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8 Attorney for Respondent and Defendant San Diego Police Officers Association Incorporated

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

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FOR THE COUNTY OF SAN DIEGO

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CITY OF SAN DIEGO,

CASE NO: 37-2009-00086499-CU-PT-CTL

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Petitioner and Plaintiff,

DECLARATION OF MICHAEL A.
CONGER IN SUPPORT OF SAN
DIEGO POLICE OFFICERS
ASSOCIATION INCORPORATED'S
CROSS-PETITION FOR WRIT
OF MANDATE

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v.

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SAN DIEGO POLICE OFFICERS
ASSOCIATION INCORPORATED,
and DOES 1 to 100, inclusive,

Date: June 25, 2009
Time: 9:00 a.m.
Judge: Hon. David B. Oberholtzer
Dept: C-67
Action Filed: April 1, 2009

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Respondent and Defendant.

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I, Michael A. Conger, declare as follows:

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1. I am an attorney at law duly licensed to practice before all courts of the State of

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California. I have personal knowledge of the matters stated herein and if called to do so could

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testify competently thereto.

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2. The documents attached to the accompanying Request for Judicial Notice in

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Support of San Diego Police Officers Association Incorporated's Cross-Petition for Writ of

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Mandate are true and correct copies of what they purport to be. Specifically:

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Exhibit 1: City of San Diego City Charter, article IX, sections 141 through 149;

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Exhibit 2: San Diego Municipal Code, sections 24.0100 through 24.0107;

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Exhibit 3: San Diego Municipal Code, sections 24.0401 through 24.0405.1;

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Exhibit 4: San Diego Municipal Code, sections 24.1401 through 24.1409;

- 1 Exhibit 5: San Diego City Council Meeting Results, April 14, 2009;
2 Exhibit 6: City of San Diego Ordinance Number O-18385;
3 Exhibit 7: City of San Diego Closed Session Report dated March 21, 2000;
4 Exhibit 8: City of San Diego Ordinance Number O-19071;
5 Exhibit 9: City of San Diego Resolution Number R-289445 dated November 18,
6 1997;
7 Exhibit 10: City of San Diego Resolution Number R-290447 dated July 20, 1998;
8 Exhibit 11: City of San Diego Resolution Number R-293600 dated July 31, 2000;
9 Exhibit 12: City of San Diego Resolution Number R-297972 dated May 20, 2003;
10 Exhibit 13: City of San Diego Resolution Number R-303225 dated December 18,
11 2007;
12 Exhibit 14: City of San Diego Resolution Number R-303562 dated April 21, 2008;
13 and
14 Exhibit 15: City of San Diego Resolution Number R-304804 dated April 21, 2009

15 are accurate copies of authentic documents which I personally gathered for use in connection
16 with the SDPOA's cross-petition for writ of mandate.

17 3. The documents attached to the accompanying Notice of Lodgment in Support of
18 San Diego Police Officers Association Incorporated's Cross-Petition for Writ of Mandate are
19 true and correct copies of what they purport to be. Specifically:

- 20 Exhibit 1: Memorandum dated May 11, 2009, from San Diego City Employees'
21 Retirement System's General Counsel, Elaine W. Reagan, to Joan
22 Dawson, Deputy City Attorney;
23 Exhibit 2: Voice of San Diego news article entitled "Bombshell Dropped on Labor
24 Plan, Putting Savings in Peril," dated May 24, 2009;
25 Exhibit 3: Voice of San Diego news article entitled "Vote Needed for DROP
26 Changes," dated May 15, 2009;
27 Exhibit 4: City of San Diego's Last Best and Final Offer to Define the Status Quo for
28 FY2010 dated April 8, 2009;

- 1 Exhibit 5: City of San Diego's Proposal for POA Cost breakdown;
- 2 Exhibit 6: San Diego City Employees' Retirement System's News Release dated
- 3 February 20, 2009;
- 4 Exhibit 7: San Diego City Employees' Retirement System's Overview of DROP
- 5 Interest Crediting Rate Changes dated April, 2009;
- 6 Exhibit 8: Excerpts from the Memorandum of Understanding, dated July 1, 1998,
- 7 between the City of San Diego and the SDPOA;
- 8 Exhibit 9: Excerpts from Memorandum of Understanding, dated July 1, 2000,
- 9 between the City of San Diego and the SDPOA;
- 10 Exhibit 10: Excerpts from Memorandum of Understanding, dated July 1, 2003,
- 11 between the City of San Diego and the SDPOA;
- 12 Exhibit 11: Excerpts from Memorandum of Understanding, dated July 1, 2007,
- 13 between the City of San Diego and the SDPOA;
- 14 Exhibit 12: Confidential Memorandum dated September 23, 2003, from Curiale,
- 15 Dellaverson, Hirschfield, Kraemer & Sloan, LLP, to Michael Rivo, Deputy
- 16 City Attorney, City of San Diego;
- 17 Exhibit 13: City of San Diego Police Department Career Information, revised
- 18 November, 2001;
- 19 Exhibit 14: DROP Election to Participate in DROP and Agreement to Terminate
- 20 Employment for John Austin dated March 8, 2005;
- 21 Exhibit 15: DROP Election to Participate in DROP and Agreement to Terminate
- 22 Employment for Carlos A. Garcia dated October 27, 2005;
- 23 Exhibit 16: DROP Election to Participate in DROP and Agreement to Terminate
- 24 Employment for Alan Hayward dated September 13, 2005;
- 25 Exhibit 17: DROP Election to Participate in DROP and Agreement to Terminate
- 26 Employment for Anthony K. Johnson dated March 13, 2006;
- 27 Exhibit 18: DROP Election to Participate in DROP and Agreement to Terminate
- 28 Employment for Scott Wayne Johnston dated August 9, 2005;

- 1 Exhibit 19: DROP Election to Participate in DROP and Agreement to Terminate
2 Employment for William M. Nemeec dated June 7, 2005;
- 3 Exhibit 20: DROP Election to Participate in DROP and Agreement to Terminate
4 Employment for Michael Parga dated April 18, 2005;
- 5 Exhibit 21: DROP Election to Participate in DROP and Agreement to Terminate
6 Employment for Thomas M. Rhodes dated March 22, 2005;
- 7 Exhibit 22: DROP Election to Participate in DROP and Agreement to Terminate
8 Employment for Steve Robinson dated May 18, 2005;
- 9 Exhibit 23: DROP Election to Participate in DROP and Agreement to Terminate
10 Employment for Joycelyn S. Thomas dated June 28, 2005;
- 11 Exhibit 24: Memorandum dated September 14, 2005, from Roxanne Story Parks to
12 Board of Administration, via Lawrence Grissom;
- 13 Exhibit 25: Excerpts from the deposition of San Diego City Employees Retirement
14 System administrator and chief executive officer David B. Wescoe taken
15 on June 16, 2009;
- 16 Exhibit 26: Deposition of Lieutenant Lori Luhnnow taken on June 15, 2009;
- 17 Exhibit 27: Notice of Taking the Videotaped Deposition of the Person Most
18 Knowledgeable for the City of San Diego dated June 9, 2009;
- 19 Exhibit 28: San Diego City Employees' Retirement System's June 30, 2008 Actuarial
20 Valuation for the City of San Diego;
- 21 Exhibit 29: Rule 2.41 of Chapter 2, Article 4 of the San Diego Municipal Code;
- 22 Exhibit 30: Letter dated January 22, 2009, from Mayor Jerry Sanders to David B.
23 Wescoe, President of the San Diego Employee Retirement System;
- 24 Exhibit 31: Memorandum dated January 9, 2009, from San Diego City Employees'
25 Retirement System's General Counsel, Elaine W. Reagan, to Board of
26 Administration;
- 27 Exhibit 32: San Diego City Employees' Retirement System's Board of Administration
28 Summary for Friday, February 20, 2009;

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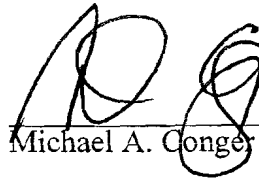
Exhibit 33: SDCERS "News," dated January, 1998; and

Exhibit 34: SDCERS' Investment Asset Allocation

are accurate copies of authentic documents which I personally gathered for use in connection with the SDPOA's cross-petition for writ of mandate.

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

Executed this 18th day of June, 2009, at Rancho Santa Fe, California.



Michael A. Conger