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7 *Attorneys for Plaintiffs*
CITY OF SAN JOSE and BLACK ALLIANCE
8 FOR JUST IMMIGRATION

9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12

13 CITY OF SAN JOSE, a municipal corporation;
and BLACK ALLIANCE FOR JUST
14 IMMIGRATION, a California Non-Profit
Corporation,

15 Plaintiffs,

16 v.

17 WILBUR L. ROSS, JR., in his official capacity
18 as Secretary of the U.S. Department of
Commerce; et al.,

19 Defendants.
20

Case No. 3:18-cv-02279

**TRIAL AFFIDAVIT OF MONIQUE
MELCHOR**

Dept: 3
Judge: The Honorable Richard G.
Seeborg

Trial Date: January 7, 2019
Complaint Filed: April 17, 2018

21 Pursuant to 28 U.S.C. § 1746(2), I, Monique Mechor, declare as follows:

22 1. I am the Director of work2future, Workforce Development Board, Office of
23 Economic Development for the City of San Jose.

24 2. The work2future program provides workplace training and placement services to
25 San Jose residents, including adults, dislocated workers, and youth who seek employment or
26 educational assistance. The work2future program operates three locations and has approximately
27 50 employees, including both counselors, who work with individual clients, and business service
28 representatives, who find opportunities for work2future clients.

1 **3.** San Jose residents seeking assistance from the work2future program are placed
2 with a single counselor, who works with the individual during that individual's time engaged with
3 the program.

4 **4.** I have been in my current position for approximately 2 years.

5 **5.** Prior to my current position, I was an Analyst with the same department for the
6 last 16 years.

7 **6.** In my position at work2future, I am personally involved in creating reports that are
8 submitted to state and federal authorities to confirm that the program is performing in accordance
9 with state and federal standards. During the time in which I have worked at work2future, it has
10 always met such standards.

11 **7.** As part of my official duties, I oversee programs funded by federal grant money
12 awarded pursuant to the Workforce Innovation and Opportunity Act ("WIOA"). 29 U.S.C. §
13 3101-3361. Funds provided pursuant to WIOA are used to support adults, dislocated workers, and
14 youth as they seek employment.

15 **8.** Funding for WIOA is provided "for the purpose of providing workforce
16 investment activities for eligible youth in the State or outlying area and in the local areas." 29
17 U.S.C. § 3161.

18 **9.** Funding for the WIOA Youth Workforce Initiatives is allocated under a formula
19 that considers the "relative number of unemployed individuals in areas of substantial
20 unemployment in each State," the "relative excess number of unemployed individuals in each
21 State, compared to the total excess number of unemployed individuals in all States," and "the
22 relative number of disadvantaged youth in each State, compared to the total number of
23 disadvantaged youth in all States." 29 U.S.C. § 3162(C)(iii).

24 **10.** Funding for the WIOA Adult Employment and Training Activities is allocated
25 under a formula that considers the "relative number of unemployed individuals in areas of
26 substantial unemployment in each State," the "relative excess number of unemployed individuals
27 in each State, compared to the total excess number of unemployed individuals in all States," and
28

1 “the relative number of disadvantaged adults in each State, compared to the total number of
2 disadvantaged adults in all States.” 29 U.S.C. § 3172(C)(iii).

3 **11.** WIOA provides that “All allotments to States and grants to outlying areas under
4 this subchapter shall be based on the latest available data and estimates satisfactory to the
5 Secretary. All data relating to disadvantaged adults and disadvantaged youth shall be based on the
6 most recent satisfactory data from the Bureau of the Census.” 29 U.S.C. § 3242(a).

7 **12.** Once funding is delivered to the State of California under WIOA, it is delivered to
8 sub-divisions of the state according to the statutory formula for subs-state allocations, which
9 considers:

10 **12.1** For youth activities:

- 11 (a) The local area relative share of total unemployed in ASUs.
- 12 (b) The local area relative share of excess unemployed.
- 13 (c) The local area share of disadvantaged youth (using ACS data)

14 **12.2** For adult activities

- 15 (a) The local area relative share of total unemployed in ASUs.
- 16 (b) The local area relative share of excess unemployed.
- 17 (c) The local area share of disadvantaged adults (using ACS data)

18 **12.3** For dislocated workers

- 19 (a) Insured unemployment data
- 20 (b) Unemployment concentrations
- 21 (c) Plant closing and mass layoff data
- 22 (d) Declining industries data
- 23 (e) Farmer-rancher economic hardship data
- 24 (f) Long-term unemployment data.

25 **13.** The City of San Jose uses funding received through WIOA on a variety of
26 programs that benefit the unemployed and dislocated workforce population., work2future
27 operates One-Stop Centers that serve the areas of San Jose, Campbell, Morgan Hill, Los Altos
28 Hills, Gilroy, Los Gatos, Saratoga, Monte Sereno, and the unincorporated areas of Santa Clara

1 County. These programs include the Adult, Dislocated and Youth service program and the
2 work2future program.

3 14. The Adult, Dislocated, and Youth service program provides career counseling,
4 occupational skills training, and job placement assistance. In addition, it offers support services,
5 including employment referrals, to adults, dislocated workers, and youth.

6 15. The work2future program provides counseling, skills training, and job placement
7 services to registered individuals. The basic services available to all individuals includes the use
8 of the career lab, enrollment in workshops, and participation in employer recruitment drives. In
9 addition, over forty organizations provide training, subsidized by work2future, that provide
10 clients with nationally-recognized credentials. work2future also serves hundreds of employers
11 annually, providing them with recruitment, on-the-job training, and layoff aversion support.

12 16. Because work2futures local area includes a large Limited English Proficiency
13 ("LEP") population, it is critical to the success of the work2future program that it maintain a staff
14 of counsellors who can speak to clients in their native language.

15 17. I personally develop and implement a Limited English Proficiency Plan (the "LEP
16 Plan") for work2future that addresses the language needs, by location, of the populations that
17 work2future serves.

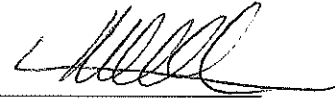
18 18. I developed the LEP Plan based on data I obtained personally from the website for
19 the United States Census Bureau by reviewing the "American FactFinder" portion of the site. The
20 site provides language proficiency information by Census tract for the City of San Jose and Santa
21 Clara County. I use this language proficiency data to determine the language needs at the three
22 work2future locations, and hire counselors with those language skills in accordance with the LEP
23 Plan.

24 19. If the quality of the data on language proficiency on the American Fact Finder site
25 were to be less accurate in the future than it is today, the LEP Plan would reflect that inaccuracy
26 and work2future would not serve the linguistic needs of the local workforce area which includes
27 the City of San Jose and community as well.
28

1 **20.** Because WOIA funding is allocated, in part, on data provided by the Census
2 Bureau, if the Census Bureau were to provide lower-than-accurate population data for the City of
3 San Jose relative to other participating jurisdictions, the City of San Jose would receive less
4 funding through WIOA than it would if the data were accurate.

5 **21.** Were San Jose to receive less funding through WIOA, it would not be able to
6 provide the same level of services to this population.

7 I declare under penalty of perjury pursuant to 28 U.S.C. § 1746(2) that the foregoing is
8 true and correct.



9
10 Monique Melchor