

1 Burton C. Jacobson, SBN 27529  
Franklin S. Adler, SBN  
2 ATTORNEYS AT LAW  
Beverly Hills Law Building  
3 424 South Beverly Drive  
Beverly Hills, California 90212-4414  
4  
5 Tel: (310)553-8533  
6 Attorneys for Plaintiffs/Petitioners

**FILED**  
Los Angeles Superior Court

APR 02 2010

John A. Clarke, Executive Officer/Clerk  
By SHAUNYA WESLEY, Deputy

7  
8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES

10 ANTHONY MARIO ASSENZA, et al., ) BC 115813  
11 Plaintiffs/Petitioners )  
12 . v. ) NOTICE OF MOTION AND MOTION TO  
13 CITY OF LOS ANGELES, et al., ) MODIFY AMENDED JUDGMENT OF  
14 Defendants/Respondents. ) DECLARATORY RELIEF FILED ON  
15 ) FEBRUARY 4, 1998; MEMORANDUM OF  
16 ) POINTS AND AUTHORITIES  
17 )  
18 ) Date: RESERVED  
19 ) Time: ~~May 11, 2010~~ June 3  
20 ) Dept: ~~8:30 a.m.~~ 8:45  
21 ) ~~15~~ 14

17 Additional Attorneys for Plaintiffs:

18 David A. Yochelson, Esq.  
19 YOCHELSON & ASSOCIATES  
6345 Balboa Blvd Ste 240  
20 Encino, CA 91316  
21 Chuck D. Michel, Esq.  
180 Ocean Boulevard, #200  
22 Long Beach, CA 90802

23 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

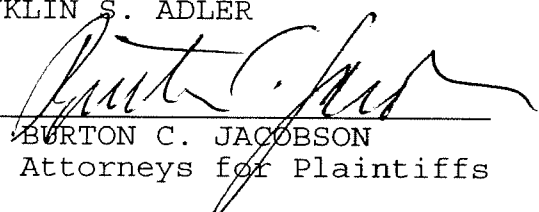
24 PLEASE TAKE NOTICE that at the above date, time, and place,  
25 Plaintiffs herein shall move this Court for an order modifying  
26 the Amended Judgment for Declaratory Relief entered on February  
27 4, 1998 to substitute the present Chief of the Los Angeles Police  
28

1 Department, Charlie Beck, into this action in place of his  
2 predecessor, William J. Bratton, who was the Chief of Police at  
3 the time the amended Judgment was entered. Pursuant to the terms  
4 of the Judgment herein which was entered pursuant to stipulation  
5 on March 30, 1995, and the Amended Judgment entered on February  
6 4, 1998, and the Stipulation filed on June 12, 2003, this Court  
7 has retained jurisdiction of the action.

8 This motion is based upon the Memorandum of Points of  
9 Authorities submitted herewith, the pleadings and papers on file  
10 in this action, and matters which this Court may be requested to  
11 take judicial notice of.

12 Dated: April 1, 2010

BURTON C. JACOBSON  
FRANKLIN S. ADLER

13  
14 By:   
15 BURTON C. JACOBSON  
16 Attorneys for Plaintiffs  
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1 MEMORANDUM OF POINTS OF AUTHORITIES

2 I. FACTUAL AND PROCEDURAL BACKGROUND

3 In March of 1995, two companion cases, Lake et al. v. The  
4 City Of Los Angeles, et al., Case Number PC008329, and Assenza et  
5 al, vs. City Of Los Angeles, et. al., Case #BC115813, resulted in  
6 two essentially identical judgments entered pursuant to  
7 stipulation. At that time, Willie L. Williams was the Chief of  
8 Police of the City of Los Angeles.

9 Willie L. Williams is no longer the Chief, having been  
10 replaced by Bernard Parks, who likewise is no longer the Chief of  
11 Police having been replaced by William Bratton, who likewise is  
12 no longer the Chief of Police having been replaced by Charlie  
13 Beck. On February 4, 1998 a Motion to Correct and Modify  
14 Stipulated Judgment to substitute Chief Parks in said Judgment in  
15 place of Chief Williams was granted by this honorable court (a  
16 copy is attached hereto as Exhibit "1" and incorporated herein by  
17 reference. On June 12, 2003 a Stipulation to Modify Amended  
18 Judgment of Declaratory Relief filed on February 4, 1998, signed  
19 by both parties, was filed with the court (a copy of which is  
20 attached hereto as Exhibit "2" and incorporated herein by  
21 reference).

22 Plaintiffs herein seek to modify the Amended Judgment herein  
23 to reflect the substitution of Chief Beck for Chief Bratton.

24  
25 II. CONTINUED JURISDICTION

26 Pursuant to the Order of this court entered on March 30,  
27 1995, and on February 4, 1998, and as set forth in that Judgment,  
28 "the Court will retain continued jurisdiction of the action in

1 order to make any further orders which may be necessary."

2 The Chief of Police is the sole individual authorized to  
3 issue the permits and/or licenses at issue in this action. It is  
4 necessary that the current Chief of Police be substituted for the  
5 prior Chief of Police so that the Court may affect its Orders  
6 through its continued jurisdiction.

7  
8 **III. THIS COURT HAS THE POWER TO SUBSTITUTE CHIEF BECK**  
9 **IN PLACE OF CHIEF BRATTON IN THE WITHIN JUDGMENT**

10 California Code of Civil Procedure, Section 368.5 provides  
11 as follows:

12 "An action or proceeding does not abate by the transfer of  
13 an interest in the action or proceeding or by any other transfer  
14 of an interest. The action or proceeding may be continued in the  
15 name of the original party, or the court may allow the person to  
16 whom the transfer is made to be substituted in the action or  
17 proceeding." California Code of Civil Procedure, Section 368.5  
18 [emphasis added].

19 Penal Code Section 12050 provides that the Sheriff of a  
20 county or the Chief or other head of a municipal police  
21 department is empowered to issue the licenses at issue in this  
22 action. Therefore, when Chief Beck became the Chief of Police  
23 for the City of Los Angeles, the power to issue said licenses  
24 transferred from Chief Bratton to Chief Beck pursuant to that  
25 change.

26 This power constitutes the substantive interest in this  
27 action and as such, pursuant to CCP §368.5 this Court is  
28 empowered to and should substitute Chief Beck for Chief Bratton

1 in this action.

2  
3 **IV. THIS COURT IS EMPOWERED TO SUBSTITUTE PARTIES PURSUANT**  
4 **TO CCP 368.5 TRANSFERS OF INTERESTS IN GENERAL**

5 "If the plaintiff or defendant in a pending action on an  
6 assignable cause of action transfers an interest, the action may  
7 be continued in the name of the original party, or the court may  
8 allow the person to whom the transfer is made to be substituted  
9 in the action or proceeding." Witkin California Procedure,  
10 Fourth Edition, Pleading Section 241, Volume 4, Page 301.

11  
12 **V. THIS COURT HAS THE POWER TO MAKE THE SUBSTITUTION OF**  
13 **POLICE CHIEFS UNDER THE INHERENT POWERS OF THE COURT**

14 "The court also has inherent power without express  
15 reservation to take steps to carry its equitable decree into  
16 effect and to make changes in procedural provisions." Witkin  
17 California Procedure 4th Edition, Volume 7, Judgment §83 at page  
18 612 citing, *inter alia*, Barnes v. Chamberlain (1983) 147 C.A. 3d  
19 762, 769. The substitution of the Chief is merely procedural and  
20 equitable in nature since, with a new Chief assigned to the  
21 "gate-keeping" position of this licensing procedure, it is, and  
22 has become, necessary to make this Chief both nominally as well  
23 as legally subject to this court's orders and subject directly to  
24 the powers of this Court for enforcement of this Court's Orders.  
25 Counsel herein propose to have Chief Beck duly served with an  
26 updated and complete Judgment in this case with all the  
27 provisions included and with the correction of the clerical  
28 errors contained in this motion.

1 VI. CONCLUSION

2 Based on the foregoing, Plaintiffs' Motion should be granted  
3 and the Second Amended Judgment shall be signed as amended with  
4 the substitution of Chief Charlie Beck in place of prior Chief  
5 William J. Bratton as Chief of Police of the City of Los Angeles  
6 (Exhibit "3").

7 Dated: April 1, 2010

BURTON C. JACOBSON  
FRANKLIN S. ADLER

8  
9 By: 

BURTON C. JACOBSON  
Attorneys for Plaintiffs

ORIGINAL FILED

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LOS ANGELES  
SUPERIOR COURT

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

ANTHONY MARIO ASSENZA, et al., )  
Plaintiffs/Petitioners, )  
vs. )  
CITY OF LOS ANGELES, et al., )  
Defendants/Respondents. )

CASE NO. BC 115813  
*AMENDED*  
JUDGMENT OF DECLARATORY  
RELIEF

IT IS ORDERED that the rights and obligations of the parties to this action are declared as follows:

A. Defendants Affected.

The defendants affected by this judgment herein are: CITY OF LOS ANGELES, the CITY OF LOS ANGELES POLICE DEPARTMENT (hereinafter "LAPD"), LOS ANGELES BOARD OF POLICE COMMISSIONERS, and BERNARD PARKS, CHIEF OF POLICE OF THE CITY OF LOS ANGELES

1 POLICE DEPARTMENT.

2 B. Introduction.

3 This action challenging LAPD's procedure, rules and practices  
4 for issuing licenses to carry concealed firearms pursuant to Pen.  
5 C. Section 12050 ff. was filed September 24, 1992. Some of the  
6 plaintiffs sought to be issued licenses and they and the other  
7 plaintiffs sued as taxpayers and citizens. The Los Angeles  
8 defendants received an open extension to answer and entered into  
9 highly complex settlement negotiations which have continued to  
10 this time.

11  
12 C. Admission.

13  
14 The Los Angeles defendants admit that certain rules, policies,  
15 practices and procedures, and certain features of the Board Policy  
16 Statement cited in the complaint, were not in compliance with  
17 Section 12050 ff. Those former rules, policies, practices and  
18 procedures have been altered. The Policy Statement itself has  
19 been repealed and will be replaced by the provisions of items E  
20 and F of this judgment, provided that the Los Angeles defendants  
21 reserve the right to add further specifications to their rules,  
22 regulations and guidelines, so long as such amendments are not  
23 inconsistent with the provisions of this judgment.

24  
25 D. Plaintiffs' Licenses.

26 The allegations of the complaint showed good cause as to all  
27 of the plaintiffs who sought to be issued licenses. For purposes  
28 of this judgment the following persons are deemed plaintiffs:

1 ANTHONY MARIO ASSENZA, ROBERT JAMES BRYANT, WILLIAM ARTHUR  
2 CRAWFORD, PAUL STEVEN DWAN, BRUCE HAROLD EDELMAN, OLOGY ERLE  
3 GIBSON, TERRY HOMER HARDEN, RICHARD ALAN HOCHBERG, BURTON C.  
4 JACOBSON, THOMAS MICHAEL KUTROSKY, YAROM LIMOR, MARSHALL CLIFFORD  
5 MARS, JOHN R. MARTIN, ROBERT KELLOGG MILLER, MICHAEL SCOTT  
6 ONTIVEROS, TED PASTERNAK, VICTOR DONALD RAPPOPORT, JESSEE DONALD  
7 RICH, JEROME MARTIN ROSENBERG, JOEL C. SCHLOSSMAN, NATHAN DAVID  
8 SCHLOSSMAN, CARLOS SEDILLO, SANFORD SHIRE, BERNICE SHARON SILVER,  
9 RICHARD CLAYTON TEMME, JOHN HARRIS THALER, DONNA LYNNE THOMAS,  
10 GARY BRIAN TIGAR, KENT LEE TURNIPSEED, and DAVID ALAN YOCHELSON.  
11 These named plaintiffs will receive licenses, and their licenses  
12 will be renewed for a one year term, but only so long as they  
13 continue to have good cause, good character, not to be barred by  
14 law from the ownership of concealable firearms, and to meet each  
15 of the other requirements of licensure under Section 12050 ff.

16  
17 E. The policy LAPD has adopted is that good cause exists if  
18 there is convincing evidence of a clear and present danger to life  
19 or of great bodily injury to the applicant, his (or her) spouse,  
20 or dependent child, which cannot be adequately dealt with by  
21 existing law enforcement resources, and which danger cannot be  
22 reasonably avoided by alternative measures, and which danger would  
23 be significantly mitigated by the applicant's carrying of a  
24 concealed firearm.

25  
26 F. The following further rules and guidelines are  
27 provided for the interpretation and implementation of Item E:  
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INTRODUCTORY

The department recognizes that Pen. C. Section 12050 requires the issuance of licenses to persons of good character who have good cause to carry a concealed firearm for the defense of themselves or others or in pursuing their livelihood. These guidelines are designed to implement that requirement.

Good cause is more likely to be found if the applicant has a demonstrated record of responsible handling of firearms as indicated by voluntarily having taken firearms training and/or long-term participation in the shooting sports. While lack of such a demonstrated record is not a disqualification if the applicant is otherwise qualified to use a firearm properly, licenses will not issue if there is substantial, articulable reason to believe that issuance would be contrary to public safety or if the applicant does not have good character. Among other criteria to be considered are: the applicant's record and history in accidents with firearms, automobiles or other dangerous instrumentalities; and association with persons having a criminal record or who are reliably known to lack good character. The expression of dangerous or irresponsible attitudes, or threats, toward or regarding the use of firearms or other dangerous instrumentalities shall be grounds for denial or revocation of a license.

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1 CRITERIA FOR LICENSURE

2 1. Training. The license, if approved, shall not become  
3 effective until the applicant has furnished proof to the  
4 department that he or she has successfully completed the course of  
5 training in the carrying and use of firearms established pursuant  
6 to Section 7585 et seq., of the California Business and  
7 Professions Code or some other appropriate course which included  
8 the following subjects of training: knowledge of California laws  
9 regarding weapons and deadly force use; safe handling, carriage,  
10 use and storage of concealable firearms; competency with the types  
11 of firearms to be listed on the license.

12  
13 2. Good Cause. Good cause shall be deemed to exist, and a  
14 license will issue in the absence of strong countervailing  
15 factors, upon a showing of any of the following circumstances:  
16 a) The applicant is able to establish that there is an immediate  
17 or continuing threat, express or implied, to the applicant's, or  
18 the applicant's family's, safety and that no other reasonable  
19 means exist which would suffice to neutralize that threat. b)  
20 The applicant is employed in the field of security, has all  
21 requisite licenses, is employed by a security firm having all  
22 requisite licenses, and provides satisfactory proof that his or  
23 her work is of such a nature that it requires the carrying of a  
24 concealed weapon. c) The applicant has obtained, or is a person  
25 included within the protections of, a court order which  
26 establishes that the applicant is the on-going victim of a threat  
27 or physical violence or otherwise meets the criteria set forth in  
28 Pen. C. Section 12025.5. d) The applicant establishes that

1 circumstances exist requiring him or her to transport in public  
2 significant amounts of valuable property which it is impractical  
3 or impracticable to entrust to the protection of armored car  
4 services or equivalent services for safe transportation of  
5 valuables. e) The applicant establishes that he or she is  
6 subject to a particular and unusual danger of physical attack and  
7 that no reasonable means are available to abate that threat.  
8

9 3. Favorable Factors. Among facts upon which the department  
10 will, in the exercise of its discretion, look favorably in  
11 considering applications are whether: a) the applicant has a  
12 demonstrated record of responsible handling of firearms; b) the  
13 applicant has a commitment to safe and responsible handling of  
14 firearms as shown by having voluntarily taken firearms training;  
15 c) the applicant has a record of good citizenship in general as  
16 evidenced, for instance, by service to the community through such  
17 activities as creditable service in the armed forces, including  
18 the National Guard and state militia or in the police reserves, or  
19 of active participation in charitable or public service  
20 organizations or activities or in political affairs; d) the  
21 applicant is trustworthy and responsible as evidenced, for  
22 instance, by employment history, positions held that are civic, or  
23 political, or religious, or secular achievements, or record of  
24 personal accomplishment in other areas of endeavor; e) that the  
25 applicant suffers under a disability or physical handicap,  
26 including age or obesity, which hinders the applicant's ability to  
27 retreat from an attacker.  
28

1           4. Unfavorable Factors: Factors which will bear negatively  
2 on issuance (unless they appear to be in the remote past) are: a)  
3 the applicant has a long-term history of mental or emotional  
4 instability, alcoholism, drug use or addiction; b) the applicant  
5 has a history of fault in serious accidents with firearms,  
6 automobiles or other dangerous instrumentalities; c) the applicant  
7 has had a permit to own or carry a concealed weapon denied,  
8 suspended or revoked for good cause by any issuing authority;  
9 d) the applicant has had a driver's license denied, suspended or  
10 revoked for good cause by any issuing authority; e) the applicant  
11 has a long-term record of irresponsible and dangerous behavior  
12 with automobiles as indicated by numerous convictions of serious  
13 driving offenses; f) the applicant has a long-term history of  
14 conduct from which it appears that he or she is not now of good  
15 moral character, trustworthy or responsible. While none of the  
16 foregoing disqualify an applicant per se, a license will be denied  
17 if it appears, in the discretion of the department, that the  
18 applicant does not now have good character or that issuance of a  
19 license to him/her is not consistent with public safety.

20  
21           5. Presumption.

22           Absent good cause for denial, persons having good cause as  
23 defined in paragraph 2 shall be issued licenses for the maximum  
24 time period allowed by section 12050, and their licenses shall be  
25 renewed so long as they continue to have good cause. No license  
26 shall issue if the applicant is prohibited by law from possessing  
27 or acquiring firearms, or concealable firearms, or is below the  
28 age of 21 years.

PROCEDURAL MATTERS

1  
2       6.   Divulgence of Information. All applicants shall receive  
3 a copy of these guidelines along with the application form.  
4

5       7.   Evidence. Declarations under penalty of perjury suffice  
6 as evidence of facts showing good cause, provided that the  
7 Department is not required to accept the allegations in a  
8 declaration if it has credible counter-evidence or finds the  
9 declarant not credible. The applicant will be required to furnish  
10 proof of his or her medical and psychological fitness in a manner  
11 to be prescribed by the department. This shall include  
12 certification of the applicant's eyesight to meet the standards  
13 established by the California Department of Motor Vehicles for  
14 issuance of driver's license. As proof of good character the  
15 applicant shall present at least two statements from responsible  
16 persons attesting thereto. The applicant may present additional  
17 evidence to prove good character, trustworthiness and  
18 responsibility or to negate the converse.  
19

20       8.   Celerity. License applications shall be approved or  
21 rejected within fifty days of the application being submitted;  
22 provided, that if the applicant has not been cleared (or rejected)  
23 by the California Department of Justice by the fortieth day, LAPD  
24 shall have an additional ten days for such action which additional  
25 period shall begin as of the date by which LAPD receives word from  
26 the California Department of Justice; and further provided that an  
27 additional sixty day period is allowed in cases in which the  
28 applicant has appealed a rejection or any restriction of the

1 license. Those whose applications are rejected will receive a  
2 specific written reason for rejection along with notification of  
3 their right to seek review from the advisory panel.  
4

5 9. Conditions. Absent some compelling reason, licensees  
6 will be allowed to specify up to three firearms of their choice to  
7 be listed on their license and the Department will amend their  
8 licenses to substitute or add firearms so long as the number does  
9 not exceed three and each firearm meets the other provisions of  
10 this paragraph. The department may attach to the license such  
11 conditions as in the reasonable exercise of its discretion it  
12 deems appropriate; provided that these conditions shall be noted  
13 on the face of the license. Conditions may include, but are not  
14 limited to:

- 15 a. The type of weapon to be carried.
- 16 b. The type of ammunition to be permitted.
- 17 c. Circumstances in which it may or may not be  
18 carried. Absent some compelling reason, limitations  
19 a. and b. shall not preclude use of kinds of  
20 firearm or ammunition which are generally deemed  
21 appropriate for issuance to plain clothes law  
22 enforcement personnel in the State of California.

23  
24 G. Advisory Review.

25 1. Plaintiffs' lead counsel, Don B. Kates, shall appoint a  
26 panel of advisors to review contested applications. (Kates may add  
27 or substitute members of the panel as he deems necessary to carry  
28 out its functions, e.g. in case of the resignation, death or

1 disability a new nominee to make such appointments shall be  
2 nominated by the plaintiff Second Amendment Foundation.) of D

3 2. LAPD will accompany its notification to applicants with  
4 action on their application with a statement that a review panel  
5 exists. If the applicant is dissatisfied and requests such review,  
6 LAPD will promptly submit to the panel's review its files in all  
7 cases in which an application is rejected or granted with  
8 substantial limitations and will attempt to respond in a  
9 reasonable and timely manner to questions the panel may have. The  
10 panel will promptly review each submitted application and  
11 recommend in writing if it believes a different decision should  
12 have been made by LAPD. LAPD will promptly reconsider the matter  
13 and take any further action it deems merited.

14 3. LAPD may be liable for an award of attorney's fees in  
15 any legal action: a) which was initiated after the advisory panel  
16 recommended action favorable to the applicant; b) which  
17 recommendation LAPD rejected, if c) the outcome in that legal  
18 action substantially parallels the advisory panel's  
19 recommendation.

20 H. Continued Jurisdiction.

21 The court will retain continued jurisdiction of the  
22 action in order to make any further orders which may be necessary.

23 I. Each party to this action shall bear its own costs  
24 and fees, including attorneys fees in this matter.

25 IT IS SO ORDERED.

26 DATED: 2-9-58

DZINTRA L JANAVS  
JUDGE OF THE SUPERIOR COURT

**ORIGINAL FILED**  
JUN 12 2003  
LOS ANGELES  
SUPERIOR COURT

1 Burton C. Jacobson, SBN 27529  
Franklin S. Adler, SBN 56417  
2 ATTORNEYS AT LAW  
Beverly Hills Law Building  
3 424 South Beverly Drive  
Beverly Hills, California 90212-4414  
4

5 Tel: (310)553-8533

6 Attorneys for Plaintiffs/Petitioners

7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF LOS ANGELES

RECEIVED  
JUN 12 2003  
DEPT. 14

11 ANTHONY MARIO ASSENZA, et al., )  
12 Plaintiffs/Petitioners )

13 v. )

14 CITY OF LOS ANGELES, et al., )  
15 Defendants/Respondents. )

CASE NO. BC 115813

STIPULATION TO MODIFY AMENDED  
JUDGMENT OF DECLARATORY RELIEF  
FILED ON FEBRUARY 4, 1998;  
ORDER THEREON (Proposed)

17  
18 Additional Attorneys for Plaintiffs:

19 David A. Yochelson  
SPIEGEL & YOCHELSON  
20 4221 Wilshire Boulevard, Suite 395  
Los Angeles, CA 90010  
21 (213)964-9050  
22  
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1 IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES THROUGH  
2 THEIR ATTORNEYS OF RECORD AS FOLLOWS:

3 1. The Amended Judgment of Declaratory Relief filed on  
4 February 4, 1998 substituted Bernard Parks in place of his  
5 predecessor as the Chief of Police at the time the Amended  
6 Judgment was entered. Pursuant to the terms of the Judgment of  
7 Declaratory Relief (pursuant to Stipulation) herein which was  
8 entered on March 30, 1995, and the Amended Judgment of  
9 Declaratory Relief entered on February 4, 1998, this Court has  
10 retained jurisdiction of the action.

11 2. In accordance with the Court's retained jurisdiction  
12 of the with action and the Amended Judgment of Declaratory Relief  
13 entered on February 4, 1998, Chief William J. Bratton is hereby  
14 substituted in as the Chief of Police of the City of Los Angeles  
15 Police Department, in place of his predecessor, Bernard Parks, as  
16 the Chief of Police of the Los Angeles Police Department. Said  
17 Second Amended Judgment (proposed) is attached hereto as Exhibit  
18 "1" and incorporated herein as though fully set forth at this  
19 place.

20 ///

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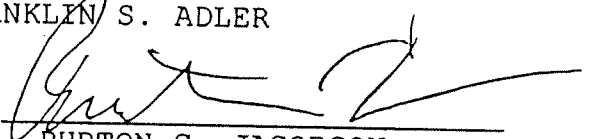
22 ///

1           3.     The Second Amended Judgment of Declaratory Relief (Exh.  
2 1) shall be signed with the substitution of Chief William J.  
3 Bratton in place of prior Chief Bernard Parks as Chief of Police  
4 of the City of Los Angeles Police Department.

5 SO STIPULATED:

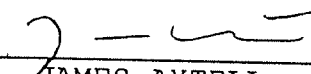
6 Dated: March 6, 2003

BURTON C. JACOBSON  
FRANKLIN S. ADLER

7  
8 By:   
9 BURTON C. JACOBSON  
Attorneys for Plaintiffs

10  
11 Dated: JUNE 6, 2003

ROCKARD J. DELGADILLO  
~~JAMES K. HAHN~~, City Attorney  
CITY OF LOS ANGELES

12  
13 By:   
14 JAMES AXTELL  
Attorneys for Defendants

15 SO ORDERED.

16  
17 Dated: \_\_\_\_\_

18 \_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

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

**ANTHONY MARIO ASSENZA, et al.,**

Plaintiffs/Petitioners

v.

**CITY OF LOS ANGELES, et al.,**

Defendants/Respondents.

**CASE NO. BC 115813**

**SECOND AMENDED JUDGMENT OF  
DECLARATORY RELIEF**

IT IS ORDERED that the rights and obligations of the parties to this action are declared as follows:

A. Defendants Affected.

The defendants affected by this judgment herein are: CITY OF LOS ANGELES, the CITY OF LOS ANGELES POLICE DEPARTMENT (hereinafter "LAPD"), LOS ANGELES BOARD OF POLICE COMMISSIONERS, and CHARLIE BECK, CHIEF OF POLICE OF THE CITY OF LOS ANGELES POLICE DEPARTMENT.

B. Introduction.

This action challenging LAPD's procedure, rules and

1 practices for issuing licenses to carry concealed firearms  
2 pursuant to Pen. C. Section 12050 ff. was filed September 24,  
3 1992. Some of the plaintiffs sought to be issued licenses and  
4 they and the other plaintiffs sued as taxpayers and citizens. The  
5 Los Angeles defendants received an open extension to answer, and  
6 entered into highly complex settlement negotiations which have  
7 continued to this time.

8 C. Admission.

9 The Los Angeles defendants admit that certain rules,  
10 policies, practices and procedures, and certain features of the  
11 Board Policy Statement cited in the complaint, were not in  
12 compliance with Section 12050 ff. Those former rules, policies,  
13 practices and procedures have been altered. The Policy Statement  
14 itself has been repealed and will be replaced by the provisions  
15 of items E and F of this judgment, provided that the Los Angeles  
16 defendants reserve the right to add further specifications to  
17 their rules, regulations and guidelines, so long as such  
18 amendments are not inconsistent with the provisions of this  
19 judgment.

20 D. Plaintiffs' Licenses.

21 The allegations of the complaint showed good cause as to all  
22 of the plaintiffs who sought to be issued licenses. For purposes  
23 of this judgment the following persons are deemed plaintiffs:

24 ANTHONY MARIO ASSENZA, ROBERT JAMES BRYANT, WILLIAM ARTHUR  
25 CRAWFORD, PAUL STEVEN DWAN, BRUCE HAROLD EDELMAN, OLOGY ERLE  
26 GIBSON, TERRY HOMER HARDEN, RICHARD ALAN HOCHBERG, BURTON C.  
27 JACOBSON, THOMAS MICHAEL KUTROSKY, YAROM LIMOR, MARSHALL CLIFFORD  
28

1 MARS, JOHN R. MARTIN, ROBERT KELLOGG MILLER, MICHAEL SCOTT  
2 ONTIVEROS, TED PASTERNAK, VICTOR DONALD RAPPOPORT, JESSEE DONALD  
3 RICH, JEROME MARTIN ROSENBERG, JOEL C. SCHLOSSMAN, NATHAN DAVID  
4 SCHLOSSMAN, CARLOS SEDILLO, SANFORD SHIRE, BERNICE SHARON SILVER,  
5 RICHARD CLAYTON TEMME, JOHN HARRIS THALER, DONNA LYNNE THOMAS,  
6 GARY BRIAN TIGAR, KENT LEE TURNIPSEED, and DAVID ALAN YOCHELSON.

7 These named plaintiffs will receive licenses, and their licenses  
8 will be renewed for a one year term, but only so long as they  
9 continue to have good cause, good character, not to be barred by  
10 law from the ownership of concealable firearms, and to meet each  
11 of the other requirements of licensure under Section 12050 ff.

12 E. The policy LAPD has adopted is that good cause exists if  
13 there is convincing evidence of a clear and present danger to  
14 life or of great bodily injury to the applicant, his (or her)  
15 spouse, or dependent child, which cannot be adequately dealt with  
16 by existing law enforcement resources, and which danger cannot be  
17 reasonably avoided by alternative measures, and which danger  
18 would be significantly mitigated by the applicant's carrying of a  
19 concealed firearm.

20 F. The following further rules and guidelines are provided  
21 for the interpretation and implementation of Item E:

22 INTRODUCTORY

23 The department recognizes that Pen. C. Section 12050  
24 requires the issuance of licenses to persons of good character  
25 who have good cause to carry a concealed firearm for the defense  
26 of themselves or others or in pursuing their livelihood. These  
27 guidelines are designed to implement that requirement.  
28

1 Good cause is more likely to be found if the applicant has a  
2 demonstrated record of responsible handling of firearms as  
3 indicated by voluntarily having taken firearms training and/or  
4 long-term participation in the shooting sports. While lack of  
5 such a demonstrated record is not a disqualification if the  
6 applicant is otherwise qualified to use a firearm properly,  
7 licenses will not issue if there is substantial, articulable  
8 reason to believe that issuance would be contrary to public  
9 safety or if the applicant does not have good character. Among  
10 other criteria to be considered are: the applicant's record and  
11 history in accidents with firearms, automobiles or other  
12 dangerous instrumentalities; and association with persons having  
13 a criminal record or who are reliably known to lack good  
14 character. The expression of dangerous or irresponsible  
15 attitudes, or threats, toward or regarding the use of firearms or  
16 other dangerous instrumentalities shall be grounds for denial or  
17 revocation of a license.

18 CRITERIA FOR LICENSURE

19 1. Training. The license, if approved, shall not become  
20 effective until the applicant has furnished proof to the  
21 department that he or she has successfully completed the course  
22 of training in the carrying and use of firearms established  
23 pursuant to Section 7585 et seq., of the California Business and  
24 Professions Code or some other appropriate course which included  
25 the following subjects of training: knowledge of California laws  
26 regarding weapons and deadly force use; safe handling, carriage,  
27 use and storage of concealable firearms; competency with the  
28

1 types of firearms to be listed on the license.

2 2. Good Cause. Good cause shall be deemed to exist, and a  
3 license will issue in the absence of strong countervailing  
4 factors, upon a showing of any of the following circumstances:

5 a) The applicant is able to establish that there is an immediate  
6 or continuing threat, express or implied, to the applicant's, or  
7 the applicant's family's, safety and that no other reasonable  
8 means exist which would suffice to neutralize that threat. b) The  
9 applicant is employed in the field of security, has all requisite  
10 licenses, is employed by a security firm having all requisite  
11 licenses, and provides satisfactory proof that his or her work is  
12 of such a nature that it requires the carrying of a concealed  
13 weapon. c) The applicant has obtained, or is a person included  
14 within the protections of, a court order which establishes that  
15 the applicant is the on-going victim of a threat or physical  
16 violence or otherwise meets the criteria set forth in Pen. C.  
17 Section 12025.5. d) The applicant establishes that circumstances  
18 exist requiring him or her to transport in public significant  
19 amounts of valuable property which it is impractical or  
20 impracticable to entrust to the protection of armored car  
21 services or equivalent services for safe transportation of  
22 valuables. e) The applicant establishes that he or she is subject  
23 to a particular and unusual danger of physical attack and that no  
24 reasonable means are available to abate that threat.

25 3. Favorable Factors. Among facts upon which the department  
26 will, in the exercise of its discretion, look favorably in  
27 considering applications are whether a) the applicant has a  
28

1 demonstrated record of responsible handling of firearms; b) the  
2 applicant has a commitment to safe and responsible handling of  
3 firearms as shown by having voluntarily taken firearms training;  
4 c) the applicant has a record of good citizenship in general as  
5 evidenced, for instance, by service to the community through such  
6 activities as creditable service in the armed forces, including  
7 the National Guard and state militia or in the police reserves,  
8 or of active participation in charitable or public service  
9 organizations or activities or in political affairs; d) the  
10 applicant is trustworthy and responsible as evidenced, for  
11 instance, by employment history, positions held that are civic,  
12 or political, or religious, or secular achievements, or record of  
13 personal accomplishment in other areas of endeavor; e) that the  
14 applicant suffers under a disability or physical handicap,  
15 including age or obesity, which hinders the applicant's ability  
16 to retreat from an attacker.

17 4. Unfavorable Factors. Factors which will bear negatively  
18 on issuance (unless they appear to be in the remote past) are: a)  
19 the applicant has a long-term history of mental or emotional  
20 instability, alcoholism, drug use or addiction; b) the applicant  
21 has a history of fault in serious accidents with firearms,  
22 automobiles or other dangerous instrumentalities; c) the  
23 applicant has had a permit to own or carry a concealed weapon  
24 denied, suspended or revoked for good cause by any issuing  
25 authority; d) the applicant has had a driver's license denied,  
26 suspended or revoked for good cause by any issuing authority; e)  
27 the applicant has a long-term record of irresponsible and  
28

1 dangerous behavior with automobiles as indicated by numerous  
2 convictions of serious driving offenses; f) the applicant has a  
3 long-term history of conduct from which it appears that he or she  
4 is not now of good moral character, trustworthy or responsible.  
5 While none of the foregoing disqualify an applicant per se, a  
6 license will be denied if it appears, in the discretion of the  
7 department, that the applicant does not now have good character  
8 or that issuance of a license to him/her is not consistent with  
9 public safety.

10 5. Presumption. Absent good cause for denial, persons  
11 having good cause as defined in paragraph 2 shall be issued  
12 licenses for the maximum time period allowed by section 12050,  
13 and their licenses shall be renewed so long as they continue to  
14 have good cause. No license shall issue if the applicant is  
15 prohibited by law from possessing or acquiring firearms, or  
16 concealable firearms, or is below the age of 21 years.

17 PROCEDURAL MATTERS

18 6. Divulgence of Information. All applicants shall receive  
19 a copy of these guidelines along with the application form.

20 7. Evidence. Declarations under penalty of perjury suffice  
21 as evidence of facts showing good cause, provided that the  
22 Department is not required to accept the allegations in a  
23 declaration if it has credible counter-evidence or finds the  
24 declarant not credible. The applicant will be required to furnish  
25 proof of his or her medical and psychological fitness in a manner  
26 to be prescribed by the department. This shall include  
27 certification of the applicant's eyesight to meet the standards  
28

1 established by the California Department of Motor Vehicles for  
2 issuance of driver's license. As proof of good character the  
3 applicant shall present at least two statements from responsible  
4 persons attesting thereto. The applicant may present additional  
5 good character, trustworthiness and to negate the converse  
6 evidence to prove responsibility or to negate the converse.

7       8. Celerity. License applications shall be approved or  
8 rejected within fifty days of the application being submitted;  
9 provided, that if the applicant has not been cleared (or  
10 rejected) of Justice by the fortieth day, LAPD shall have an  
11 additional ten days for such action which additional period shall  
12 begin as of the date by which LAPD receives word from the  
13 California Department of Justice; and further provided that an  
14 additional sixty day period is allowed in cases in which the  
15 applicant has appealed a rejection or any restriction of the  
16 license. Those whose applications are rejected will receive a  
17 specific written reason for rejection along with notification of  
18 their right to seek review from the advisory panel.

19       9. Conditions. Absent some compelling reason, licensees will  
20 be allowed to specify up to three firearms of their choice to be  
21 listed on their license and the Department will amend their  
22 licenses to substitute or add firearms so long as the number does  
23 not exceed three and each firearm meets the other provisions of  
24 this paragraph. The department may attach to the license such  
25 conditions as in the reasonable exercise of its discretion it  
26 deems appropriate; provided that these conditions shall be noted  
27 on the face of the license. Conditions may include, but are not  
28

1 limited to:

- 2 a. The type of weapon to be carried.
- 3 b. The type of ammunition to be permitted.
- 4 c. Circumstances in which it may or may not be
- 5 carried. Absent some compelling reason,
- 6 limitations a. and b. shall not preclude use of
- 7 kinds of firearm or ammunition which are generally
- 8 deemed appropriate for issuance to plain clothes
- 9 law enforcement personnel in the State of
- 10 California.

11 G. Advisory Review.

12 1. Plaintiffs' lead counsel, Don B. Kates, shall appoint a

13 panel of advisors to review contested applications. (Kates may

14 add or substitute members of the panel as he deems necessary to

15 carry out its functions, e.g. in case of the resignation, death

16 or disability a new nominee to make such appointments shall be

17 nominated by the plaintiff Second Amendment Foundation.)

18 2. LAPD will accompany its notification to applicants of its

19 action on their application with a statement that a review panel

20 exists. If the applicant is dissatisfied and requests such

21 review, LAPD will promptly submit to the panel's review its files

22 in all cases in which an application is rejected or granted with

23 substantial limitations and will attempt to respond in a

24 reasonable and timely manner to questions the panel may have. The

25 panel will promptly review each submitted application and

26 recommend in writing if it believes a different decision should

27 have been made by LAPD. LAPD will promptly reconsider the matter

28

1 and take any further action it deems merited.

2 3. LAPD may be liable for an award of attorney's fees  
3 in any legal action: a) which was initiated after the advisory  
4 panel recommended action favorable to the applicant; b) which  
5 recommendation LAPD rejected, if c) the outcome in that legal  
6 action substantially parallels the advisory panel's  
7 recommendation.

8 H. Continued Jurisdiction.

9 The court will retain continued jurisdiction of the action  
10 in order to make any further orders which may be necessary.

11 I. Attorney's Fees and Costs. Each party to this action  
12 shall bear its own costs and fees, including attorneys' fees in  
13 this matter.

14 IT IS SO ORDERED.

15 DATED:

16 \_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE  
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am over the age of 18 years; am a citizen of the United States; not a party to the within action; and my business address is: 424 South Beverly Drive, Beverly Hills, CA 90212-4414

On April 1, 2010, I served the foregoing document described as NOTICE OF MOTION AND MOTION TO MODIFY AMENDED JUDGMENT OF DECLARATORY RELIEF FILED ON FEBRUARY 4, 1998; MEMORANDUM OF POINTS AND AUTHORITIES on the parties in said action as follows:

CARMEN A. TRUTANICH, City Attorney  
CURT LIVESAY, Chief Legal Advisor  
City Hall East  
200 N. Main Street, Room 800  
Los Angeles, CA 90012

\_\_\_\_\_ BY MAIL: I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Sacramento, California. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

X BY MAIL: I am readily familiar with our office's practice of collection and processing of correspondence for mailing; it is our practice to deposit correspondence with the United States Postal Service on the same day it is submitted for mailing. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

\_\_\_\_\_ BY OVERNIGHT DELIVERY: I caused each such envelope, with delivery fees paid, to be deposited in a collection box or other facility regularly maintained by a guaranteed overnight delivery service (e.g., Federal Express or UPS) .

\_\_\_\_\_ BY FACSIMILE: By use of a facsimile machine, I served a true copy of each document listed above on the above interested parties at their facsimile numbers (also listed above). Said transmission was reported as complete and without error. A copy of the transmission report is attached hereto CRC, Rule 2008(e).

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on April 1, 2010, at Beverly Hills, California.

  
\_\_\_\_\_  
JENNIFER L. KNAPP