LIST FOR OCTOBER 25, 2024
HEARING**

Assigned to the Hon. David O. Carter
and Magistrate Judge Karen E. Scott

1 On October 22, 2024, Plaintiff LA Alliance for Human Rights filed a witness
2 list for the October 25, 2024 evidentiary hearing that includes the Chair of the
3 County of Los Angeles (“County”)’s Board of Supervisors, Lindsey Horvath, and
4 the County Chief Executive Officer, Fesia Davenport. (Dkt. 800.) Neither are
5 available to attend the evidentiary hearing on October 25th, and, in any event, are
6 not appropriate witnesses.

7 During a status conference on October 16, 2024, the Court scheduled an
8 “evidentiary hearing” in the afternoon of October 25, 2024 regarding the City’s
9 proposed “Bed Plan” with the knowledge that Chair Horvath was not available then.
10 (10/16/24 Hrg. Tr. at 67:19-23; *see also* Dkt. 795.) Both the Chair and the current
11 Chair Pro Tem, Kathryn Barger, have pre-existing commitments to the Executive
12 Committee for Regional Homeless Alignment, an executive leadership table that
13 includes Mayor Karen Bass, City Councilmember Nithya Raman, and other key
14 local and state officials. The Executive Committee was one of the evidence-based
15 recommendations of the Blue Ribbon Commission on Homelessness in order to
16 create a forum for decision-makers across the region to convene as a single,
17 collaborative body and discuss policy, data, resources, strategies, and solutions to
18 address homelessness on a regional scale. This meeting of the Executive Meeting
19 has been scheduled for many months now.

20 This Court has also recognized that the apex doctrine precludes efforts like
21 Plaintiff’s to elicit testimony from high-level officials. *E.g., Pinn, Inc. v. Apple Inc.*,
22 2021 WL 4775969, at *3 (C.D. Cal. Sept. 10, 2021) (“the ‘apex doctrine’ is usually
23 applied to depositions but can also be applied to protect a senior executive from
24 being compelled to appear at trial.”) (citing *Reddy v. Nuance Commc’ns, Inc.*, 2015
25 WL 4648008, at *4 & n.38 (N.D. Cal. Aug. 5, 2015)). The apex doctrine reflects a
26 judicial recognition that obtaining information from high-ranking officials is
27 inherently burdensome because they “have greater duties and time constraints than
28 other witnesses,” *Lull v. Cty. of Sacramento*, 2020 WL 3412708, at *1 (E.D. Cal.

1 June 22, 2020), and permitting such intrusion “creates a tremendous potential for
2 abuse or harassment.” *Est. of Levingston v. Cty. of Kern*, 320 F.R.D. 520, 525 (E.D.
3 Cal. 2017); *accord Lull*, 2020 WL 3412708, at *1. There is no question the Chair
4 and Chief Executive Officer are “apex” witnesses. *Kern*, 320 F.R.D. at 525–26.
5 Nor do they have any information relevant to the City’s proposed bed plan, which
6 concerns the City’s “compl[iance] with the terms of its Settlement Agreement with
7 LA Alliance.” (Dkt. 775.) The County’s compliance with its settlement obligations
8 is not at issue. Plaintiff’s attempt to *only* obtain testimony from these apex
9 witnesses gives rise to an inference that it is for the improper “purpose to harass or
10 annoy.” *Levingston*, 320 F.R.D. at 527.

11 The requested testimony is also protected by the deliberative process
12 privilege, which protects “not only the mental processes by which a given decision
13 was reached, but the substance of conversations, discussions, debates, deliberations
14 and like materials reflecting advice, opinions, and recommendations by which
15 government policy is processed and formulated.” *Citizens for Open Gov’t v. City of*
16 *Lodi*, 205 Cal. App. 4th 296, 305 (2012); *accord See San Joaquin Cty. Local Agency*
17 *Formation Comm’n v. Superior Court*, 162 Cal. App. 4th 159, 172 (2008); *NLRB v.*
18 *Sears, Roebuck & Co.*, 421 U.S. 132, 150 (1975); *FTC v. Warner Commc’ns Inc.*,
19 742 F.2d 1156, 1161 (9th Cir. 1984). Plaintiff’s witness list concedes that Plaintiff
20 is seeking testimony about “County Board deliberations and decisions” and “budget
21 and spending allocations”—the very heart of information protected by deliberative
22 process privilege.

23 DATED: October 24, 2024

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25 By: /s / Mira Hashmall

MIRA HASHMALL

Attorneys for Defendant

COUNTY OF LOS ANGELES