

1 NOEL WEISS, ESQ. SBN #073105  
LAW OFFICES OF NOEL WEISS  
2 13700 Marina Point Drive, #922  
Marina del Rey, California 90292  
3 Telephone: (310) 822-0239  
Facsimile: (310) 822-7028  
4 Email: [noelweiss@ca.rr.com](mailto:noelweiss@ca.rr.com)

**ORIGINAL FILED**

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**LOS ANGELES  
SUPERIOR COURT**

5 **ATTORNEY FOR REAL PARTY IN INTEREST JACK HUMPHREVILLE**

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES**

11 **MITCHELL SCHWARTZ,**  
12 **Petitioner**  
13 **vs.**  
14 **KAREN E. KALFAYAN, in her official**  
**capacity as Los Angeles City Clerk**  
15 **Respondent.**

16 **JACK HUMPHREVILLE,**  
17 **Real Party In Interest**

118316  
) **CASE NO. BS 118316**  
) [Filed December 19, 2008]  
) **[ASSIGNED TO JUDGE DAVID YAFFE]**  
)  
) **DECLARATION OF NICK PATSAOURAS**  
) **IN SUPPORT OF REAL PARTY'S**  
) **OPPOSITION TO APPLICATION FOR**  
) **WRIT OF MANDATE**  
)  
) **Date of Hearing: January 8, 2009**  
) **Time of Hearing: 9:30 am**  
) **Place of Hearing: Dept. 86**  
) Los Angeles Superior Court  
) Central District  
) 111 North Hill Street  
) Los Angeles, CA 90012

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

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**FOR THE COUNTY OF LOS ANGELES**

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**JACK HUMPHREVILLE,**

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**Real Party In Interest**

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1 programs were initiated as part of the Department's further commitment in the area of solar,  
2 and were undertaken after the Board held public hearings to enlist the input of the public.

3 4. The Department on its own has established and maintains a Customer Solar Pro-  
4 gram which is designed to provide financial incentives to customers to install solar panels on  
5 their roofs. In addition, the Department has committed to a 'Large Scale Solar Program' in which  
6 it can procure at least 500 megawatts of large scale solar power facilities in the Mojave desert  
7 and eastward to be located near the two high voltage transmission systems it owns.

8 5. At no time during the period I sat on the Board of Commissioners of the Depart-  
9 met of Water and Power did the Board ever hold any public hearings on a Utility Owned Solar  
10 Rooftop program of the kind (or of any kind) contemplated by the proposed Charter Amendment  
11 and Initiative which was passed by the City Council on November 7, 2008.

12 6. Even though I was President of the Board, at no time did the Mayor, anyone  
13 from the City Council, or Mr. Nahai consult with me about the fact that such an idea was even  
14 under consideration by the Mayor or City Council.

15 7. To be noted is the fact that the Council Motion which was introduced by Mr.  
16 Garcetti, Ms. Greuel, Ms. Perry and the others on October 15, 2008 called upon the 'DWP to  
17 "report to the Rules and Government Committee on the elements of a Los Angeles Basin Solar  
18 Power, Green Energy and Jobs Development Plan. . . ." Because the motion was directed to  
19 to the Department, and because the Department can only act through the Board, and because  
20 the Rules Committee was supposed to discuss this matter on October 22, 2008, no time at all  
21 was given for the Board itself to agendize this matter or otherwise investigate or ascertain how  
22 to meaningfully and thoughtfully provide the guidance sought by the City Council.

23 8. Despite not having received any direction or authorization from the Board, and  
24 despite the fact that the Board had never held any public hearings on any such vast Utility-  
25 Owned solar rooftop proposal, Mr. Nahai went ahead and sent a letter and detailed written

1 response to Eric Garcetti dated October 21, 2008. I am advised that this letter and enclosure  
2 were made a part of the record of the proceedings before the City Council Rules and Govern-  
3 Committee which were held on October 22, 2008. A true and correct copy of that letter and  
4 enclosure are attached hereto as Exhibit 'A' and incorporated herein by reference.

5           9. Although Mr. Nahai purported to have made his comments in his capacity as the  
6 CEO and General Manager of the Department, the fact remains that at no time did the Board of  
7 Commissioners of the Department of Water and Power ever give advance approval for any  
8 of the comments or the information he provided ostensibly on the Department's behalf as would  
9 normally be the case on something which contemplates the expenditure by the Department of  
10 the kind of large sums (\$1.5 Billion to \$3.0 Billion) contemplated under this proposal.

11           10. Moreover, because there is no provision under the Charter for the City Council  
12 or the Mayor to micro-manage the Department's operations or issue specific mandates with  
13 regard to how and under what circumstances the Department chooses to initiate a particular  
14 program, the fact that such a protocol was even contemplated would and should have been  
15 part of an extended public discussion before the Board itself. However, that did not occur in  
16 this instance. Given the fact that the City Council had to act by November 7, 2008, in order to  
17 meet the deadline to put a Charter Amendment and Ordinance before the Voters, it was simply  
18 not possible to be able for the Board to have the kind of public hearings necessary to consider  
19 such a far-reaching proposal and mandate as is contemplated by the Council and the Mayor.

20           11. It has since come to my attention that Mr. Garcetti had privately called upon  
21 the PA Consulting Group through the office of the Chief Legislative Analyst by asking Mr.  
22 Gerry Miller, the Chief Legislative Analyst, to contact the PA Consulting Group and ask them to  
23 provide their views on the merits of the Department's being directed to actively undertake a  
24 DWP-Owned solar rooftop initiative of the kind contemplated by Mr. Garcetti, the Mayor, Ms.  
25 Greuel, and the other City Council sponsors of Mr. Garcetti's motion. The PA Consulting

1 Group was already under contract with the DWP to evaluate the DWP's operations as part of  
2 a Charter-mandated 5-year review. Attached to this Declaration as Exhibit 'B' and incorporated  
3 herein by reference is a 13 Point Bullet Summary of the written conclusions of the PA Con-  
4 sulting Group which was released by the Office of the Chief Legislative Analyst on December  
5 19, 2008, but was not disclosed to the public before the Council voted on November 7, 2008, to  
6 put the Charter Amendment and Ordinance before the voters. If there had been a public hear-  
7 ing before the Department, the points raised by the PA Consulting Group would have been  
8 thoroughly vetted and discussed, including, but not limited to the fact that PA Consulting saw  
9 such a large, untested Department-Owned solar roof- top proposal as '*extremely risky*' and  
10 unworkable because in the considered opinion of the PA Consulting Group, "*it does not appear*  
11 *that DWP has the capability to adequately take on this program*" due to the "*extremely aggres-*  
12 *sive*" size of the program and the fact that "*the DWP does not have the planning mechanisms*  
13 *and resources in place to accomplish this program or, for that matter, their entire 20% by 2010*  
14 *requirement*". Instead, the public was denied this information until well after the vote.

15 I declare under penalty of perjury of the laws of the State of California that the fore-  
16 going is true and correct; and further that I have executed this Declaration on the 30th of  
17 December at Tarzana, California.

18 \_\_\_\_\_  
19 NICK PATSAOURAS  
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26 Declaration of Nick Patsouras in Support of Resi Fari's Opposition to Petition for Issuance of Writ of Mandate  
**Mitchell Schwartz vs. Karen E. Kalfayan - Case No. BS18136**

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, California. I am over the age of 18 years  
3 and not a party to the within action. My business address is 13700 Marina Pointe Drive, #922,  
4 Marina del Rey, California 90292, and employed in the office of the member of the Bar of this  
5 Court, at whose direction the service was made.

6 On December 30, 2008, I served the attached: **DECLARATION OF NICK**  
7 **PATSAOURAS IN SUPPORT OF REAL PARTY'S OPPOSITION TO WRIT PETITION**

8 on all interested parties in this action as follows:

9 STEPHEN J. KAUFMAN, ESQ.  
10 KAUFMAN & DOWNING, LLP  
11 777 South Figueroa Street, Suite 4050  
12 Los Angeles, California 90017

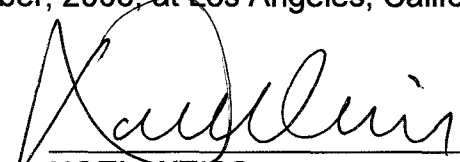
13 \_\_\_\_\_ (BY MAIL): I enclosed the foregoing pleadings in a sealed envelope addressed,  
14 as noted above, with postage thereon fully prepaid for first-class mail, and depositing the same  
15 with the US Postal Service.

16 **XX** (BY PERSONAL SERVICE): The foregoing pleadings were personally delivered  
17 to the office/residence of the Addressee as identified above, and left with the addressee or  
18 an employee or individual duly authorized to receive the same.

19 \_\_\_\_\_ (BY FACSIMILE) I caused the above-identified document to be transmitted by  
20 facsimile machine to the addressee noted above to the facsimile machine telephone number  
21 indicated above.

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

24 Executed this 30<sup>th</sup> day of December, 2008, at Los Angeles, California.

25   
26 NOEL WEISS