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Defendant CITY OF BURBANK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

LOS ANGELES COUNTY
METROPOLITAN
TRANSPORTATION
AUTHORITY, a public entity,

Plaintiff,

v.

CITY OF BURBANK, a municipal
corporation; and DOES 1-10,
inclusive,

Defendants.

Case No. 26STCP01904
Assigned for all purposes to the
Hon. Judge Stephen Morgan,
Dept. 416

**CITY'S EVIDENTIARY
OBJECTIONS AND REQUEST
TO STRIKE TO
DECLARATION OF ANTHONY
DEFRENZA FILED ONLY AS A
REPLY DOCUMENT**

Date: July 16, 2026
Time: 1:30 p.m.
Dept.: 416

Action Filed: May 19, 2026

1 Defendant City of Burbank (“City”) objects and moves to strike the
2 Declaration of Anthony DeFrenza (DeFrenza Decl.) filed only on reply
3 papers on July 9, 2026 at 4:34 pm. The DeFrenza Declaration is prepared
4 by an entirely new declarant (Mr. DeFrenza) with a different position at
5 LA Metro, and purports to describe different facts that Mr. DeFrenza
6 purportedly has based on his personal knowledge. This is far different
7 than the Michael McKenna Declaration filed as part of the initial moving
8 papers.

9 Moreover, Mr. DeFrenza attaches to his declaration four entirely
10 new exhibits, numbered pages 10-184. Mathematically, that adds up to
11 174 new pages of exhibits which were not presented at all in Plaintiff’s
12 moving papers.

13 In connection with a reply in another summary type of decision, a
14 summary judgment motion, the 2024 amendments to the Code of Civil
15 Procedure bars new evidentiary material not presented in the moving
16 papers or opposing papers. (Code Civ. Proc. Section 437c, subd. (b)(4) [“The
17 reply shall not include any new evidentiary matter, additional material
18 facts, or separate statement submitted with the reply and not presented
19 in the moving papers or opposing papers.”](emphasis added).

20 The basic procedural requirements for a preliminary injunction
21 emphasize that all “affidavits” be served with notice to the opposing party.
22 (Code Civ. Proc., § 527, subd. (a)). Indeed, the opposition is granted
23 additional time to file affidavits objecting to the preliminary injunction, at
24 least “two days prior to the hearing.” (Code Civ. Proc., § 527 subd. (e)).
25 What this means is that a *moving party* such as LA Metro, cannot file new
26 “affidavits” (or declarations) after opposition to the preliminary injunction
27 was filed and after opposing declarations were filed and served.

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1 In addition, three of the four documents that Mr. DeFrenza attaches
2 to his Declaration are documents in Plaintiffs' possession years before the
3 Preliminary Injunction was filed. Those three exhibits are Exhibit A
4 (emails dated September and October 2024); Exhibit B (October 2024
5 email), and Exhibit C (January 2025) email. Plaintiff provides no reason
6 why it could not have produced these emails as part of its moving papers.
7 Plaintiff's Motion was served on June 18, 2026, well after its receipt of the
8 emails from 2024 and 2025. As to the fourth exhibit, Exhibit D (email
9 dated July 28, 2025), there is simply no evidence that this purported
10 communication was received by the City itself. Instead, as even Mr.
11 DeFrenza admits, it was a document sent to a contractor for the City. This
12 means that there was no valid notice to the City pursuant to the Notice
13 provision of the Cooperative Agreement, Section 10.4. (City's Comp. Ex.
14 No. 1 at BUR-0021-0022).

15 Even then, however, this is clearly a "draft schedule", not a final
16 schedule. As Mr. DeFrenza put it in his separate email dated July 1, 2026
17 again addressed not to the City, but to its contractor:

18 "Jack:

19 Can you share your team's availability next week for a meeting
20 during which the contractor will present *a draft proposal* for construction
21 staging and phasing. . ."

22 (DeFrenza Decl., at p. 182 [emphasis added]).

23 In other words, this new document adds nothing to Plaintiff's plea
24 for a Preliminary Injunction that is premised on a purported "urgent" need
25 to meet a schedule. Plaintiff's new declarant, Mr. DeFrenza, still does not
26 have a final fixed schedule for this project as of July 1, 2026.

27 In addition to evidentiary objections, the law precludes parol
28 evidence (or any other form of evidence) when the plain terms of a contract

1 are clear and unambiguous. (See, e.g., *Pomona Valley Hosp. Medical*
2 *Center v. Kaiser Foundation Health Plan, Inc.* (2026) 119 Cal.App. 5th 43,
3 64 [“When the contract is clear and explicit, the parties’ intent is
4 determined solely by reference to the language of the agreement.”]; *West*
5 *Pueblo Partners, LLC v. Stone Brewing Co., LLC*, (2023) 90 Cal.App.5th
6 1179, 1185 [“And where the language [of the contract] is clear and explicit
7 and does not involve an absurdity, the plain meaning governs.”]

8 The DeFrenza Declaration repeatedly transgresses this basic rule of
9 contract interpretation. The Declaration purports to summarize various
10 preliminary negotiations leading to a contract including a March 2024
11 discussion about the Cooperative Agreement (then in draft form) giving
12 those negotiations again a “Pro-Metro spin.” Spin aside, Mr. DeFrenza
13 cannot now for the first time in Reply claim that the Cooperative
14 Agreement is somehow ambiguous and that prior negotiations are now
15 legally admissible.

16 For these reasons, Respondent the City of Burbank requests that the
17 Court strike the new (and dated old) material in the DeFrenza declaration
18 and the Declaration itself. Alternatively, the City requests that the Court
19 reschedule the preliminary injunction hearing by at least three weeks to
20 allow the City to conduct a deposition of Mr. DeFrenza and prepare further
21 opposition to his newly filed Declaration.

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DATED: July 13, 2026

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PROOF OF SERVICE

***(Los Angeles County Metropolitan Transportation Authority v.
City of Burbank)***

LASC Case No. 26STCP01904

STATE OF CALIFORNIA, COUNTY OF ORANGE

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 1 Park Plaza, Suite 1000, Irvine, CA 92614.

On July 13, 2026, I served true copies of the following document(s) described as **CITY'S EVIDENTIARY OBJECTIONS AND REQUEST TO STRIKE TO DECLARATION OF ANTHONY DEFRENZA FILED ONLY AS A REPLY DOCUMENT** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address dvaillancourt@awattorneys.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on July 13, 2026, at Irvine, California.



Debra E. Vaillancourt

SERVICE LIST
Los Angeles County Metropolitan Transportation Authority v. City
of Burbank
LASC Case No. 26STCP01904

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