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ERIC J. MIETHKE (SBN 133224)
3 SEAN P. WELCH (SBN 227101)
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Email: koneto@nmgovlaw.com

9 *Attorneys for Petitioners/Plaintiffs*
10 Lee Schmeer, Salim Bana, Jeff
Wheeler, Chris Kucma, Hilex Poly Co. LLC
11

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF LOS ANGELES

14 LEE SCHMEER, SALIM BANA, JEFF)
15 WHEELER, CHRIS KUCMA, and)
16 HILEX POLY CO. LLC,)

17 *Petitioners/Plaintiffs,*

18 vs.

19 COUNTY OF LOS ANGELES,
20 CALIFORNIA; GAIL FARBER in her
official capacity as Los Angeles Co.
Director of Public Works; KURT
21 FLOREN in his official capacity as Los
22 Angeles Co. Director of the Dept. of
Agricultural Commissioner/Weights
23 and Measures; DR. JONATHAN
24 FIELDING in his official capacity as
Los Angeles Co. Director of Public
25 Health; and DOES 1-10,

26 *Respondents/Defendants.*
27
28

Case No.: BC470705

**PETITIONERS' APPENDIX
(DECLARATIONS IN SUPPORT
OF MOTION FOR WRIT OF
MANDATE)**

DATE: March 15, 2012

TIME: 9:30 a.m.

DEPT: 85

JUDGE: Hon. James C. Chalfant

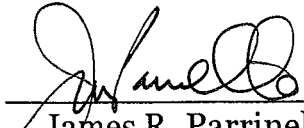
1 Pursuant to Los Angeles Superior Court Local Rule 3.231, Petitioners LEE
2 SCHMEER, SALIM BANA, JEFF WHEELER, CHRIS KUCMA and HILEX POLY
3 CO. LLC, submit the following Petitioners' Appendix with respect to Petitioners'
4 Motion for Writ of Mandate in the above-captioned matter:
5

6 **PETITIONERS' APPENDIX**
7

Tab	Description of Evidence
1	Declaration of Chris Kucma in Support of Motion for Writ of Mandate
2	Declaration of Salim Bana in Support of Motion for Writ of Mandate
3	Declaration of Lee Schmeer in Support of Motion for Writ of Mandate
4	Declaration of Jeff Wheeler in Support of Motion for Writ of Mandate
5	Declaration of Phillip Rozenski in Support of Motion for Writ of Mandate

19
20 Dated: February 16, 2012

NIELSEN MERKSAMER PARRINELLO
GROSS & LEONI, LLP

21
22 By: 
23 James R. Parrinello
24 *Attorneys for Petitioners*
25
26
27
28

TAB 1

1 NIELSEN MERKSAMER PARRINELLO
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2 JAMES R. PARRINELLO (SBN 063415)
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23 Agricultural Commissioner/Weights
and Measures; DR. JONATHAN
24 FIELDING in his official capacity as
25 Los Angeles Co. Director of Public
Health; and DOES 1-10,

26 *Respondents/Defendants.*
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Case No.: BC470705

DECLARATION OF CHRIS KUCMA
IN SUPPORT OF MOTION FOR WRIT
OF MANDATE

DATE: March 15, 2012

TIME: 9:30 a.m.

DEPT: 85

JUDGE: Hon. James C. Chalfant

1 CHRISTINE KUCMA declares under penalty of perjury as follows:

2 1. I am a petitioner/plaintiff in the action noted above and make this
3 declaration in support of my motion for a writ of mandate. The facts set forth below
4 are known to me personally, except for those matters stated on information and
5 belief and, as to those matters, I believe them to be true. If called as a witness, I
6 could and would testify competently, under oath to such facts.

7 2. I am a resident and taxpayer of the County of Los Angeles, California.

8 3. On or about September 28, 2011, I went to the Ralphs grocery store on Lake
9 Avenue in Altadena, located in the County of Los Angeles, California, where I
10 purchased groceries. Upon checkout and payment, I was charged 10 cents (\$0.10)
11 for the paper carryout bag provided. The clerk initially did not include the 10 cent
12 charge on my receipt, but then gave me a second receipt just for the ten cent charge.
13 I paid this fee, which is reflected on the receipt. True and correct copies of both
14 receipts are attached hereto as Exhibit A.

15 4. I oppose the County ordinance which requires retail merchants to charge 10
16 cents for every paper carryout bag provided. Before this ordinance went into effect
17 on July 1, 2011, to the best of my recollection I had never been separately charged
18 for a paper or plastic carryout bag.

19 I declare under penalty of perjury under the laws of the State of California
20 that the foregoing is true and correct and of my own personal knowledge except for
21 those matters stated on information and belief and, as to those matters, I believe
22 them to be true. If called as a witness, I could competently testify thereto.

23 Executed on 11/1/11, at Pasadena, California.

24
25 
26 CHRISTINE KUCMA

27
28

TAB 2

1 NIELSEN MERKSAMER PARRINELLO
GROSS & LEONI, LLP
2 JAMES R. PARRINELLO (SBN 063415)
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10 Wheeler, Chris Kucma, Hilex Poly Co. LLC

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23 Agricultural Commissioner/Weights
and Measures; DR. JONATHAN
24 FIELDING in his official capacity as
25 Los Angeles Co. Director of Public
Health; and DOES 1-10,

26 *Respondents/Defendants.*
27
28

Case No.: BC470705

DECLARATION OF SALIM BANA IN
SUPPORT OF MOTION FOR WRIT OF
MANDATE

DATE: March 15, 2012

TIME: 9:30 a.m.

DEPT: 85

JUDGE: Hon. James C. Chalfant

1 SALIM BANA declares under penalty of perjury as follows:

2 1. I am a petitioner in this action and make this declaration in support of my
3 motion for a writ of mandate. The facts set forth below are known to me personally,
4 except for those matters stated on information and belief and, as to those matters, I
5 believe them to be true. If called as a witness, I could and would testify
6 competently, under oath to such facts.

7 2. I am an employee of Hilex Poly Co. LLC.

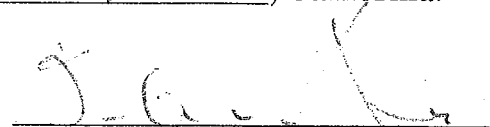
8 3. On or about September 23, 2011, I went to the Albertsons grocery store at
9 19725 Colima Road, Rowland Heights, CA. 91745, located in the County of Los
10 Angeles, California, where I purchased groceries. Upon checkout and payment, I
11 was charged 10 cents (\$0.10) for each paper carryout bag provided. I paid this fee,
12 which is reflected on my receipt. A true and correct copy of that receipt is attached
13 hereto as Exhibit A.

14 4. I oppose the County ordinance which imposes on retail merchants the legal
15 duty to charge 10 cents for every paper carryout bag provided.

16 I declare under penalty of perjury under the laws of the State of California
17 that the foregoing is true and correct and of my own personal knowledge except for
18 those matters stated on information and belief and, as to those matters, I believe
19 them to be true. If called as a witness, I could competently testify thereto.

20 Executed on October 31, 2011, at ORANGE, California.

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SALIM BANA



19725 COIMA RD.
ROWLAND HEIGHTS, CA 91745
Phone # (909) 869-7886
Store Director - Versia Hodges

Cashier:Karess 3

09/23/11

12:19:20

PREFERRED CUSTOMER: XXXXXX8738

PRODUCE

1.52 lb @ 1 lb / 2.49
PCH EURO LRG PC 4044 3.78 F
=> 1.99/lb AFTER PREFERRED SAVINGS -.76 F
1.52 lb @ 1.99/lb = 3.02
2.27 lb @ 1 lb / .69
BANANA YLW 4011 1.57 F

MISCELLANEOUS

SHOPPING BAG REV 96067 .10

SUBTOTAL 4.69

TOTAL TAX .00

TOTAL 4.69

Cash TENDER 5.00

Cash CHANGE .31

NUMBER OF ITEMS 3

***** SAVINGS SUMMARY *****
PREFERRED SAVINGS 1 .76

***** TODAY'S TOTAL SAVINGS *****
WEEKLY LIST FOR LESS SAVINGS .76
THAT IS A SAVINGS OF 14%

Trx:154 Oper 117 Term: 1 Store: 6537
09/23/11 12:19:47

Thank You For Shopping At
ALBERTSONS

Pharmacy Phone # (909) 869-0070

www.albertsons.com

Customer Questions
or Party Tray Orders
1-877-932-7948

Enter to be a weekly winner of a \$
100 gift card!! Go to: www.albertsonsliste
ns.com Enter Code: 09236 53710 010154 T
ake the survey within 3 days *****



TAB 3

1 NIELSEN MERKSAMER PARRINELLO
GROSS & LEONI, LLP
2 JAMES R. PARRINELLO (SBN 063415)
ERIC J. MIETHKE (SBN 133224)
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22 Angeles Co. Director of the Dept. of
23 Agricultural Commissioner/Weights
and Measures; DR. JONATHAN
24 FIELDING in his official capacity as
25 Los Angeles Co. Director of Public
Health; and DOES 1-10,

26 *Respondents/Defendants.*
27
28

Case No.: BC470705

DECLARATION OF LEE SCHMEER
IN SUPPORT OF MOTION FOR WRIT
OF MANDATE

DATE: March 15, 2012

TIME: 9:30 a.m.

DEPT: 85

JUDGE: Hon. James C. Chalfant

1 LEE SCHMEER declares under penalty of perjury as follows:

2 1. I am a petitioner in this action and make this declaration in support of my
3 motion for a writ of mandate. The facts set forth below are known to me personally,
4 except for those matters stated on information and belief and, as to those matters, I
5 believe them to be true. If called as a witness, I could and would testify
6 competently, under oath to such facts.

7 2. I am an employee of Hilex Poly Co. LLC.

8 3. On or about September 23rd, 2011, I went to the Albertsons grocery store at
9 19725 Colima Rd in Rowland Heights, located in the County of Los Angeles,
10 California, where I purchased groceries. Upon checkout and payment, I was
11 charged 10 cents (\$0.10) for each paper carryout bag provided. I paid this fee,
12 which is reflected on my receipt. A true and correct copy of that receipt is attached
13 hereto as Exhibit A.

14 4. I oppose the County ordinance which imposes on retail merchants the legal
15 duty to charge 10 cents for every paper carryout bag provided.

16 I declare under penalty of perjury under the laws of the State of California
17 that the foregoing is true and correct and of my own personal knowledge except for
18 those matters stated on information and belief and, as to those matters, I believe
19 them to be true. If called as a witness, I could competently testify thereto.

20 Executed on October 28, 2011, at Los Alamitos, California.

21 
22 _____
23 LEE SCHMEER

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19725 CO-IMA RD.
 ROWLAND HEIGHTS, CA 91745
 Phone # (909) 869-7886
 Store Director - Versia Hodges

Cashier: Kares 3

09/23/11 12:19:53

PREFERRED CUSTOMER: XXXXXXX0239

DAIRY
 SILK SOY CHOCO ATPC 2529360031 4.19 F
 => 3.00 AFTER PREFERRED SAVINGS -1.19 F
PRODUCE
 WATERMELON 4116396706 2.99 F
MISCELLANEOUS
 SHOPPING BAG REV 96067 .10
 SUBTOTAL 6.09
 TOTAL TAX .00

TOTAL 6.09
 Cash TENDER 10.10
 Cash CHANGE 4.01

NUMBER OF ITEMS 3

***** SAVINGS SUMMARY *****
 PREFERRED SAVINGS 1 1.19

***** TODAY'S TOTAL SAVINGS *****
 WEEKLY LIST FOR LESS SAVINGS 1.19
 THAT IS A SAVINGS OF 16%

Trx:155 Oper:117 Term:1 Store:6537
 09/23/11 12:20:15

Thank You For Shopping At
 ALBERTSONS

Pharmacy Phone # (909) 869-0070

www.albertsons.com

Customer Questions
 or Party Tray Orders
 1-877-932-7948

 Enter to be a weekly winner of a \$
 100 gift card!! Go to: www.albertsonslists.com
 Enter Code: 09236 53700 010155
 Take the survey within 3 days *****



TAB 4

1 NIELSEN MERKSAMER PARRINELLO
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8 Email: koneto@nmgovlaw.com

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28

Case No.: BC470705

DECLARATION OF JEFF WHEELER
IN SUPPORT OF MOTION FOR WRIT
OF MANDATE

DATE: March 15, 2012

TIME: 9:30 a.m.

DEPT: 85

JUDGE: Hon. James C. Chalfant

1 JEFF WHEELER declares under penalty of perjury as follows:

2 1. I am a petitioner in this action and make this declaration in support of my
3 motion for a writ of mandate. The facts set forth below are known to me personally,
4 except for those matters stated on information and belief and, as to those matters, I
5 believe them to be true. If called as a witness, I could and would testify
6 competently, under oath to such facts.

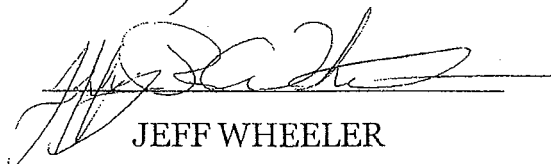
7 2. I am a resident and taxpayer of the County of Los Angeles, California.

8 3. On or about 9/29/11, 12/17 I went to the Stater Bros grocery store at
9 Whittier Ca., located in the County of Los Angeles, California, where I
10 purchased groceries. Upon checkout and payment, I was charged 10 cents (\$0.10)
11 for each paper carryout bag provided. I paid this fee, which is reflected on my
12 receipt. A true and correct copy of that receipt is attached hereto as Exhibit A.

13 4. I oppose the County ordinance which requires retail merchants to charge 10
14 cents for every paper carryout bag provided. Before this ordinance went into effect
15 on July 1, 2011, to the best of my recollection I had never been separately charged
16 for a paper or plastic carryout bag.

17 I declare under penalty of perjury under the laws of the State of California
18 that the foregoing is true and correct and of my own personal knowledge except for
19 those matters stated on information and belief and, as to those matters, I believe
20 them to be true. If called as a witness, I could competently testify thereto.

21 Executed on 10/31/11 at Dowry, California.

22
23 
24 JEFF WHEELER

TOSTITOS CHIPS 2.99 F
 YOU JUST SAVED 1.00
 SUAVE AP POWDER 3.69 T
 YOU JUST SAVED 30
 DIAL BAR SOAP ALICE 3.29 T
 DIAL BAR SOAP TROP 3.29 T
 SIRLOIN TIP ROAST 24.94 F
 CHICKEN B/S BREAST 8.86 F
 CARROTS CELLO 2#* 1.59 F
 3.16 lb @ .99 / lb
 POTATO-RUSSET 3.13 F
 3.11 lb @ .99 / lb
 POTATO-RUSSET 3.08 F
 2.25 lb @ .99 / lb
 ONIONS-YE.LOW* 2.23 F
 CELERY* 1.99 F
 LETTUCE-ICEBERG* 1.49 F
 0.44 lb @ .99 / lb
 CHILI-JALAPENO* .44 F
 1.81 lb @ .99 / lb
 GRAPES-GREEN SDLS* 1.79 F
 4 Qty
 AVOCADO-HASS LARG* 6.00 F
 YOU JUST SAVED 1.96
 1.56 lb @ 2.99 / lb
 TOMATO-EX.LARGE* 4.66 F
 5 @ .10
 PAPER GROCERY BAG .50
 SUBTOTAL 182.70
 TOTAL TAX 5.70

TOTAL DUE 188.40
 Debit Card TENDER 188.40
 CASH CHANGE .00
 Number OF ITEMS 56

SAVINGS TOTAL

\$tater Savers / E-Coupons 7.46
 YOU JUST SAVED 7.46
 Without A Card!

Stater Bros.
 Your HOMETOWN Grocer!

 Stater Bros. Market
 Store # 15
 ***** Electronic Payment Activity *****
 Purchase \$ 188.40 PIN Used
 Debit Card
 Auth # REDACTED
 Lane # 04 Cashier # 19209
 09/29/11 12:20 Ref/Seq # 049319
 EPS Sequence # 049319

 09/29/11 Oper: # 19209 Trx # 167
 12:20:38 Term # 4 Store # 15

 PLEASE RETAIN RECEIPT FOR ALL REFUNDS

THANK YOU FOR SHOPPING AT STATER BROS



Anniversary Celebration

Where You Always

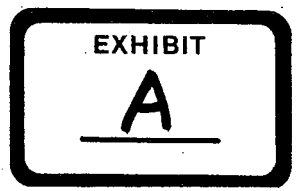
"GET MORE FOR LESS!"

Whittier
 (562) 941-7711
 ***** MANAGER *****
 Dave Lafarga
 Store # 15

Cashier: Amber A

09/29/11 12:17:05

STELLA ARTOIS 24PK 23.99 T
 +CA REDEM VA 1.20 T
 COORS LT 3TCS 20PK 13.99 T
 +CA REDEM VA 1.00 T
 SB HALF & HALF 2.69 F
 VT 2% RD-FAT MILK* 3.25 F
 VT 2% RD-FAT MILK* 3.25 F
 VT 2% RD-FAT MILK* 3.25 F
 VT 2% RD-FAT MILK* 3.25 F
 DAISY SOUR CREAM 3.49 F
 YOU JUST SAVED .30
 SB EGG NOODLES 2.69 F
 SB MACARONI ELBOW 4.49 F
 NABISCO WHEAT THIN 2.99 F
 YOU JUST SAVED .30
 NABISCO GRAHAMS 2.99 F
 YOU JUST SAVED .60
 TIDE LAUNDRY LIQ 12.47 T
 SB WHITE CORN* .99 F
 YOU JUST SAVED .20
 ROSARITA REFRD BNS .99 F
 YOU JUST SAVED .60
 SUN-VISTA BEANS .99 F
 YOU JUST SAVED .30
 PALMAS ENCHILADA 2.49 F
 YOU JUST SAVED .50
 SB GREEN BEANS SL* .99 F
 YOU JUST SAVED .20
 SB WHITE CORN* .99 F
 YOU JUST SAVED .20
 SB GREEN BEANS SL* .99 F
 YOU JUST SAVED .20
 SB GREEN BEANS CL* .99 F
 YOU JUST SAVED .20
 SB GREEN BEANS CL* .99 F
 YOU JUST SAVED .20
 SB WHITE CORN* .99 F
 YOU JUST SAVED .20
 SB WHITE CORN* .99 F
 YOU JUST SAVED .20
 SB TONIC WATER .99 TF
 +CA REDEM VA .10 TF
 SB TONIC WATER .99 TF
 +CA REDEM VA .10 TF
 KNOTTS PRESERVES 3.99 F



TAB 5

1 NIELSEN MERKSAMER PARRINELLO
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Case No.: BC470705

DECLARATION OF PHILLIP
ROZENSKI IN SUPPORT OF MOTION
FOR WRIT OF MANDATE

DATE: March 15, 2012

TIME: 9:30 a.m.

DEPT: 85

JUDGE: Hon. James C. Chalfant

1 PHILIP ROZENSKI declares under penalty of perjury as follows:

2 1. I am the Director of Marketing and Sustainability for Petitioner Hilex Poly
3 Co. LLC ("Hilex"). The facts set forth below are known to me personally, except for
4 those matters stated on information and belief and, as to those matters, I believe
5 them to be true. If called as a witness, I could and would testify competently, under
6 oath to such facts.

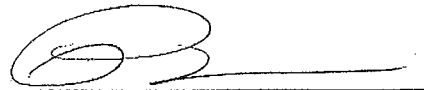
7 2. Hilex is a manufacturer of plastic bags. As such, it closely followed the
8 legislative process before the Los Angeles County Board of Supervisors culminating
9 in the adoption of Ordinance no. 2010-0059 which is the subject of this lawsuit. I
10 was the lead person at Hilex monitoring those proceedings, and studied and am
11 very familiar with the history and background of the ordinance.

12 3. The Ordinance was passed by a 4-1 vote of the Board of Supervisors, as
13 reflected in Board of Supervisors minutes of their meeting of November 23, 2010.

14 4. The Ordinance became operative for large retail stores, which the County
15 staff estimated to be 67 in number, on July 1, 2011. The Ordinance is to become
16 operative for approximately 1024 smaller retail stores (by County staff estimate) on
17 January 1, 2012. Prior to the operative date(s) of the Ordinance, retail stores in the
18 County routinely provided paper and plastic carryout bags to customers without any
19 separately stated charge.

20 I declare under penalty of perjury under the laws of the State of California
21 that the foregoing is true and correct and of my own personal knowledge except for
22 those matters stated on information and belief and, as to those matters, I believe
23 them to be true. If called as a witness, I could competently testify thereto.

24 Executed on 2 Nov 2011, at Shulok, IL.

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26 PHILIP ROZENSKI

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