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10 of Southern California

League of Registered Voters of District 10

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

13

FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

14

UNLIMITED JURISDICTION

15

16 SOUTHERN CHRISTIAN LEADERSHIP  
CONFERENCE OF SOUTHERN  
17 CALIFORNIA

Case No.:

18

AND

**VERIFIED PETITION FOR WRIT OF  
MANDATE (C.C.P. § 1085)**

19

PASTOR WILLIAM D. SMART, JOY

20 ATKINSON, MARY LEE, KWAME

COOPER, AND HARRY MCELROY

(COLLECTIVELY, LEAGUE OF

21 REGISTERED VOTERS OF DISTRICT 10),

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

22

Petitioners/Plaintiffs,

23

vs.

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CITY OF LOS ANGELES AND LOS

25

ANGELES CITY COUNCIL,

26

Respondents/Defendants.

27

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Case No.

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## I. INTRODUCTION

2. The City Council could vote on Mr. Wesson’s appointment as early as February 22, 2022. As with the suspension of MRT, the Council is poised to appoint his “temporary” replacement without giving members of the public, including the residents of District 10, any opportunity to be heard as to whether MRT should be replaced and, if so, by whom. This deliberate lack of public engagement violates the principles underlying the Ralph M. Brown Act, which requires local government matters to be conducted in open and public meetings, except in certain limited circumstances.

3. On information and belief, Ms. Martinez has used her position as Council President to spearhead the suspension and replacement of MRT with an ally and mentor who not only helped her rise to the Council Presidency, but who will continue to advance her objectives, including becoming Acting Mayor (while serving as Council President) upon the impending departure of Mayor Eric Garcetti. So intent was Ms. Martinez (whose deputy is married to Mr. Wesson's son) on installing Mr. Wesson in MRT's seat that she ignored the City Charter's express term limits, which bar Mr. Wesson from serving again in the City Council.

1           4.       Petitioners bring this action to compel Respondents to act in accordance with the  
2 California Constitution, City Charter, and other applicable laws. Petitioners seek a writ of mandate  
3 on three grounds.

4           5.       First, Petitioners seek a writ of mandate to vacate MRT’s suspension. Respondents  
5 claim that the Council has the authority to suspend MRT and appoint a “temporary” replacement  
6 pursuant to City Charter Section 211. However, neither this provision nor any other provision of  
7 the City Charter permits the Council to suspend an individual based on the filing of unproven  
8 criminal charges unrelated to any official City Council duties. Nor does it grant the Council the  
9 authority to declare a “vacancy” and appoint a “temporary” replacement in light of that suspension  
10 under such circumstances.

11          6.       The decision to suspend MRT contravenes the bedrock presumption of innocence  
12 guaranteed under California law. It conflicts with the plain language of the California Constitution  
13 and City Charter. And it deprives more than 230,000 residents of District 10—a district with one  
14 of the highest percentages of African Americans in Los Angeles—of their chosen representative  
15 who has faithfully, effectively, and actively served the Los Angeles Community for over 30 years.

16          7.       Second, Petitioners seek a writ to bar the Council from appointing any “temporary”  
17 replacement for MRT. In addition to the reasons stated above, Section 211 provides that a person  
18 appointed by the Council to fill a “temporary vacancy” shall serve the “remainder” of the unexpired  
19 term. As a result, regardless of whether the replacement is labeled as “temporary,” appointing a  
20 replacement will likely create a legal quagmire: if MRT is acquitted, there would no longer be a  
21 basis for his exclusion from the City Council, but the Charter could be read to grant his replacement  
22 the authority to serve the remainder of his term, depriving voters in District 10 of their right to be  
23 represented by the person they elected.

24          8.       Third, Petitioners seek a writ to bar President Martinez’s hand-picked replacement  
25 from taking office. Mr. Wesson is “termed out”: He cannot lawfully assume MRT’s office because  
26 he already has served as the City Council representative for District 10 for three terms – the  
27 maximum number of terms permitted under City Charter Section 206.

28

1           9.       Although Section 206 contains a narrow exception to the term limits it prescribes, it  
2 applies only to elections or appointments where the unexpired term is less than two years. Since  
3 MRT has more than two and a half years remaining in his term, this exception is inapplicable. And  
4 since the Charter can only be amended by a vote of the people pursuant to Cal. Const. art. XI, § 3,  
5 the language in President Martinez’s motion cannot alter the express three-year term limit set forth  
6 in Section 206. For these reasons and those detailed below, Petitioners request a writ of mandate  
7 vacating MRT’s suspension, preventing the Council from appointing a “temporary” replacement,  
8 and barring the appointment of Mr. Wesson to MRT’s seat. Petitioners also seek declaratory and  
9 injunctive relief and such other relief as the Court may deem just and proper.

10 **II.     PARTIES**

11           10.     Petitioner Southern Christian Leadership Conference of Southern California is an  
12 organization that promotes civil rights in the Greater Los Angeles region. The SCLC-SC authorized  
13 under California Code of Civil Procedure sections 1084-1088.5 to bring this action.

14           11.     Petitioners Pastor William D. Smart, President and CEO of the Southern Christian  
15 Leadership Conference of Southern California, Joy Atkinson, Mary Lee, Kwame Cooper, and Harry  
16 McElroy (collectively, the “League of Voters of District 10”) are duly registered voters residing in  
17 District 10 of the City, County of Los Angeles, State of California (“District 10”). They are  
18 authorized under California Code of Civil Procedure sections 1084-1088.5 to bring this action.

19           12.     MRT was elected to serve as Councilmember for District 10 of the City of Los  
20 Angeles on November 3, 2020, and is a real party in interest. A life-long resident of Los Angeles,  
21 MRT is widely regarded as one of the region’s most creative, effective, and progressive voices for  
22 change in Los Angeles. Over the course of his career, MRT has been at the forefront of addressing  
23 the region’s most pressing issues, including access to healthcare, the housing crisis, criminal justice  
24 system reform, and creating economic opportunities for local residents.

25           13.     Respondent City of Los Angeles is a municipal corporation and charter city governed  
26 by the California Constitution and the City Charter of Los Angeles (“Charter” or “City Charter”),  
27 which the voters amended in July 2000.

28

1           14.     Respondent City Council is the legislative body of the City and is responsible for  
2 MRT's summary removal from office under the purported authority of City Charter Section 211.

3 **III.   JURISDICTION AND VENUE**

4           15.     This Court has jurisdiction over this action pursuant to California Constitution  
5 Article VI, Section 10; California Code of Civil Procedure section 410.10; California Code of Civil  
6 Procedure section 1085, et seq.

7           16.     Venue is proper in the County of Los Angeles because it is the Respondents'  
8 principal place of business and the acts and omissions complained of herein occurred in Los Angeles  
9 County. *See* Code Civ. Proc. §§ 393, 394(a).

10 **IV.   STATEMENT OF FACTS**

11           **A.    Governing Laws**

12           17.     Respondents are bound by the California Constitution and the City Charter and other  
13 applicable laws.

14           18.     The Constitution of California is the principal organizing law for the State of  
15 California, and sets forth the powers, duties and functions of the government of California. The  
16 Constitution also establishes the rights of its citizenry. *See* Cal. Const. art. I §1–32.

17           19.     The California Constitution permits the creation of laws calling for the forfeiture of  
18 public office *only upon a conviction*. Cal. Const. art. VII, § 8 (b) provides that: “Laws *shall* be made  
19 to exclude persons *convicted* of bribery, perjury, forgery, malfeasance in office, or other high crimes  
20 from office or serving on juries.” *Id.* (emphasis added). Thus, an official only forfeits the right to  
21 public office *upon a conviction* for certain specified crimes. In addition, California government  
22 codes provide for disqualification from office *only upon conviction*. California Government Code  
23 § 1021, 3000, 1770.

24           20.     California Penal Code section 1096 provides that “a defendant in a criminal action is  
25 presumed to be innocent until the contrary is proved.” *Id.* The California Legislature has expressed  
26 a clear intent to preclude the imposition of any fundamental civil disabilities, including the right to  
27 hold public office, until the moment of a conviction in a criminal case, not anytime sooner. *Lubin*  
28 *v. Wilson* (Ct. App. 1991) 232 Cal. App. 3d 1422, 1429, 284 Cal. Rptr. 70, 73.

1           21. California law occupies the entire field of regulation as to the timing and imposition  
2 of fundamental civil disabilities arising from a criminal proceeding. The issue of “when” a person  
3 is deemed “convicted” of a crime for the purpose of exclusion from public office is of general  
4 statewide interest. *See Helena Rubenstein Internat. v. Younger* (Ct. App. 1977) 71 Cal. App. 3d  
5 406, 411.

6           22. The government of Los Angeles operates as a charter city under the City Charter,  
7 which was first adopted by vote of the people in 1924 and has been periodically amended. In July  
8 2000, the current City Charter became effective.

9           23. The Charter sets forth the authorities and duties of city officials and its governing  
10 body, the City Council. It can only be amended by a vote of the people after a duly executed election.  
11 Cal. Const. art. XI, § 3.

12           24. The Ralph M. Brown Act (“Brown Act”) requires that local government business,  
13 including that of the City Council, be conducted at open and public meetings, except in certain  
14 limited situations not present here.

15           **B. City Council’s Suspension of Councilmember Ridley-Thomas**

16           25. On October 13, 2021, MRT was indicted over alleged acts that are wholly unrelated  
17 to his official duties as Councilmember and allegedly pertain to conduct that occurred during his  
18 tenure as a member of the Los Angeles County Board of Supervisors. He has denied the charges  
19 and is preparing for trial scheduled in August 2022.

20           26. On October 18, 2021, MRT wrote a letter to the Council wherein he offered to  
21 continue his role as Councilmember while stepping back from full Council and Committee meetings  
22 so as to allow the Council to conduct its business with minimal distractions. Not only was he willing  
23 to continue doing the work he was elected to do, but he sought to facilitate a means to do so in a  
24 manner that was respectful to his colleagues. A true and correct copy of MRT’s letter is attached  
25 hereto and marked as **Exhibit 1**.

26           27. On October 19, 2021, Council President Nury Martinez moved to immediately  
27 suspend MRT from the office of Councilmember of District 10 pursuant to Charter Section 211. On  
28 information and belief, Ms. Martinez spearheaded the suspension of MRT and pressured other City

1 Council members to support it. A true and correct copy of the motion is attached hereto and marked  
2 as **Exhibit 2**.

3 28. Charter Section 211 provides in pertinent part that:

4 “Pending trial, the Council may suspend any elected officer, and the appointing  
5 power may suspend any appointed officer, against whom felony criminal  
6 proceedings, or criminal misdemeanor proceedings related to a violation of official  
duties as described in Section 207(c). The temporary vacancy shall be filled in  
accordance with the Charter.” L.A., CAL., CITY CHARTER, § 211 (1999).

7  
8 29. The following day, on October 20, 2021, Respondent City Council voted to  
9 immediately suspend MRT from the office of Councilmember of District 10 pursuant to Charter  
10 Section 211 without any stated time parameter for reinstatement.

11 30. MRT was not permitted to cast a vote on the motion or even attend the proceeding.  
12 No evidentiary hearing was held on the merits of the criminal proceeding before MRT was removed  
13 from office, and he was not afforded any due process. A true and correct copy of the official action  
14 from City Council is attached hereto and marked as **Exhibit 3**.

15 31. Also on October 20, City Controller Galperin unilaterally and without authorization  
16 under the City Charter, terminated MRT’s salary and benefits at a time when MRT needs resources  
17 to mount his legal defense. A true and correct copy of Controller Galperin’s press release regarding  
18 the termination of salary and benefits is attached hereto and marked as **Exhibit 4**.

19 32. Controller Galperin’s unlawful action means that MRT is not able to earn *any* salary,  
20 since the ethics rules prohibit any outside employment. L.A., CAL., CITY CHARTER, § 218(b) (1999);  
21 *Ethics Handbook for City Officials*, LOS ANGELES CITY ETHICS COMMISSION, January 2021.

22 33. On October 29, 2022, MRT received a letter from City Clerk Holly L. Wolcott,  
23 informing him that “[a] suspended Councilmember retains his or her title but is for all other purposes  
24 a member of the public. As such, a suspended Councilmember should not attempt to conduct City  
25 business or communicate with City officials or staff except as any member of the public.” A true  
26 and correct copy of Ms. Wolcott’s letter is attached hereto and marked as **Exhibit 5**.

27 34. Although the City Council’s official action against MRT is described as an  
28 “immediate suspension,” MRT is now prohibited from exercising any of the powers of City office,

1 including, but not limited to attending Council and Committee meetings, executing contracts,  
2 utilizing discretionary funds, engaging in constituent services, interacting with his staff on city  
3 business, or casting votes on important matters impacting the constituents of District 10.

4 35. The Council did not have grounds to suspend MRT under Section 211 for two  
5 reasons. First, the application of Section 211 of the Charter under the circumstances in this dispute  
6 contravenes the presumption of innocence afforded all criminal defendants guaranteed under  
7 California law. As noted above, this presumption of innocence is embedded into California Penal  
8 Code section 1096. The general law of the State prohibits impositions on civil disabilities, including  
9 the right to hold public office, until the moment of conviction. Any action that imposes on those  
10 liberties prior to conviction conflicts with bedrock California law. *Lubin v. Wilson* (Ct. App. 1991)  
11 232 Cal. App. 3d 1422, 1429, 284 Cal. Rptr. 70, 73.

12 36. Second, the Council's actions contravene the plain language of Section 211. The  
13 provision authorizes a suspension only in cases where a councilmember is charged with an offense  
14 "related to a violation of official duties." MRT was suspended because he was indicted on charges  
15 that are unrelated to his official duties on the Council. The charges were based entirely on conduct  
16 alleged to have occurred several years prior to MRT's election to the City Council on November 3,  
17 2020. Accordingly, the Council improperly suspended MRT under the plain language of Section  
18 211.

19 **C. City Council President Introduces a Motion to Appoint a Replacement for**  
20 **Councilmember Ridley-Thomas**

21 37. On February 16, 2022, Council President Martinez introduced a motion to appoint a  
22 replacement for MRT. Ms. Martinez unilaterally selected Herb Wesson, her long-time ally and  
23 mentor, to assume MRT's seat. She did so even though Mr. Wesson has served three terms  
24 representing District 10, the maximum number of terms permitted under the City Charter. And she  
25 did so even though, when Mr. Wesson ran for County Supervisor in 2020, he received a mere 39%  
26 of the vote within District 10 — a district he had previously served for fifteen years — evidencing  
27 a lack of confidence in Mr. Wesson.



1           38.     The motion Ms. Martinez introduced would allow Mr. Wesson to “hold the office of  
2 Council District 10 through December 31, 2022, or until Mr. Ridley-Thomas is acquitted or the  
3 charges against him are dropped, whichever comes first.” A true and correct copy of the motion is  
4 attached hereto and marked as **Exhibit 6**.

5           39.     Section 211 mandates that any “temporary vacancy shall be filled in accordance with  
6 the Charter.” L.A., CAL., CITY CHARTER, § 211 (1999). Ms. Martinez claims that the Council has  
7 authority to appoint a replacement for MRT under this provision. However, since Section 211 does  
8 not authorize a suspension of MRT under the circumstances present here, the Council can neither  
9 lawfully declare MRT’s seat “vacant,” nor appoint his “temporary” replacement.

10          40.     Section 409 of the Charter governs the filling of vacancies. Because the Council did  
11 not declare a “vacancy” and hold a special election prior to February 7, 2022, and is seeking instead  
12 to appoint Mr. Wesson, the Charter provides that “the person appointed shall hold the office for the  
13 remainder of the unexpired term.” L.A., CAL., CITY CHARTER § 409(a) (1999).

14          41.     The Council’s impending vote to appoint Mr. Wesson as MRT’s “temporary”  
15 replacement sets the stage for a disruptive and avoidable legal dispute: If MRT is acquitted, he  
16 would seek to resume his duties but his replacement (already ignoring Charter term-limits) could  
17 claim entitlement to serve the remainder of MRT’s term under Section 409(a) of the Charter. While  
18 the parties litigate who should have the seat, Petitioners and other residents of District 10 would be  
19 further deprived of their right to be represented by the official they overwhelmingly elected. And  
20 if it is determined MRT’s replacement is entitled to the seat for the remainder of MRT’s term,  
21 notwithstanding his acquittal, those residents would be denied MRT’s representation for over half  
22 of his term solely because he was accused of crimes he did not commit.

23           **D.     President Martinez Ignores the City Charter’s Express Term Limits and**  
24           **Engages in Backroom Dealings**

25          42.     President Martinez’s February 16, 2022 motion states that the Council will appoint  
26 “Herb Wesson to hold the office of Council District 10 through December 31, 2022, or until Mr.  
27 Ridley-Thomas is acquitted or the charges against him are dropped, whichever comes first.” But  
28

1 that language is in direct conflict with Section 206 of the Charter, which expressly precludes Mr.  
2 Wesson from serving more than three terms.

3 43. Section 206 of the Charter states that:

4 No person may serve more than three terms of office as member of the City Council. These  
5 limitations on the number of terms of office shall apply only to terms of office that began on  
6 or after July 1, 1993. These limitations on the number of terms of office shall not apply to  
7 any unexpired term to which a person is elected or appointed if the remainder of the term is  
8 less than one-half of the full term of office. For purposes of this Section, the term of office  
9 of officials elected in 2015 and 2017 as described in Section 205(b) shall count as one term.  
10 L.A., CAL., CITY CHARTER § 206 (1999).

11 44. Mr. Wesson was elected to represent District 10 in 2005 and served for three terms  
12 until 2020. He was the President of the Council from 2012 until his departure in 2020 after he  
13 reached the three-year term limit under Section 206 of the Charter. MRT was elected on November  
14 3, 2020. His term has more than two years remaining, over one-half of the full term of office. Thus,  
15 the narrow exception to the term limitations in Section 206 does not apply, and Mr. Wesson cannot  
16 assume MRT's seat.

17 45. Even if the Council had the authority to suspend and replace MRT (it did not), Mr.  
18 Wesson's appointment, if approved, would directly contravene the City Charter. And Petitioners  
19 and other constituents of District 10 will be left with a representative who is beholden to the City  
20 Council that appointed him, whom they did not elect or have any input into his selection, and who  
21 cannot lawfully represent the interests of their community before the Council.

22 46. Moreover, the circumstances of Mr. Wesson's proposed appointment raise additional  
23 concerns about the Council's actions and his independence and ability to impartially represent the  
24 residents of District 10. Thus far, the City Council has held no public hearings on the "temporary"  
25 replacement for MRT, nor provided any formal process for residents of the District 10 to provide  
26 input into his selection in violation of the principles underlying the Brown Act.

27 47. Instead, on information and belief, President Martinez—who was significantly  
28 helped by Mr. Wesson in her bid to rise to Council President—instigated his proposed appointment,  
and will continue to leverage his help in her bid to consolidate her power by becoming Acting Mayor  
while remaining Council President. Notably, Ms. Martinez's Deputy Chief of Staff, Alexis Marrin-

1 Wesson, is married to Mr. Wesson's youngest son, Justin Wesson, further smacking of backroom  
2 self-dealing.

3 48. Mr. Wesson launched a consulting company, Herb Wesson and Associates,  
4 following his failed bid to become a Los Angeles County Supervisor in 2020. On information and  
5 belief, Mr. Wesson has been lobbying municipalities for business, including seeking a cannabis  
6 contract from the City of Hawthorne. These potential conflicts of interest and distractions from  
7 Council business cast further doubt on the propriety of Mr. Wesson to assume the seat of MRT, who  
8 was completely dedicated to the work of the Council and the interests of District 10.

9 **FIRST CAUSE OF ACTION FOR PETITION FOR WRIT OF MANDATE (C.C.P. § 1085)**

10 **(Against All Defendants/Respondents)**

11 49. Petitioners incorporate and allege the allegations in paragraphs 1–48 inclusive, as if  
12 fully set forth herein.

13 50. Respondents and those acting under their authority have a clear duty to act in  
14 accordance with the California Constitution, the City Charter, the Brown Act and such other laws  
15 as may be applicable to this dispute.

16 51. Respondents have acted contrary to these obligations by suspending MRT without  
17 authorization in the Charter and in direct conflict with the protections and presumption of innocence  
18 afforded in the California Constitution and other applicable laws.

19 52. Respondents are also acting contrary to law by placing a motion into consideration  
20 to be voted on as early as February 22, 2022, which would result in a “temporary” replacement for  
21 MRT. This action, even if characterized as “temporary,” creates the prospect that MRT will be  
22 denied the ability to return to his seat upon acquittal and/or will be embroiled in a legal battle with  
23 the Council and Mr. Wesson over the rightful office-holder. The purported limiting language in  
24 President Martinez’s motion cannot supplant the term limits set forth in City Charter.

25 53. The Council’s impending action is contrary to the Constitution and Charter and arises  
26 from the Council’s previous unlawful decision to suspend MRT, another basis for invalidation.

27 54. Petitioner has no plain, speedy, and adequate remedy at law, other than the relief  
28 sought in this petition. Respondents do not provide an administrative review procedure to a

1 councilmember who has been removed from office by the City Council. Accordingly, a writ of  
2 mandate is the appropriate means of seeking review.

3 55. The injuries suffered are not easily quantified or compensable. No money damages  
4 or other legal remedy could adequately compensate for the irreparable harm Respondents' conduct  
5 has caused, continues to cause, and threatens to cause to Petitioners and the citizens of District 10.

6 56. Petitioner lacks a plain, speedy, and adequate remedy at law other than the relief  
7 sought in this action. Absent relief, Petitioners will continue to be denied their duly elected  
8 representative and will be represented by a person to whom they had no say in selecting and who is  
9 not eligible to be appointed as a "temporary" replacement for MRT under the City's term limits.

10 57. The Council has demonstrated a callous disregard for the rights and input of the  
11 largely African-American residents of District 10, as well as the laws and obligations under which  
12 they serve, including the California Constitution, the City Charter, and the Ralph M. Brown Act.  
13 Absent relief, the Council will continue to violate the rights of Petitioners and other members of the  
14 District, an irreparable harm.

15 58. Petitioners have performed all conditions required for this action.

16 **SECOND CAUSE OF ACTION FOR DECLARATORY RELIEF**

17 **(Against All Defendants/Respondents)**

18 59. Petitioners incorporate and allege the allegations in paragraphs 1–48 inclusive, as if  
19 fully set forth herein.

20 60. An actual and present controversy exists between Petitioners and Respondents  
21 regarding the authority of the City Council to appoint a "temporary" replacement for MRT, which  
22 Council President Martinez has entered into motion for a vote as early as February 23, 2022.

23 61. Petitioners maintain that Respondents lack the authority under the California  
24 Constitution and the City Charter to appoint a "temporary" replacement under the circumstances  
25 present here.

26 62. Petitioners also believe the City Council has not acted in accordance with the  
27 principles of the Brown Act.

28

63. Respondents disagree and believe they have the authority to appoint a “temporary” replacement for MRT under Section 211 of the Charter.

64. An actual and present controversy also exists between Petitioners and Respondents as to whether the appointee Council President Martinez has selected as the “temporary” replacement, Herb Wesson, may assume the seat in light of the fact that the Charter sets forth express term limits which Mr. Wesson has already reached.

65. A judicial declaration is therefore necessary and appropriate to: (i) determine the legality of Respondents’ impending motion to appoint a “temporary” replacement for MRT to represent District 10 and (ii) determine whether the Council’s designated appointee, Herb Wesson, is eligible to serve in light of the City’s express term limits.

### **THIRD CAUSE OF ACTION FOR DECLARATORY RELIEF**

#### **(Against All Defendants/Respondents)**

66. Petitioners incorporate and allege the allegations in paragraphs 1–48 inclusive, as if fully set forth herein.

67. An actual and present controversy exists between Petitioners and Respondents regarding the authority of Respondents to suspend and/or remove MRT under Section 211 of the Charter, the California Constitution, the Brown Act, and any other laws that may be applicable to this dispute.

68. Petitioners contend that Respondents acted without authorization in the Charter and contrary to the protections afforded by the California Constitution, including the presumption of innocence, in suspending MRT from the City Council following his indictment on charges unrelated to his official duties on the Council and preceding his election to represent District 10.

69. Respondents maintain that they acted properly pursuant to their authorities under Section 211 of the City Charter.

70. A judicial declaration is therefore necessary and appropriate to determine the legality of Respondents’ suspension of MRT prior to adjudication of the charges against him.

### **V. PRAYER FOR RELIEF**

**WHEREFORE**, Petitioner prays that:

- 1 (1) As to the First Cause of Action, that this Court issue a preemptory writ of mandate,  
2 pursuant to California Code of Civil Procedure section 1085 issued under the seal of  
3 this Court, compelling Respondents to comply with the California Constitution, the  
4 City Charter, and such other laws as may be applicable to this dispute, barring  
5 Respondents from appointing a “temporary” replacement for MRT pending the  
6 outcome of his trial, and commanding Respondents to vacate the order of suspension  
7 and permit MRT to resume his duties on the City Council representing District 10;
- 8 (2) As to the Second Cause of Action, a declaratory judgment confirming that  
9 Respondents’ impending motion to appoint a “temporary” replacement for MRT to  
10 represent District 10 is unlawful and without effect, and confirming that the  
11 Council’s designee to fill MRT’s seat, Herb Wesson, may not assume the seat under  
12 the City’s term limits. Alternatively, to the request stated herein above, the Court  
13 should issue an alternative writ commanding Respondents to show cause why the  
14 Court should not issue the Order prayed for herein above;
- 15 (3) As to the Third Cause of Action, a declaratory judgment confirming that  
16 Respondents’ suspension and/or removal of MRT prior to adjudication of the charges  
17 against him was unlawful and without effect;
- 18 (4) As to all causes of action, declaratory and/or temporary, preliminary, and permanent  
19 injunctive relief to prevent Respondents from denying Petitioners’ representation by  
20 their duly elected representative pending the outcome of MRT’s trial and to prevent  
21 Respondents from filling the vacancy that they themselves unlawfully created  
22 including, but not limited to, by appointing Herb Wesson as the “temporary”  
23 replacement for MRT to serve District 10;
- 24 (5) For attorneys’ fees and litigation expenses pursuant to Code Civ. Proc. § 1021.5; and  
25 (6) For cost of this proceeding, and for such other and further relief as this court deems  
26 just and proper.
- 27  
28

1 **VI. VERIFICATION**

2 I, John Sweeney, declare:

3 I am the Attorney for Petitioner. I have read the foregoing Petition for Writ of Mandate and  
4 I know the contents thereof. I declare the facts alleged in the petition are within my own knowledge,  
5 and I know these facts to be true.

6 I declare under penalty of perjury, under the laws of the State of California, that the foregoing  
7 is true and correct. This verification was executed on this 18<sup>th</sup> day of February 2022, in Los Angeles,  
8 California.

9  
10 By: \_\_\_\_\_

11   
12 John Sweeney  
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**INDEX OF EXHIBITS**

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# **EXHIBIT 1**



# MARK RIDLEY-THOMAS

LOS ANGELES CITY COUNCILMEMBER

— DISTRICT 10 —

October 18, 2021

Members of the Council  
City of Los Angeles  
200 North Spring Street  
Los Angeles, California 90012

Dear Council President and Councilmembers:

I trust that you are all aware of the allegations that were made against me on Wednesday, October 13, 2021. Throughout my entire career, I have sought to act with the utmost ethical conviction. I have every intent of fighting these outrageous allegations and expect to be fully exonerated.

I am proud of my work as an educator, activist and public servant over the last four decades, including my last 30 years of service as an elected official at the City, County and State level. In each capacity, I have focused on addressing social disparities and injustices, promoting community wellbeing, and enhancing public safety. Since rejoining the Council, I have found the work to be challenging and yet more fulfilling than ever – most notably the efforts we have collectively pursued to address the moral and humanitarian crisis of our time – homelessness.

I wanted to serve on the City Council in order to build on the efforts I had previously championed to address this crisis, and I remain dedicated to doing so. I maintain an equal devotion to ensuring that my constituents receive the representation and responsiveness that they deserve.

I fully appreciate the importance of the Council being able to conduct its business with minimal distractions. With that in mind, and with deep respect for each of you, I write to let you know of my intention to immediately step back from participating in both full Council and Committee meetings.

I look forward to resuming my participation at the earliest appropriate time.

With hope and a commitment to service,

**MARK RIDLEY-THOMAS**

Councilmember, 10th District

c: Ms. Sharon Tso, Chief Legislative Analyst  
Mr. Matt Szabo, City Administrative Officer  
Ms. Holly Wolcott, City Clerk  
Mr. Mike Feuer, City Attorney

# **EXHIBIT 2**

MOTION

On October 13, 2021, the Department of Justice, United States Attorney's Office indicted Councilmember Mark Ridley-Thomas on felony crimes related to public corruption. Charter Section 211, Suspension Pending Trial, provides that "pending trial, the Council may suspend any elected officer against whom felony criminal proceedings" have been initiated for such crimes.

As acknowledged in the letter sent by Councilmember Mark Ridley-Thomas, the City Council must be able to "conduct its business with minimal distractions."

Councilmembers have a duty to serve this City and their district and to make decisions on behalf of the people that elected them into office. Any action that erodes public trust or calls into question the integrity of the institution requires the Council to act to preserve that trust.

The trial on the indictment has yet to take place and a person is presumed innocent until proven guilty; however a Councilmember who has been charged with public corruption cannot continue to exercise the powers of City office and preserve public trust.

Unless suspended under Charter Section 211, a Councilmember cannot be prohibited from exercising the powers of City office, including, but not limited to, attending Council and Committee meetings, executing contracts, utilizing discretionary funds, and engaging in constituent services.

I THEREFORE MOVE that, pursuant to Charter Section 211, the Council must accept Ridley-Thomas letter and immediately suspend him from the office of Councilmember of the 10th District of the Los Angeles City Council.

ORIGINAL

PRESENTED BY:

  
NURY MARTINEZ  
Councilwoman, 6<sup>th</sup> District

SECONDED BY:



  
OCT 19 2021

# **EXHIBIT 4**

## NEWS

# Press Release

See All Press Releases (<https://lacontroller.org/press-releases/>)

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“While Ridley-Thomas has had many years of honorable public service, I will not use City money to pay the salary of an elected official facing federal bribery and fraud charges who is now legally unable to do his job. The people of Los Angeles deserve better from their government leaders. In accordance with the City Charter, I am exercising my authority as L.A. City Controller to suspend Ridley-Thomas’s salary effective October 21, 2021.”

L.A. Controller Ron Galperin

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## Related Link

News coverage (<https://lacontroller.org/in-the-news/galperin-will-stop-paying-to-mark-ridley-thomas-if-suspended-by-city-council/>)

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## Media Contacts

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213-978-7200 (office)  
[ian.thompson@lacity.org](mailto:ian.thompson@lacity.org) (<mailto:ian.thompson@lacity.org>)



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CLOSE MENU

## L.A. Controller Galperin Suspends Ridley-Thomas's City Pay

**LOS ANGELES-** L.A. Controller Ron Galperin is terminating Mark Ridley-Thomas's City pay following today's City Council vote to suspend him:

"After today's City Council vote, Mark Ridley-Thomas is no longer empowered to carry out the duties and responsibilities for which he was elected, and he can no longer be present to effectively serve his constituents or represent their interests at City Hall.

"While Ridley-Thomas has had many years of honorable public service, I will not use City money to pay the salary of an elected official facing federal bribery and fraud charges who is now legally unable to do his job. The people of Los Angeles deserve better from their government leaders. In accordance with the City Charter, I am exercising my authority as L.A. City Controller to suspend Ridley-Thomas's salary and benefits effective October 21, 2021."

The City Council suspended Ridley-Thomas pursuant to City Charter section 211, and Galperin is stopping salary payments pursuant to section 218. The payroll division of the Controller's Office is responsible for paying the salaries of all City employees and elected officials.

Ridley-Thomas's biweekly salary is \$8,575.84, which comes out to \$223,829.42 annually.

*Follow L.A. Controller Ron Galperin at @LAController on Twitter (<https://twitter.com/LACONTROLLER>), Facebook (<https://www.facebook.com/lacontroller>) and Instagram (<https://www.instagram.com/lacontroller>).*

###

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## The Office

200 N. Main Street, Suite 300

Los Angeles, CA 90012

**213.978.7200** Phone

**213.978.7211** Fax

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## Quick Links

About Ron (<https://lacontroller.org/about-ron/>)

News (<https://lacontroller.org/press-releases/>)

Audits and Reviews (<https://lacontroller.org/audits-and-reviews/>)

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# **EXHIBIT 3**

OFFICIAL ACTION OF THE LOS ANGELES CITY COUNCIL

Council File No.:

21-1203

Council Meeting Date:

October 20, 2021

Agenda Item No.:

31

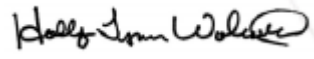
Agenda Description:

MOTION (MARTINEZ - O'FARRELL) relative to the immediate suspension of Mark Ridley-Thomas from the Office of Councilmember of the 10th District of the Los Angeles City Council.

Council Action:

MOTION (MARTINEZ - O'FARRELL) - ADOPTED FORTHWITH

Council Vote:					
YES	Blumenfield	NO	Bonin	YES	Buscaino
YES	Cedillo	YES	de León	NO	Harris-Dawson
YES	Koretz	YES	Krekorian	YES	Lee
YES	Martinez	YES	O'Farrell	NO	Price
YES	Raman	ABSENT	Ridley-Thomas	YES	Rodriguez



HOLLY L. WOLCOTT  
CITY CLERK

Adopted Report(s)Title

Motion (Martinez - O'Farrell) dated 10-19-21

# **EXHIBIT 5**

HOLLY L. WOLCOTT  
CITY CLERK

PETTY F. SANTOS  
EXECUTIVE OFFICER

**City of Los Angeles**  
CALIFORNIA



ERIC GARCETTI  
MAYOR

OFFICE OF THE  
CITY CLERK

Executive Office  
200 N. Spring Street, Room 360  
Los Angeles, CA 90012  
(213) 978-1020  
FAX: (213) 978-1027

October 29, 2021

Honorable Councilmember Mark Ridley-Thomas  
3960 Hepburn Avenue  
Los Angeles, CA 90008

**COMMUNICATION WITH CITY OFFICIALS AND EMPLOYEES**

Dear Councilmember Ridley-Thomas:

In working with Council District 10 staff, I explained to key staff members what the status of suspension means. This may not have been made clear in my last letter to you, so please allow me to clarify.

A suspended Councilmember retains his or her title but is for all other purposes a member of the public. As such, a suspended Councilmember should not attempt to conduct City business or communicate with City officials or staff except as any member of the public. For example, any written communication via email should be sent through publicly available email addresses and not through City email.

I serve as your point of contact for all personnel related matters. I can be reached at [Holly.Wolcott@lacity.org](mailto:Holly.Wolcott@lacity.org) or via my mobile phone at (213) 453-9043. Thank you very much. Please let me know if you have any questions.

Sincerely,

Holly L. Wolcott  
City Clerk

EXE-037-21

**AN EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER**

# **EXHIBIT 6**

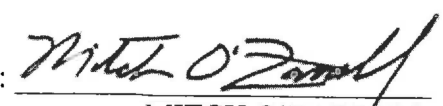
MOTION


The Los Angeles City Council suspended Councilmember Mark Ridley-Thomas on October 20, 2021, after the U.S. Attorney's Office filed a multiple-count felony indictment on October 13, 2021. Council took this action pursuant to Charter Section 211 (titled "Suspension Pending Trial") in a properly noticed special meeting and after public comment, consistent with the Brown Act. The suspension created a temporary vacancy in the office of Council District 10. The vacancy is temporary because Mr. Ridley-Thomas would be eligible to resume his elected duties before the remainder of his unexpired term if the Council lifts his suspension following his acquittal or when the charges against him are dropped.

After the suspension, the Council President named Mr. Ridley-Thomas's chief of staff as the caretaker for Council District 10 to manage the day-to-day affairs of the District. A caretaker may not, however, act as a voting member of the Council. Council District 10 has, therefore, lacked direct representation at Council meetings since Mr. Ridley-Thomas's suspension. Initially, Mr. Ridley-Thomas's trial date was tentatively set for December 2021. Given the imminent trial date, Council was prudent to delay appointing someone to fill the office of Council District 10. However, at the joint request of Mr. Ridley-Thomas and the U.S. Attorney's Office, the U.S. District judge handling the case later ordered the trial date moved to August 9, 2022. The trial date could potentially be delayed even further. The Council should now, therefore, appoint someone to hold the office of Council District 10 as a voting member to directly represent the constituents of Council District 10 for such period as is likely sufficient for Mr. Ridley-Thomas's trial to be resolved.

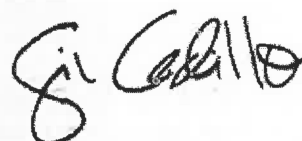
I THEREFORE MOVE that the Council, pursuant to Charter Section 409, appoint Herb Wesson to hold the office of Council District 10 through December 31, 2022, or until Mr. Ridley-Thomas is acquitted or the charges against him are dropped, whichever comes first.

PRESENTED BY:   
Nury Martinez  
Councilmember, 6th District

SECONDED BY:   
MITCH O'FARRELL  
Councilmember, 13th District

SECONDED BY:   
PAUL KORETZ  
Councilmember, 5th District

  
FEB 16 2022



SECONDED BY: \_\_\_\_\_  
GIL CEDILLO  
Councilmember, 1st District