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2 GENE HAZZARD, *In Pro Per*
282 Adams Street, #6
3 Oakland, CA 94610-4147
(510) 418-0501
4 Email: genehazzard@gmail.com
5 Plaintiff, *In Pro Per*
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ORIGINAL FILED

DEC 01 2022

CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA
OAKLAND OFFICE

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION
12

13 GENE HAZZARD,

14 Plaintiff,

15 v.

16 MAYOR LIBBY SCHAAF; CITY OF
OAKLAND, a municipal corporation;
17 MIALISA BONTA, former CEO of Oakland
Promise; DAVID SILVER, Educational
18 Director in Mayor Schaaf's Office;
19 BARBARA PARKER, City Attorney;
COURTNEY RUBY, City Auditor; ED
20 REISKIN, City Administrator; ANDY
FREMDER, co-founder of East Bay College
21 Fund; ROB BONTA, former 18th Assembly
District Representative; SABRINA
22 LANDRETH, former City Administrator, and
23 DOES 1-100, inclusive.

24 Defendants.
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Case No.: 22-cv-02921-JSW

**REQUEST FOR JUDICIAL NOTICE IN
OPPOSITION TO DEFENDANTS' MOTION TO
DISMISS PLAINTIFF'S FIRST AMENDED
COMPLAINT**

Hearing Date: January 6, 2023

Time: 9:00 a.m.

Location: Oakland Courthouse
1301 Clay Street
Courtroom 4, 3rd Floor
Oakland, CA 94612

Hon. Jeffrey S. White

Action Filed: May 17, 2022

Trial Date: N/A

1 Plaintiff's Original and Amended Complaints in the instant matter make a reasonable request
2 that Defendants provide verifiable material evidence from the legally authorized agency responsible for
3 the issuance of any and all credentials and documentation that support Defendants' unsubstantiated
4 claim 1) that Defendants are the legal owner of the name "Oakland Promise"; and 2) that Defendants
5 have filed the required 1023 application and has received the Determination Letter from the Internal
6 Revenue Service ("IRS") establishing the legal status of Defendants' organization Oakland Promise as a
7 501(c)(3) tax-exempt, non-profit, public-benefit organization ("501(c)(3)").

8 Plaintiff also requests: 1) that Defendant Mialisa Bonta, former CEO of Oakland Promise,
9 provide evidence and justification as to why she filed duplicative 990 Forms with the IRS for tax years
10 2017 (Return ID # 1186205) and 2019 (Return ID # 2956497), in addition to Defendant Bonta filing a
11 990 Form for tax year 2018 (Return ID # 1186206) for which Defendants had no legal authorization to
12 file and when Defendants have yet to provide verifiable proof that Oakland Promise is legally entitled to
13 status as a 501(c)(3); 2) that Defendants provide legal evidence that they have filed the appropriate legal
14 application with the California Department of Justice (the Attorney General) and that there has been an
15 issuance of a Certificate of Merger, verifying Defendants' claim that Oakland Promise has legally
16 merged with East Bay College Fund ("EBCF") pursuant to California Corporations Code 6010(a); and
17 5) that Defendants provide proof that the Oakland Promise Fund is a municipal affair, as defined by
18 California Constitution, Article XI, Section 5, and is therefore entitled to be codified in section 1607 of
19 the City Charter of Oakland. Absent any reasonable legal argument, the Oakland Promise Fund must be
20 eviscerated from section 1607 Oakland's City Charter.

21 Pursuant to Rule 201(b) of the Federal Rule of Evidence and Federal Rule of Civil Procedure 34,
22 Plaintiff's request that Defendants provide such specific evidence is not unreasonable and is within the
23 narrow scope of the law.

24 Plaintiff hereby respectfully request that the Court take judicial notice of following documents in
25 support of Plaintiff's Opposition to Defendants' Motion to Dismiss Plaintiff's First Amended
26 Complaint, copies which are attached hereto and described herein as Exhibits A-M:
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- 1 • **Exhibit A:** Letter dated September 17, 2019 from California Attorney General Xavier
2 Becerra in response to Plaintiff's request for information, which response letter stated,
3 "Oakland Promise has never filed any documentation indicating the organization is a
4 501(c)(3) non-profit, public-benefit organization ... After a diligent search, we found no
5 documents responsive to this request."
- 6 • **Exhibit B:** Legal Opinion of City Attorney Barbara Parker dated March 3, 2020
7 regarding Oakland Promise's legal status as a non-profit organization, "Prior to 2019,
8 Oakland Promise was not a public benefit corporation."
- 9 • **Exhibit C:** 1023 Application Form required by the Internal Revenue Service, which
10 must be filed for consideration as a 501(c)(3) non-profit, public-benefit organization
11 ("501(c)(3)").
- 12 • **Exhibit D:** Determination Letter which is issued by the Internal Revenue Service upon
13 approval of a 1023 Application Form.
- 14 • **Exhibit E:** 990 Forms filed by Defendant Mialisa Bonta with the Internal Revenue
15 Service for tax years 2017 (with Return ID # 1186205), 2017 (with Return ID #
16 1186204—**note duplicative 990 Form originally filed by Susan Stutsman, President**),
17 2018 (with Return ID # 1186206), and 2019 (**note there was also a duplicative 990**
18 **Form originally filed by Rachel Westmoreland, CFO**). Defendant Mialisa Bonta
19 knowingly and with intent, misled and misrepresented her authority to file 990 for Tax
20 years 2017, 2018, and 2019.
- 21 • **Exhibit F:** Instructions from the IRS as to the purpose of Form 990 and the U.S. Code
22 6033 returns by exempt organizations.
- 23 • **Exhibit G:** Certificate of Merger (general information) with State of California
24 Secretary of State, a document required to be filed by organizations considering mergers
25 (includes application for surviving and disappearing entity).
- 26 • **Exhibit H:** Defendant City Council's approval of Resolution 87485 approving the
27 November 6, 2018 Charter Amendment Ballot Measure known as AA and codifying the
28 Oakland Promise Fund in section 1607 of the City Charter.
- **Exhibit I:** East Bay Times article of May 29, 2019: "Oakland Promise college
scholarship program moves to nonprofit."
- **Exhibit J:** Incorporation of East Bay College Fund (# A2504888), and Amended and
Restated Articles of Incorporation (# AO830276) (changing the name of the corporation
to Oakland Promise).
- **Exhibit K:** Application # 560578 for the Fictitious Business Name "Oakland Promise,"
filed with the Alameda County Clerk-Recorder by Plaintiff Gene Hazzard (owner of the
name "Oakland Promise"—Publication appearing in the Inter-City Express, on 7/3/19,
7/10/19, 7/17/19, and 7/24/19).

• **Exhibit L:** 15 U.S.C. § 1125(a):

Civil Action

(1) Any person who , in or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or misleading representation of ... shall be liable in civil action by any person who believes that he or she is or likely be damaged by such act.

• **Exhibit M:** Oakland City Council Resolution # 88208:

RESOLUTION Authorizing the City Administrator to Execute a Grant Agreement on behalf of the City with Oakland Promise, a California non-profit public benefit corporation, in the amount of One Million, One Hundred fifty thousand dollars (\$1,150,000.00). [*** NOTE, the actual contract which is not reflected in Resolution 88208 has an additional \$600,000.00, as shown in Resolution 87761.]

[Also note that while Resolution 88208 identifies East Bay College Fund's Amended and Restated Articles of Incorporation of June 27, 2019, it does not identify a particular individual by name. Please further note that Defendant Mialisa Bonta is the grantee recipient of these funds identified on Schedule [T] Contract Summary Transmittal.]

Pursuant to Federal Rule of Evidence 201, the court may judicially notice a fact that is (1) generally known within the trial court's territorial jurisdiction or (2) not subject to reasonable dispute because it "can be accurately and readily determined from sources whose accuracy cannot be reasonably in question." (Federal Rules of Evidence 201(b)(1) and (2).) Moreover, a Court "shall take judicial notice if requested by a party and supplied with the necessary information." (Federal Rule of Evidence 201(d).) "Judicially noticed facts often consist of matters of public record..." (*Id.*) Plaintiff has made requests from Defendant for information pursuant to this Request for Judicial Notice ("RJN"), identified in Exhibits A-E, G, K and M.

Defendants have made reference to the *Jobs & Housing Coalition, et al v. City of Oakland*, Alameda County Superior Court Case No. RG19005204, Default Judgment Against "Interested Person Defendants," entered July 5, 2019; the issue in dispute was the November 6, 2018 election results and whether or not the voters were "disenfranchised" by the Defendant members of the Oakland City Council's action of December 14, 2018 in approving Resolution 87485.

1 In the instant matter, however, Plaintiff's issue is not related to whether or not voters were
2 "disenfranchised" but, among other issues, whether Defendants' action in approving Resolution 87485
3 amending the Oakland City Charter and codifying the Oakland Promise Fund in section 1607 of the
4 Oakland City Charter violates California Constitution, Article XI, Section 5, which specifically states
5 that "City Charters adopted to this Constitution shall supersede any existing Charter and with respect to
6 municipal affairs shall supersede all laws inconsistent therewith." (Memorandum of Points and
7 Authorities filed by Plaintiff on July 7, 2022) (see Exhibit H to RJN). Defendants' Oakland Promise is
8 clearly identified as a nongovernmental private business interest in section 1607 of the Oakland City
9 Charter. (Original Complaint of May 17, 2022, at 9:7 (Item # 36).)

10 Federal Rule of Procedure 34(b)(2)(c) provides for discovery and inspection of documents and
11 things in the course of developing a case for trial. Subsection (b)(1) states that the request "must
12 describe with reasonable particularity each item or category of items to be inspected."

13 Defendant should be able to readily provide documents identified in Plaintiff's RJN Exhibits C,
14 D and G, in as much as these documents are necessary and required to establish Defendants' Oakland
15 Promise's legal status as a 501(c)(3).

16 Exhibit K of Plaintiff's RJN clearly establishes that Plaintiff is the legal owner of the name
17 Oakland Promise, and that any unauthorized use is thus a clear violation of 15 U.S.C. section 1125(a)
18 regarding Civil Actions:

19 (1) Any person who, in or in connection with any goods or services, or any container for goods,
20 uses in commerce any word, term, name symbol, or device, or any other combination thereof, or
any false designation of origin, false or misleading description of fact, which

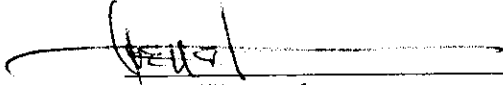
21 (A) Is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation,
22 connection, or association of such person with another person or as to the origin,
23 sponsorship or approval of his or her goods, services or commercial activities by another
person ...

24 (2) As used in this subsection, the term "any person" includes any State, instrumentality of a
25 State or employee of a State or instrumentality of a State acting in his or her official capacity.
26 Any State, and any such instrumentality officer, or employee, shall be subject to the provisions
of this chapter in the same manner and to the same extent as any nongovernmental entity.

1 All of the exhibits identified in this RJN are relevant to and have a direct relation to the matters
2 at issue in Plaintiff's Opposition to Defendant's Motion to Dismiss Plaintiff's First Amended Complaint.

3 DATED: November 30, 2022

Respectfully submitted,

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5 Gene Hazzard
6 Plaintiff, *In Pro Per*
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5 Plaintiff, *In Pro Per*
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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION
12

13 GENE HAZZARD,

14 Plaintiff,

15 v.

16 MAYOR LIBBY SCHAAF; CITY OF
OAKLAND, a municipal corporation;
17 MIALISA BONTA, former CEO of Oakland
Promise; DAVID SILVER, Educational
18 Director in Mayor SchAAF's Office;
19 BARBARA PARKER, City Attorney;
COURTNEY RUBY, City Auditor; ED
20 REISKIN, City Administrator; ANDY
FREMDER, co-founder of East Bay College
21 Fund; ROB BONTA, former 18th Assembly
District Representative; SABRINA
22 LANDRETH, former City Administrator, and
23 DOES 1-100, inclusive.

24 Defendants.
25

Case No.: 22-cv-02921-JSW

**PLAINTIFF GENE HAZZARD'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS
PLAINTIFF'S FIRST AMENDED
COMPLAINT**

Hearing Date: January 6, 2023

Time: 9:00 a.m.

Location: Oakland Courthouse
1301 Clay Street
Courtroom 5, 2nd Floor
Oakland, CA 94612

Hon. Jeffrey S. White

Action Filed: May 17, 2022

Trial Date: N/A

26 **I. INTRODUCTION AND STATEMENT OF THE ISSUE**

27 Plaintiff Gene Hazzard brings this action against Defendants Mayor Libby SchAAF; other current
28

1 and former City of Oakland Officials; Andy Fremder, co-founder of EBCF; Mialisa Bonta, former Chief
2 Executive Officer of Oakland Promise; and former 18th Assembly District Representative Rob Bonta.

3 Plaintiff's essential arguments are as follows:

4 1) Defendants' organization known as Oakland Promise has failed to comply with either
5 state or federal regulatory requirements, and have not followed the legal guidelines that all organizations
6 must adhere to if in order to be considered a 501(c)(3) non-profit, tax-exempt, public-benefit corporation
7 ("501(c)(3)"). Instead, Defendants seem to feel that they are immunized and exempt from adherence to
8 these regulations and that by proxy Oakland Promise can become a non-profit without filing a 1023 Form
9 (Plaintiff's Request for Judicial Notice In Opposition to Defendants' Motion to Dismiss Plaintiff's First
10 Amended Complaint ("RJN"), Exhibit C) and or receiving a Determination Letter (RJN, Exhibit D) from
11 the Internal Revenue Service ("IRS"). Further, Defendants merged their organization with a legal non-
12 profit organization without their organization also being a non-profit, which is clearly out of compliance
13 with California Corporations Code 6010(a), which unequivocally states,

14 A public benefit corporation may merge with any domestic corporation, foreign
15 corporation, or other business entity. **However, without the prior written**
16 **consent of the Attorney General, a public benefit corporation may only**
17 **merge with another public benefit corporation** (RJN, Exhibits A, B and
18 G; emphasis added.)

18 2) Defendant Members of the Oakland City Council, in approving Resolution 87485 on
19 December 14, 2018 codifying a Charter Amendment which had appeared on the November 6, 2018
20 general election ballot known as Measure AA, committed an egregious act that violated California
21 Constitution Article XI, Section 5(a), which states,

22 It shall be competent in any city charter to provide that the city governed
23 thereunder may make and enforce all ordinances and regulations in respect to
24 municipal affairs, subject only to restrictions and limitations provided in their
25 several charters and in respect to other matters they shall be subject to general
26 laws. City charters adopted pursuant to this Constitution shall supersede any
27 existing charter, and with respect to municipal affairs shall supersede all laws
28 inconsistent therewith.

1 The California Constitution, Article XI, Section 5, is clear on first impression that there is no
2 ambiguity as to what constitutes a municipal affair, contrary to Defendants' denial. In fact, Defendants'
3 action in approving Resolution 87485 codifying the Oakland Promise Fund in section 1607 of the City
4 Charter clearly violates this constitutional section. Thus, Section 1607 must be eviscerated from the City
5 Charter.

6 Defendants' legal representative in this matter has misrepresented the actual voting tabulations of
7 the election results; it was not the voters who were in support of and approved Resolution 87485, but
8 Defendant members of the Oakland City Council. Although Defendant Schaaf's Oakland Promise
9 Initiative had its origin in the Mayor's Office in 2015, it was not considered a municipal affair, as noted
10 in RJN Exhibit I: "After three years, Oakland Promise—Mayor Libby Schaaf's multifaceted Initiative
11 ...is moving out of her office, merging with the East Bay College Fund and becoming a nonprofit."

12 This is yet another example of Defendants' obfuscation of the material facts. Oakland Promise
13 was not allowed to merge, and in fact Defendants have failed to provide any legal proof that they have
14 filed Form 1023 (RJN, Exhibits C and D), nor have Defendants provided material evidence of a
15 Certificate of Merger (RJN, Exhibit G).

16 Plaintiff has provided compelling arguable legal issues which must orally be heard; Defendants'
17 failure to comply with standard legal protocol is reprehensible to the Rule of Law. For the foregoing
18 reasons and as set forth in more detail below, Plaintiff respectfully asks the court to DENY Defendants'
19 Motion to Dismiss Plaintiff's First Amended Complaint and to proceed with a Case Management
20 Conference.

21 II. FACTUAL BACKGROUND

22 A. Summary of Allegations.

23 1. The Oakland Promise.

24 Defendant Mayor Libby Schaaf launched her Oakland Promise Initiative in 2015 under a cloud of
25 spurious and pernicious activity, as was revealed in an Investigation Report of November 19, 2019 by
26 Defendant Courtney Ruby, City Auditor (Original Complaint of May 17, 2022, at 7:11 (Items 29-30)
27

1 (“Complaint”). Spawned by several whistleblower complaints, this investigation revealed that
2 Defendant Schaaf had been illegally operating inside of City Hall and using City Hall services for more
3 than two years without approval from Defendant Members of the Oakland City Council. This
4 unauthorized use was approved by Defendant Sabrina Landreth, former City Administrator, totaling in
5 excess of more than \$4 million from the city’s general fund account, with no apparent concern from
6 Defendant Courtney Ruby that Defendant Schaaf would face any consequences for not returning this
7 illegal expenditure to the city’s general fund account. This appears to be the beginning of Defendant
8 Schaaf’s pattern of avoidance of protocol procedure.

9 As mentioned above, Defendants failed to comply with protocol by not applying and submitting
10 the necessary 1023 application to the IRS for consideration of Oakland Promise’s legal status as a
11 501(c)(3). Two different officers of the court, former California Attorney General Xavier Becerra and
12 Defendant Barbara Parker, City Attorney, confirmed that Defendant Schaaf “never filed an application
13 indicating the organization is a (501(c)(3)),” as shown in Plaintiff’s earlier Opposition to Defendants’
14 Reply In support of Motion to Dismiss (RJN, Exhibits A and B). Once again, there have been no
15 consequences for Defendants’ failure to comply with regulatory protocol.

16 There are clearly grounds for Plaintiff’s cause for relief under both state and federal statutes.
17 (RJN, Exhibit L – 15 U.S.C. 1125) with regard to Plaintiff’s filing of the fictitious business name
18 “Oakland Promise” with the Alameda County Clerk-Recorder. (RJN, Exhibit K.) **The filing of the**
19 **fictitious business name Oakland Promise (Registration # 560578) by Plaintiff clearly establishes**
20 **protocol of ownership of that name.**

21 Defendant Mialisa Bonta, former CEO of Oakland Promise, could not legally file 990 forms with
22 the Internal Revenue Service for tax years 2017, 2018, and 2019 (RJN, Exhibit E). As noted in
23 Defendant Courtney Ruby’s Investigation Report of November 19, 2019, Defendant Bonta as CEO of
24 Oakland Promise was under the fiscal sponsorship of the Oakland Public Education Fund (Complaint at
25 7:3 (Item 27)). Therefore, the Oakland Public Education Fund, as the fiscal sponsor of Oakland Promise,
26 is responsible for all reporting requirements of the 990 Forms to Internal Revenue Service.

1 Additionally, it appears that Defendant Bonta filed a duplicative 990 Form for tax year 2017
2 (RJN, Exhibit E) when Susan Stutsman, President of the East Bay College Fund ("EBCF"), had initially
3 filed a 990 Form using the EIN 54-2103707 (RJN, Exhibit E) with different net asset balances.
4 Similarly, Defendant Mialisa Bonta filed a duplicative 990 Form in tax year 2019 using the EIN 54-
5 2103707 (RJN, Exhibit E) when Rachel Westmoreland, CFO for EBCF, had initially filed for that same
6 tax year; and in tax year 2018, Defendant Mialisa Bonta filed a single 990 Form.

7 All of these transactions appear to have been highly irregular and outside of the IRS protocol,
8 particularly when Defendant Mialisa, CEO of Oakland Promise, is under the fiscal sponsorship of the
9 Oakland Public Education Fund. These matters must be reconciled.

10 **2. Measure AA.**

11 Plaintiff's reference to the November 6, 2018 general election ballot Measure AA election results
12 relates only to the Defendant City Councilmembers' approval of Resolution 87485 (RJN, Exhibit H) on
13 December 14, 2018. The City Clerk's records indicate that the Children's Initiative of 2018 also referred
14 to as Measure AA was a ballot measure initiative sponsored by Defendant Schaaf rather than a citizen
15 voter-driven effort as noted in Defendants' argument. The City Clerk's Office has in its possession the
16 \$500.00 personal check written by Defendant David Silver, who is Defendant Schaaf's Educational
17 Director and who has office space in the Mayor's Office. Defendant Silver was the first CEO of Oakland
18 Promise and was formerly an employee of the Oakland Public Education Fund.

19 The Defendant members of the Oakland Council's action in approving Resolution 87485
20 amending the City Charter and codifying the Oakland Promise Fund in section 1607 of the City Charter,
21 was repugnant and violated the tenets and principles of California Constitution, Article XI, Section 5,
22 which requires that any and all City Charter amendments must be a municipal affair. There is a very
23 narrow definition of what constitutes a municipal affair.

24 Oakland Promise is a private business interest. The fact that the argument in the instant matter is
25 focusing on the legal status of whether or not Oakland Promise is legally a 501(c)(3) clearly establishes
26 that Oakland Promise is not a municipal affair. The Oakland Promise Fund must be eviscerated from
27

1 section 1607 of the Oakland City Charter.

2 III. ARGUMENT

3 A. Legal Standard.

4 The cornerstone of Plaintiff's legal argument is embedded in Federal Rule of Civil Procedure 401,
5 as well as Federal Rules of Civil Procedure 8 and 34.

6 Plaintiff has provided sufficient dispositive material evidence as conclusive. For Defendants to
7 consistently ignore regulatory protocol is unsettling. Plaintiff's Request for Judicial Notice with Exhibits
8 from A to M clearly establishes the fact that Defendants have been able to knowingly act with impunity
9 by defying any all regulatory agencies protocol because there have been no consequences for their
10 egregious conduct.

11 Defendants make a specious argument that there was never any claim of a merger between
12 Oakland Promise and EBCF, and Defendants are obviously misrepresenting the facts (RJN, Exhibits A, B
13 and I). Defendant City Councilmembers approved Resolution 88208/87761 (RJN, Exhibit M) on March
14 5, 2020, which retroactively authorized approval of fiscal budget appropriation for fiscal years 2015-
15 2016, 2016-2017 and 2018-2019 to Oakland Promise; however, those appropriations were never
16 executed because Defendant Schaaf's Oakland Promise was under the Fiscal Sponsorship of the Oakland
17 Public Education Fund.

18 The "Exit-Project Transfer Agreement," identified in the June 30, 2018 Independent Audit Report
19 of the Oakland Public Education Fund by Hood & Strong, clearly establishes an official fiduciary
20 relationship between Defendant Mayor Schaaf's organization Oakland Promise and the Oakland Public
21 Education Fund.


22 IV. CONCLUSION

23 For the compelling material evidence provided by Plaintiff above and the Request for Judicial
24 Notice with Exhibits A-M and supporting explanation, Plaintiff respectfully requests that this Court
25 support his opposition and DENY Defendants' Motion to Dismiss Plaintiff's First Amended Complaint.¹

26 ¹ Please also note that, contrary to Defendants' claim that "Plaintiff has not successfully or properly served some of the
27 Defendants," all Defendants have been properly and timely served (as noted in Court Docket # 6 of June 2, 2022). However,

1 DATED: November 30, 2022

Respectfully submitted,

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4 
Gene Hazzard

Plaintiff, *In Pro Per*

26 Defendants former City Administrator Sabrina Landreth, Mialisa Bonta, Rob Bonta, and Andy Fremder have failed to file an
27 answer to the Original Complaint filed by Plaintiff on May 17, 2022. These Defendants should have filed an answer or
appeared by June 23, 2022, as did the City Defendants who were properly and timely served at the same time.

28 MPA IN OPP. TO DEFS' MTD FIRST AMENDED COMPLAINT, Case No. 22-cv-02921-JSW

APPENDIX

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MPA IN OPP. TO DEFS' MTD FIRST AMENDED COMPLAINT, Case No. 22-cv-02921-JSW

**U.S. District Court
California Northern District (Oakland)
CIVIL DOCKET FOR CASE #: 4:22-cv-02921-JSW**

Hazzard v. Schaaf et al
Assigned to: Judge Jeffrey S. White
Cause: 28:1331 Fed. Question

Date Filed: 05/17/2022
Jury Demand: None
Nature of Suit: 890 Other Statutory Actions
Jurisdiction: Federal Question

Plaintiff

Gene Hazzard

represented by **Gene Hazzard**
282 Adams Street, #6
Oakland, CA 94610-4147
510-418-0501
PRO SE

V.

Defendant

Mayor Libby Schaaf

represented by **Selia Monique Warren**
Office of the City Attorney City of
Oakland
1 Frank H. Ogawa Plaza 6th Floor
Oakland, CA 94612
510-238-6524
Fax: 510-238-6500
Email: SWarren@oaklandcityattorney.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

City Of Oakland
a municipal corporation

represented by **Selia Monique Warren**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Mialisa Bonta
former CEO of Oakland Promise

Defendant

David Silver

represented by **Selia Monique Warren**

*Educational Director in Mayor Schaaf's
Office*

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Barbara Parker
City Attorney

represented by **Selia Monique Warren**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Courtney Ruby
City Auditor

represented by **Selia Monique Warren**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Ed Reiskin
City Administrator

represented by **Selia Monique Warren**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Andy Fremder
co-founder of East Bay College Fund

Defendant

Rob Bonta
*former 18th Assembly District
Representative*

Defendant

Sabrina Landreth
former City Administrator

Date Filed	#	Docket Text
05/17/2022	<u>1</u>	COMPLAINT against Mialisa Bonta, Rob Bonta, City Of Oakland, Andy Fremder, Sabrina Landreth, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver (Filing fee \$ 402, 44611017483). Filed by Gene Hazzard. Consent/Declination due by 5/31/2022. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Receipt)(kkp, COURT STAFF) (Filed on 5/17/2022) (Entered: 05/18/2022)
05/17/2022	<u>2</u>	Summons Issued as to Mialisa Bonta, Rob Bonta, City Of Oakland, Andy Fremder, Sabrina Landreth, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. (kkp, COURT STAFF) (Filed on 5/17/2022) (Entered: 05/18/2022)

05/17/2022	<u>3</u>	<p>Initial Case Management Scheduling Order with ADR Deadlines: Case Management Statement due by 8/10/2022. Initial Case Management Conference set for 8/17/2022 01:30 PM in Oakland, Courtroom 4, 3rd Floor. (kkp, COURT STAFF) (Filed on 5/17/2022)</p> <p>Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF)</p> <p>(Entered: 05/18/2022)</p>
06/02/2022	<u>4</u>	<p>CLERK'S NOTICE TO PLAINTIFF Re: Consent or Declination: Plaintiff shall file a consent or declination to proceed before a magistrate judge. Note that any party is free to withhold consent to proceed before a magistrate judge without adverse substantive consequences. The forms are available at: http://cand.uscourts.gov/civilforms. Consent/Declination due by 6/16/2022. (ig, COURT STAFF) (Filed on 6/2/2022)</p> <p>Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF)</p> <p>(Entered: 06/02/2022)</p>
06/02/2022	<u>5</u>	<p>Summons Returned Unexecuted by Gene Hazzard as to Mialisa Bonta, Rob Bonta, City Of Oakland, Andy Fremder, Sabrina Landreth, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. (kkp, COURT STAFF) (Filed on 6/2/2022) (Entered: 06/02/2022)</p>
06/02/2022	<u>6</u>	<p>Summons Issued as to Mialisa Bonta, Rob Bonta, City Of Oakland, Andy Fremder, Sabrina Landreth, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. (kkp, COURT STAFF) (Filed on 6/2/2022) (Entered: 06/02/2022)</p>
06/07/2022	<u>7</u>	<p>CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by Gene Hazzard. (kkp, COURT STAFF) (Filed on 6/7/2022) (Entered: 06/09/2022)</p>
06/23/2022	<u>8</u>	<p>MOTION to Dismiss filed by City Of Oakland, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. Motion Hearing set for 8/11/2022 01:00 PM in Oakland, Courtroom 4, 3rd Floor before Magistrate Judge Donna M. Ryu. Responses due by 7/7/2022. Replies due by 7/14/2022. (Attachments: # <u>1</u> Request for Judicial Notice, # <u>2</u> Proposed Order)(Warren, Selia) (Filed on 6/23/2022) (Entered: 06/23/2022)</p>
06/23/2022	<u>9</u>	<p>CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by City Of Oakland, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver.. (Warren, Selia) (Filed on 6/23/2022) (Entered: 06/23/2022)</p>
07/07/2022	<u>10</u>	<p>ORDER re: <u>8</u> Motion to Dismiss. Response due by 7/14/2022. Signed by Magistrate Judge Donna M. Ryu on 7/7/2022. (dmrlc2, COURT STAFF) (Filed on 7/7/2022)</p> <p>Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF)</p> <p>(Entered: 07/07/2022)</p>
07/07/2022	<u>11</u>	<p>OPPOSITION/RESPONSE (re <u>8</u> MOTION to Dismiss) filed by Gene Hazzard. (jml, COURT STAFF) (Filed on 7/7/2022) (Entered: 07/07/2022)</p>
07/08/2022	<u>12</u>	<p>MOTION for Reconsideration re <u>10</u> Order, filed by Gene Hazzard. (jml, COURT</p>

		STAFF) (Filed on 7/8/2022) (Entered: 07/08/2022)
07/14/2022	<u>13</u>	REPLY (re <u>8</u> MOTION to Dismiss) <i>Reply In Support of Motion to Dismiss by City Defendants City of Oakland, Libby Schaaf, David Silver, Barbara J. Parker, Courtney Ruby and Ed Reiskin</i> filed by City Of Oakland, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. (Warren, Selia) (Filed on 7/14/2022) (Entered: 07/14/2022)
07/14/2022	<u>14</u>	Declaration of Selia M. Warren in Support of <u>10</u> Order, <i>Declaration of Selia M. Warren Re Order Re Motion to Dismiss (D.N. 10 July 7, 2022)</i> filed by City Of Oakland, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. (Related document(s) <u>10</u>) (Warren, Selia) (Filed on 7/14/2022) (Entered: 07/14/2022)
07/15/2022	<u>15</u>	ORDER REASSIGNING CASE and denying <u>12</u> Motion for Reconsideration as moot. Signed by Magistrate Judge Donna M. Ryu on 7/15/2022. (dmrlc2, COURT STAFF) (Filed on 7/15/2022) Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF) (Entered: 07/15/2022)
07/15/2022	<u>16</u>	ORDER REASSIGNING CASE. Case reassigned using a proportionate, random, and blind system pursuant to General Order No. 44 to Judge Jeffrey S. White for all further proceedings. Magistrate Judge Donna M. Ryu no longer assigned to case. Notice: The assigned judge participates in the Cameras in the Courtroom Pilot Project. See General Order No. 65 and http://cand.uscourts.gov/cameras. Signed by The Clerk on 07/15/2022. (Attachments: # <u>1</u> Notice of Eligibility for Video Recording)(jrs, COURT STAFF) (Filed on 7/15/2022) Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF) (Entered: 07/15/2022)
07/15/2022	<u>17</u>	ORDER SETTING CASE MANAGEMENT CONFERENCE AND REQUIRING JOINT CASE MANAGEMENT CONFERENCE STATEMENT. Signed by Judge Jeffrey S. White on July 15, 2022. Joint Case Management Statement due by 9/2/2022. Initial Case Management Conference set for 9/9/2022 11:00 AM in Oakland, - Videoconference Only. This proceeding will be held via a Zoom webinar. Webinar Access: All counsel, members of the public, and media may access the webinar information at https://www.cand.uscourts.gov/jsw Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. One list of names of all counsel appearing for all parties must be sent in one email to the CRD at jswcrd@cand.uscourts.gov no later than September 8, 2022 at 5:00 PM PST. General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and

rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited.

Zoom Guidance and Setup: <https://www.cand.uscourts.gov/zoom/>.

(dts, COURT STAFF) (Filed on 7/15/2022)

Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF)

(Entered: 07/15/2022)

07/18/2022	<u>18</u>	Renotice motion hearing re <u>8</u> MOTION to Dismiss <i>First Amended Notice - New Hearing Date and Time September 9, 2022 9:00 am Courtroom 5-2nd Floor</i> filed by City Of Oakland, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. (Related document(s) <u>8</u>) (Warren, Selia) (Filed on 7/18/2022) (Entered: 07/18/2022)
07/19/2022		Set Hearing as to <u>8</u> MOTION to Dismiss . Motion Hearing set for 9/9/2022 09:00 AM in Oakland, Courtroom 5, 2nd Floor before Judge Jeffrey S. White. (dts, COURT STAFF) (Filed on 7/19/2022) (Entered: 07/19/2022)
07/20/2022	<u>19</u>	OPPOSITION to Defendant's <u>13</u> Reply in Support of Motion to Dismiss. (re <u>8</u> MOTION to Dismiss) filed by Gene Hazzard. (kkp, COURT STAFF) (Filed on 7/20/2022) (Entered: 07/20/2022)
07/22/2022	<u>20</u>	CERTIFICATE OF SERVICE (re <u>19</u> Opposition/Response to Motion, <u>17</u> Order) by Gene Hazzard. (kkp, COURT STAFF) (Filed on 7/22/2022) (Entered: 07/25/2022)
07/28/2022	<u>21</u>	OPPOSITION/RESPONSE (re <u>8</u> MOTION to Dismiss) filed by Gene Hazzard. (kkp, COURT STAFF) (Filed on 7/28/2022) (Entered: 07/28/2022)
08/01/2022	<u>22</u>	CERTIFICATE OF SERVICE (re <u>21</u> Opposition/Response to Motion) filed by Gene Hazzard. (jlm, COURT STAFF) (Filed on 8/1/2022) Modified on 8/2/2022 (kkp, COURT STAFF). (Entered: 08/01/2022)
08/25/2022	<u>23</u>	Plaintiff's Case Management Statement & Proposed Order filed by Gene Hazzard. (kkp, COURT STAFF) (Filed on 8/25/2022) (Entered: 08/25/2022)
08/26/2022	<u>24</u>	Separate Case Management Statement of Defendants City of Oakland, Libby Schaaf, David Silver, Barbara J. Parker, Courtney Ruby and Ed Reiskin filed by City Of Oakland. (Warren, Selia) (Filed on 8/26/2022) Modified on 8/29/2022 (kkp, COURT STAFF). (Entered: 08/26/2022)
08/30/2022	<u>25</u>	CERTIFICATE OF SERVICE by Gene Hazzard. (kkp, COURT STAFF) (Filed on 8/30/2022) (Entered: 08/30/2022)
09/06/2022	<u>26</u>	CLERK'S NOTICE VACATING MOTION HEARING AND CASE MANAGEMENT CONFERENCE. (dts, COURT STAFF) (Filed on 9/6/2022)
		Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF)
		(Entered: 09/06/2022)

10/04/2022	<u>27</u>	ORDER by Judge Jeffrey S. White GRANTING <u>8</u> MOTION TO DISMISS. Amended Pleadings due by 11/1/2022. (dts, COURT STAFF) (Filed on 10/4/2022) Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF) (Entered: 10/04/2022)
10/21/2022	<u>28</u>	PLAINTIFF'S MOTION for Reconsideration of Courts (1) Vacation of Case Management Conference, (2) Vacation of Hearing re: Motion to Dismiss, and (3) Order Granting Defendants Motion to Dismiss filed by Gene Hazzard. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Certificate/Proof of Service) (kkp, COURT STAFF) (Filed on 10/21/2022) (Entered: 10/21/2022)
10/24/2022	<u>29</u>	ORDER by Judge Jeffrey S. White DENYING <u>28</u> MOTION FOR RECONSIDERATION. (dts, COURT STAFF) (Filed on 10/24/2022) Any non-CM/ECF Participants have been served by First Class Mail to the addresses of record listed on the Notice of Electronic Filing (NEF) (Entered: 10/24/2022)
10/31/2022	<u>30</u>	FIRST AMENDED COMPLAINT against Mialisa Bonta, Rob Bonta, City Of Oakland, Andy Fremder, Sabrina Landreth, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver filed by Gene Hazzard. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Certificate/Proof of Service)(kkp, COURT STAFF) (Filed on 10/31/2022) (Entered: 10/31/2022)
11/17/2022	<u>31</u>	MOTION to Dismiss First Amended Complaint filed by City Of Oakland, Barbara Parker, Ed Reiskin, Courtney Ruby, Libby Schaaf, David Silver. Motion Hearing set for 1/6/2023 09:00 AM in Oakland, Courtroom 5, 2nd Floor before Judge Jeffrey S. White. Responses due by 12/1/2022. Replies due by 12/8/2022. (Attachments: # <u>1</u> Request for Judicial Notice, # <u>2</u> Proposed Order)(Warren, Selia) (Filed on 11/17/2022) Modified on 11/17/2022 (kkp, COURT STAFF). (Entered: 11/17/2022)

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11/29/2022 02:38:27			
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1
2 GENE HAZZARD, *In Pro Per*
3 282 Adams Street, #6
4 Oakland, CA 94610-4147
5 (510) 418-0501
6 Email: genehazzard@gmail.com
7 Plaintiff, *In Pro Per*
8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION
12

13 GENE HAZZARD,

14 Plaintiff,

15 v.

16 MAYOR LIBBY SCHAAF; CITY OF
17 OAKLAND, a municipal corporation;
18 MIALISA BONTA, former CEO of Oakland
19 Promise; DAVID SILVER, Educational
20 Director in Mayor Schaaf's Office;
21 BARBARA PARKER, City Attorney;
22 COURTNEY RUBY, City Auditor; ED
23 REISKIN, City Administrator; ANDY
FREMDER, co-founder of East Bay College
Fund; ROB BONTA, former 18th Assembly
District Representative; SABRINA
LANDRETH, former City Administrator, and
DOES 1-100, inclusive.

24 Defendants.
25

Case No.: 22-cv-02921-JSW

**[PROPOSED] ORDER DENYING
DEFENDANTS' MOTION TO DISMISS
PLAINTIFF'S FIRST AMENDED
COMPLAINT**

Hearing Date: January 6, 2023

Time: 9:00 a.m.

Location: Oakland Courthouse
1301 Clay Street
Courtroom 5, 2nd Floor
Oakland, CA 94612

Hon. Jeffrey S. White

Action Filed: May 17, 2022

Trial Date: N/A

26 On January 6, 2023 at 9:00 a.m., Defendants' Motion to Dismiss Plaintiff's First Amended
27 Complaint came on regularly for hearing.
28

1 The Court has thoroughly considered all briefing submitted in support of and in opposition to the
2 motion and arguments of counsel and plaintiff which are inclusive of the rule of law as well as the
3 material facts and request for judicial notice presented by Plaintiff which are consistent and
4 uncontroverted with the rules of law that govern the regulatory agencies who are responsible for the
5 issuance of required legal documents for an organization's approval for its legal status.

6 The Court now finds that Defendants' Motion to Dismiss Plaintiffs First Amended Complaint is
7 DENIED.

8
9 DATED: _____, 2023

10 Hon. Jeffrey S. White
United States Senior District Judge
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1
2 GENE HAZZARD, *In Pro Per*
3 282 Adams Street, #6
4 Oakland, CA 94610-4147
5 (510) 418-0501
6 Email: genehazzard@gmail.com
7 Plaintiff, *In Pro Per*
8

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CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA
OAKLAND OFFICE

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION
12

13 GENE HAZZARD,

14 Plaintiff,

15 v.

16 MAYOR LIBBY SCHAAF; CITY OF
17 OAKLAND, a municipal corporation;
18 MIALISA BONTA, former CEO of Oakland
19 Promise; DAVID SILVER, Educational
20 Director in Mayor Schaaf's Office;
21 BARBARA PARKER, City Attorney;
22 COURTNEY RUBY, City Auditor; ED
23 REISKIN, City Administrator; ANDY
24 FREMDER, co-founder of East Bay College
25 Fund; ROB BONTA, former 18th Assembly
26 District Representative; SABRINA
27 LANDRETH, former City Administrator, and
28 DOES 1-100, inclusive.

Defendants.

Case No.: 4:22-cv-02921-JSW

CERTIFICATE OF SERVICE

Hearing Date: January 6, 2023

Time: 9:00 a.m.

Location: Oakland Courthouse
1301 Clay Street
Courtroom 5, 2nd Floor
Oakland, CA 94612

Hon. Jeffrey S. White

Action Filed: May 17, 2022

Trial Date: N/A

I, the undersigned, am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 2550 Frances St., Oakland, CA 94601.

On December 1, 2022, I served the following documents on the parties listed below by the methods indicated below:

**PLAINTIFF GENE HAZZARD'S MEMORANDUM OF POINTS AND AUTHORITIES
IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S FIRST
AMENDED COMPLAINT;**

**REQUEST FOR JUDICIAL NOTICE IN OPPOSITION TO DEFENDANTS' MOTION
TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT; and**

**[PROPOSED] ORDER DENYING DEFENDANTS' MOTION TO DISMISS
PLAINTIFFS' FIRST AMENDED COMPLAINT**

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18th Assembly District
Elihu Harris State Building
1515 Clay St., Suite 2204
Oakland, CA 94612

Sabrina Landreth, General Manager
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605

Served Via U.S. Mail:

Andy Fremder
East Bay College Fund
300 Frank Ogawa Plaza, # 430
Oakland, CA 94612

David
Ruby

Sean Clinton Woods, Esq.
Dept. of Justice
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102
(Attorney for Defendant Rob Bonta)

John T. Kennedy, Esq.
Nossaman LLP
621 Capitol Mall, Suite 2500
Sacramento, CA 95814
(Attorney for Defendant Rob Bonta)

CERTIFICATE OF SERVICE, Case No. 22-cv-02921-JSW