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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CENTRAL DISTRICT

ANTHONY MARIO ASSENZA, et al.

Plaintiffs and Petitioners,

vs.

THE CITY OF LOS ANGELES, et al.

Defendants and Respondents.

CASE NO. BC115813

[Assigned to the Hon. Terry A. Green, Dept. 14]

NOTICE OF MOTION AND MOTION TO CONSOLIDATE; DECLARATION OF JOSHUA R. DALE IN SUPPORT OF MOTION TO CONSOLIDATE

Hearing Date/Time: August 18, 2011
Time: 8:45 a.m.
Dept. No.: 14
Hearing Judge: Hon. Terry Green

DAVID R. DAVIS an individual, JACOB DANIEL HILL an individual, BRIAN GOLDSTEIN an individual, PAUL COHEN an individual, JILL BROWN an individual, CHRIS BUTLER an individual, SCOTT AUSTIN an individual, ERIC FEDER an individual, LISA SIEGEL an individual, *et al.*,

Plaintiffs and Petitioners,

vs.

CASE NO. BS131915

[Assigned to the Hon. James C. Chalfant, Dept. 85]

CITY OF LOS ANGELES; CITY OF LOS ANGELES POLICE DEPARTMENT; POLICE CHIEF CHARLIE BECK, in his capacity as a Managing Agent of City of Los Angeles Police Department; and DOES 1-500, Inclusive,

Defendants and Respondents.

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on August 18, 2011, in Department 14 of the above-identified court, located at 111 North Hill Street, Los Angeles, California 90071, Plaintiffs in this matter, *Anthony Mario Assenza, et al. v. The City of Los Angeles, et al.*, Los Angeles County Superior Court Case No. BC115813, will move the Court for an Order consolidating this action with the matter of *David R. Davis, et al. v. City of Los Angeles, et al.*, Los Angeles County Superior Court Case No. BS131915.

The motion is brought under Code of Civil Procedure section 1048, and is based on both cases involving the same questions of fact and law, both cases utilizing the same witnesses, and that consolidation will promote judicial economy in light of these circumstances. Consolidation will avoid unnecessary costs and delay as both cases can be tried as a single case, eliminating the costs and expense of a second trial on the same facts. Therefore, consolidation is requested for all purposes.

The parties named in *Assenza, et al. v. City of Los Angeles, et al.*, Case No. BC115813 are Plaintiffs/Petitioners Anthony Mario Assenza, Robert James Byrant, William Arthur Crawford, Paul Steven Dwan, Bruce Harold Edelman, Ology Erle Gibson, Terry Homer Harden, Richard Alan Hochberg, Burton Charles Jacobson, Thomas Michael Kutrosky, Yarom Limor, Marshall Clifford Mars, John R. Martin, Robert Kellogg Miller, Michael Scott Ontiveros, Ted Pasternack, Victor Donald Rappoport, Jesse Donald Rich, Jerome Martin Rodensberg, Joel C. Schlossman, Nathan David Schlossman, Carlos Sedillo, Sanford Shire, Bernice Sharon Silver, Richard Clayton Temme, John Harris Thaler, Donna Lynne Thomas, Gary Brian Tigar, Kent Lee Turnipseed, David Alan Yochelson. Defendants/Respondents are the City of Los Angeles, the City of Los

Angeles Police Department ("LAPD"), the LAPD Chief of Police, and the LAPD's Board of Police Commissioners. Witnesses in the *Assenza* case are David R. Davis, Jacob Daniel Hill, Brian Paul Sohan Goldstein, Paul Cohen, Scott Austin, Jill Brown, Lisa Siegel, and Chris Butler. Plaintiffs/Petitioners are represented by Burton C. Jacobson, C.D. Michel, Joshua R. Dale, and Tamara M. Rider. Defendants/Respondents are represented by Carmen A. Trutanich, Carlos De La Guerra, and Debra L. Gonzales.

The parties named in *David R. Davis, et al. v. The City of Los Angeles, et al.*, Case No. BS131915 (and the same witnesses in *Assenza*) are Plaintiffs/Petitioners David R. Davis, Jacob Daniel Hill, Brian Paul Sohan Goldstein, Paul Cohen, Scott Austin, Jill Brown, Lisa Siegel, Chris Butler, and Eric Feder. Defendants/Respondents are the City of Los Angeles, the LAPD, the LAPD Chief of Police, and the LAPD's Board of Police Commissioners. Plaintiffs/Petitioners are represented by C.D. Michel, Joshua R. Dale, Tamara M. Rider, and Burton C. Jacobson. Defendants/Respondents are represented by Carmen A. Trutanich, Carlos De La Guerra, and Debra L. Gonzales.

The motion shall be based on this notice, the attached memorandum of points and authorities, the supporting declaration of Joshua R. Dale, all pleadings and papers currently on file in this matter, and any arguments raised at hearing on this motion.

Dated: July 19, 2011

MICHEL & ASSOCIATES, P.C.

C. D. Michel
Joshua R. Dale
Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The *Davis* matter is a writ for petition of mandate brought by nine citizens of the City of Los Angeles (the "City") who have sought concealed carry weapons ("CCW") permits from the Los Angeles Police Department ("LAPD") and its Police Chief, but have been denied such permits, or whose applications have been otherwise so frustrated as to amount to an effective denial of their permits.

The *Assenza* matter relates to an ongoing consent decree entered into between plaintiff CCW holders, the City, the LAPD and the Chief, regarding how the City is required to handle applications for CCW permits, such as, e.g., the *Davis* petitioners' applications. Originally entered as a Stipulated Judgment in 1995, it has been subsequently amended three times and has been subject to a clarifying Order entered in 1998.

Currently, both *Davis* and *Assenza* seek judicial relief regarding Defendants/Respondents' failure to adhere to the *Assenza* Judgment and 1998 Order, thereby making consolidation the most appropriate and best economical means of managing these two cases.

II. STATEMENT OF FACTS

A. *Assenza, et al. v. The City of Los Angeles, et al.* Procedural History

In 1994, the *Assenza* plaintiffs alleged that the City and the LAPD were violating Penal Code section 12050 by the manner in which applications for CCWs were processed by the LAPD and the Chief. The *Assenza* plaintiffs alleged that the LAPD's handling of CCW applications was inconsistent, resulted in the unlawful denial of CCW applications even where good cause under Section 12050 was shown, and ultimately the City's procedure did not minimally comply with the City's and the LAPD's requirements under Section 12050 for taking and considering CCW applications. (See Declaration of Joshua R. Dale at ¶ 2).

As a result of the *Assenza* litigation, a Stipulated Judgment was entered between plaintiffs, the City the LAPD, and the Chief in 1995, requiring the LAPD to issue CCW permits to the *Assenza* Plaintiffs. The parties also negotiated a specific written procedure by which the LAPD was required to handle all *future* CCW permit applications by citizens. (See Dale Decl., ¶ 2).

Since the 1995 Judgment, the *Assenza* plaintiffs were forced to file contempt motion asserting 24 different counts relating to Defendants/Respondents' failure to provide copies of the CCW guidelines and CCW application to the public, failure to renew licenses of specified individuals before the lapse date, and the implementation of false and misleading guidelines adopted in violation of the Judgment. As a result of this contempt motion, a clarifying Order was entered in 1998 by Judge Alan Buckner. (See Dale Decl., ¶ 2).

The July 29, 1998 Order required each and every sworn Commanding Officer of the 18 Regional Los Angeles Police Department Stations or Divisions to file a declaration, attesting to the following:

First:	His or her receipt, on or about 23 July, 1998, of the two-page document headed "Los Angeles Police Department Concealed Weapon Permit Policy"[1] issued late on 22 July 1998 pursuant to the verbal order of Commander Bruce E. Hagerty, Acting Commanding Officer, Operations Headquarters Bureau, Parker Center.
Second:	His or her ready familiarity with and understanding of the terms of such statement of the Los Angeles Police Department's Policy.
Third:	Acknowledgment by each declarant that his or her oath of office requires obedience to such policy.
Fourth:	Verification by each such declarant of the *present and future availability* to any applicant for a concealed firearms license of *both* a copy of such statement of policy *and* of Los Angeles Police Department Form 12.49.1, Edition 6/96 application for concealed weapons license.
Fifth:	Verification by each such declarant that those sworn or civilian personnel at each of the Departments 18 regional stations or divisions has been specifically instructed through roll call or other formal means as to the specific desk or office within each of such 18 facilities to which such applications and statements of policy have been delivered in accordance with the 22 July 1998 verbal order of Commander Hagerty.[2]

Per the 1998 Order, the Defendants filed their Notice of Lodging of Declarations from their Commanding Officers attesting to the statements as required by the July 29, 1998 Order.[3]

---

[1] A true and correct copy of the LAPD Concealed Weapon Policy is attached hereto as Exhibit A.

[2] Order at 1-3, *Assenza v. City of Los Angeles*, No. BC115813 (July 29, 1998) (emphasis added). A true and correct copy of this Order is attached hereto as Exhibit B.

[3] See Notice of Lodging of Declarations, *Assenza v. City of Los Angeles*, No. BC115813. Plaintiffs/Petitioners will file such declarations if the Court so requests.

Every declaration set forth the same eight fact statements, three of which were:

> 4. I understand that as a Captain of the Police I am responsible to and have a duty to ensure that the policy [LAPD Concealed Weapon Permit Policy] is obeyed so long as it is in effect.
>
> 5. I have instructed that both the Los Angeles Police Department forms 12.49.1, dated June, 1996, and the "LAPD Concealed Weapon Permit Policy" be made available for distribution at the front desk area station and that both forms be distributed to any person who asks for an application to carry a concealed weapon.
>
> 6. I have further directed that every person assigned the front desk be instructed that any person requesting an application for a concealed weapon permit be provided with both the application Form 12.49.1 and the attached LAPD Concealed Weapon Policy.

On November 4, 1998, the *Assenza* parties entered in a stipulation for settlement relating to Plaintiffs' contempt motion.

Since then, the *Assenza* Judgment has been amended several times to ensure that it is updated to reflect the current LAPD Police Chief as a proper party and give the Judgment continuing effect.

On June 11, 2010, the Honorable Terry Green signed the current Third Amended Judgment of Declaratory Relief. A true and correct copy of the Third Amended Judgment of Declaratory Relief is attached hereto as Exhibit C.

B. Recent Enforcement Filings in *Assenza, et al v. The City of Los Angeles, et al.*

On May 4, 2011, the *Assenza* plaintiffs filed a motion to enforce judgment and for monetary sanctions in the amount of $2,500. Plaintiffs' motion asserted that Defendants/Respondents are failing to comply with the *Assenza* Judgment and 1998 Order.

Plaintiffs specifically assert that Defendants/Respondents are again failing to consistently provide to the public a copy of the LAPD CCW policy and a CCW application when requested. Witnesses who provided declarations in support of the *Assenza* plaintiffs' motion were David R. Davis, Jacob Daniel Hill, Brian Paul Sohan Goldstein, Paul Cohen, Scott Austin, Jill Brown, Lisa Siegel, and Chris Butler.

On June 9, 2011 the parties appeared before the Honorable Terry Green to discuss the merits of Plaintiffs' motion. The following was ordered to be completed by September 7, 2011:

1. Defendants/Respondents must provide Plaintiffs with all contact information of each and every concealed carry weapons [CCW] license applicant who has applied to Defednants/Respondents for a CCW license since July 29, 1998, the date of Judge Buckner's Order.

2. Defendants/Respondents must file with the Court sworn and signed declarations from every Commanding Officer at each of the [LAPD's] 21 station houses and precincts. The declarations of each Commanding Officer must attest to his or her compliance with the *Assenza* Judgment, specifically indicating what affirmative steps he or she has taken to ensure compliance both the *Assenza* Judgment and Judge Buckner's Order.

3. Defendants/Respondents must provide a link on the [LAPD's] website, <lapdonline.org>, allowing members of the public who view the Department's website to easily locate, read, download, and print both the Deparment's CCW policy and the California Department of Justice CCW Standard Application.

C. *David R. Davis, et al. v. The City of Los Angeles, et al.* Writ of Mandate

On May 18, 2011 Petitioners in *David R. Davis, et al.* filed their Petition for Writ of Mandate, Prohibition, and/or Other Appropriate Relief against Defendants/Respondents City of Los Angeles, the LAPD, the LAPD Chief of Police, and the LAPD's Board of Police Commissioners. (See Dale Decl., ¶ 3; see also *David R. Davis, et al. v. City of Los Angeles, et al.*, Case No. BS131915).

The *Davis* petition for writ of mandate is brought by nine citizens of the City of Los Angeles who have sought CCW permits from the LAPD and its Police Chief, but have been denied such permits, or whose applications have been otherwise so frustrated as to amount to an effective denial of their permits. Eight of the nine *Davis* petitioners are the same witnesses utilized in the May 4, 2011 *Assenza* motion to enforce the judgment and for monetary sanctions. (See Dale Decl., ¶¶ 3, 5).

The *Davis* petitioners assert that respondents continuously fail to provide copies of the LAPD CCW policy and CCW application to all prospective CCW applicants, fail to notify all CCW applicants of the existence of the Advisory Review Panel, and fail to promptly reconsider all denied CCW applicants where the Advisory Panel recommends issuance. The *Davis* petitioners also allege that respondents have adopted a *de facto* policy of denying all CCW permit applications, even where good cause has been shown and the Advisory Panel has recommended issuance.

Because the *Davis* petitioners' rights are directly affected by the Judgment and Order in *Assenza*, the *Davis* petitioners requested relief includes asking the Court to issue an Order to respondents requiring respondents to immediately comply with the *Assenza* Third Amended Judgment of Declaratory Relief as it relates to petitioners' pending CCW applications. Petitioners further seek the issuance of a writ of prohibition to prevent respondents from engaging in noncompliance in the future, as well as the imposition of monetary sanctions for respondents' noncompliance. (See Dale Decl., ¶ 4).

Thus, the *Davis* petitioners seek relief in their writ petition in the form of enforcement of the *Assenza* judgment; this is precisely what the *Assenza* plaintiffs currently seek by way of their motion and the City's pending compliance with the Court's order on that motion.

The parties are scheduled to appear for a hearing on the *Davis* petition on August 25, 2011.

II. ARGUMENT

A. *Assenza* and *Davis* Involve Common Questions of Law and Fact Appropriate for Consolidation

The Court has express authority under the Code of Civil Procedure to consolidate actions where common questions of law or fact exist among two or more cases. Specifically, Code of Civil Procedure section 1048(a) provides:

> (a) When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

"Under the statute and the case law, there are thus two types of consolidation: a consolidation for purposes of trial only, where the two actions remain otherwise separate; and a complete consolidation or consolidation for all purposes, where the two actions are merged into a single proceeding under one case number and result in only one verdict or set of findings and one judgment." (*Hamilton v. Asbestos Corp., Ltd.* (2000) 22 Cal.4th 1127, 1147). "Complete consolidation is correct where no doubts exists as to the applicability of the various findings to each of the consolidated cases [] or where the plaintiffs could have joined together originally to bring the action []." (Kiesel, Lichtman, Matthai, Seabolt, *Cal. Pretrial Civ. Proc.* (Matthew

Bender Prac. Guide 2007) ¶ 32.08[4], p. 32-24, citing *Page v. Bakersfield Uniform & Towel Supply Co.* (1966) 239 Cal.App.2d 762, 772, and *Jaffe v. Albertson Co.* (1966) 243 Cal.App.2d 592, 606-07.)

In this case, complete consolidation of *Assenza* and *Davis* is appropriate given that both cases directly arise from, and relate to, common questions of law with respect to the *Assenza* Judgment and 1998 Order, and pertain to similar facts relating to Defendants/Respondents' procedure for taking and issuing CCW permits under the *Assenza* criteria. Furthermore, eight of the nine declarations provided in the *Davis* writ of mandate are utilized in the *Assenza* motion to enforce as evidence that Defendants/Respondents' are failing to provide a copy of the LAPD CCW policy and CCW application to the public at all of its precincts and station houses. The *Davis* writ of mandate further asserts that Defendants/Respondents fail to notify all CCW applicants of the existence of the Advisory Review Panel and fail to promptly submit and reconsider all denied CCW applicants which the advisory panel reaches a different decision as required by the *Assenza* Judgment.

Because both *Assenza* and *Davis* arise from common questions of law or facts which involve the same or substantially identical transactions, incidents, or events, and because the *Davis* petitioners rights are directly affected by the Judgment and Order in *Assenza,* complete consolidation of both *Assenza* and *Davis* is warranted. (See Dale Decl., ¶ 6).

B. Consolidation Factors Weigh In Favor of Consolidation

To determine whether consolidation is appropriate, the Court should consider the following factors: 1) timeliness of the motion, 2) complexity of the actions, and/or 3) prejudice to any party. (See Weil & Brown, *Cal. Prac. Guide: Civil Procedure Before Trial* (The Rutter Group 2011) ¶ 12:362, p. 12(I)-66.)

1. Plaintiffs/Petitioners' Consolidation Motion is Timely and Brought Without Delay

Foremost, there is no statutory deadline to bring a motion to consolidate, and a motion brought at any time during the proceedings is essentially timely. To ensure that neither *Assenza* nor *Davis* are delayed, and to promote judicial economy, however, Plaintiffs/Petitioners have

promptly brought this motion within two months after the initial filings in both matters. Because the *Davis* writ of mandate hearing is not scheduled until August 25, 2011 and the parties in *Assenza* are not ordered to appear until after September 7, 2011, consolidation at this point would not adversely affect either action and would instead avoid unnecessary costs, and duplication of law and motion, and inconsistent finding in the actions.

2. Neither *Assenza* Nor *Davis* Are Complex Actions

Neither *Assenza* nor *Davis* are complex actions which would cause either a jury or a judge to be confused if these matters were consolidated. (See, e.g., *State Farm Mut. Auto. Ins. Co. v. Superior Court, In and For City and County of San Francisco* (1956) 47 Cal.2d 428, 431 finding that consolidation is not appropriate where the jury would be confused "in determining under differing tests set out in the instructions the consequences of any particular factual situation which the jury might find to exist.")

In these cases, however, since the *Davis* plaintiffs' rights are directly related to and affected by the Judgment and Order in *Assenza*, and because the main issue in both *Assenza* and *Davis* is whether Defendants/Respondents have either intentionally or negligently failed to comply with the *Assenza* Judgment and Order, consolidation would not confuse the jury or judge. Rather, consolidation would ensure that rulings in both the *Assenza* and *Davis* matters are consistent with regard to Defendants/Respondents' ongoing obligations under the *Assenza* Judgment and 1998 Order.

3. Defendants/Respondents Will Not Be Prejudiced in Either *Assenza* or *Davis*

Actions may be consolidated at the Court's discretion whenever it can be done without prejudicing the rights of any party. (See *Strickler Co. v. Eisner* (1935) 5 Cal.App.2d 441, 444). The fact that the plaintiffs in *Assenza* are different than the petitioners in *Davis* does not preclude consolidation nor prejudice either party. (See *Jud Whitehead Heater Co. v. Obler* (1952) 111 Cal.App.2d 861, 867). Rather, Defendants/Respondents would be greatly benefitted by having both actions consolidated in that the Defendants/Respondents will not be subject to potentially two different, inconsistent instructions from the Court – one in *Davis*, and one in *Assenza*, that could

leave Defendants/Respondents unable to comply with one order without necessarily violating the other.[4]

In both *Assenza* and *Davis*, the Defendants/Respondents are the *exact* same parties. Furthermore, Defendants/Respondents will be asserting the same or similar arguments in both *Assenza* and *Davis*, attesting to whether they have truly complied with the *Assenza* Judgment and 1998 Order. Because the witnesses, evidences, and practices of Defendants/Respondents in both *Assenza* and *Davis* are intimately related, consolidation of the actions would promote convenience for the parties and conserve judicial resources as a whole.

Therefore, all of these factors weigh in favor of consolidation and are conducive for expedition of both *Assenza* and *Davis*.

III. CONCLUSION

For the above stated reasons, *the Assenza* plaintiffs request an Order consolidating their action with the *Davis* matter.

Dated: July 19, 2011

MICHEL & ASSOCIATES, P.C.

C. D. Michel
Joshua R. Dale
Attorneys for Plaintiffs

[4] For example, the Court in *Assenza* has already ordered specific steps Defendants/Respondents must take to comply with the Judgment, such as, e.g., disclosing the identities of CCW applicants since the 1998 Order to help the Court and plaintiffs determine Defendants/Respondents' track record of compliance with the *Assenza* Judgment. If the matters remain unconsolidated, the Court in *Davis* could order different relief that conflicts with the 2011 *Assenza* Order, including ordering that Defendants/Respondents not disclose such information to petitioners. This sort of contradiction would leave Defendants/Respondents in the position of having to defy one Court's order to comply with the other.

EXHIBIT A

LAPD CONCEALED WEAPON LICENSE POLICY

Pursuant to California Penal Code Section 12050, in the City of Los Angeles, the Chief of Police of the Los Angeles Police Department ("LAPD") may issue a license to a person to carry a pistol, revolver, or other firearm capable of being concealed upon the person upon proof that the person applying for the license is of good moral character, that good cause exists for the issuance of the license, that the person is a resident of the City of Los Angeles, and that the person has completed a required course of training.

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

The following further rules and guidelines are provided for the interpretation and implementation of this policy:

INTRODUCTORY

The department recognizes that Penal Code 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.

CRITERIA FOR LICENSURE

Training. A new license applicant must furnish proof to the department that he or she has successfully completed a course of training in the carrying and use of firearms established pursuant to Section 7585 of the California Business and Professions Code or some other course acceptable to the department which includes the following subjects of training: knowledge of California laws regarding weapons and deadly force use; safe handling, carriage, use and storage of concealable firearms; and competency with the types of firearms to be listed on the license.

Such course does not need to exceed 16 hours. For license renewal applicants, the course of training may be any course acceptable to the department, shall be no less than four hours, and shall include instruction on at least firearm safety and the law regarding the permissible use of a firearm.

Good Cause. Good cause shall be deemed to exist, and a license will issue in the absence of strong countervailing factors, upon a showing of any of the following circumstances: a) The applicant is able to establish that there is an immediate or continuing threat, express or implied, to the applicant's safety, or the applicant's family's safety, and that no other reasonable means exist which would suffice to neutralize that threat. b) The applicant is employed in the field of security, has all requisite licenses, is employed by a security firm having all requisite licenses, and provides satisfactory proof that his or her work is of such a nature that it requires the carrying of a concealed weapon. c) The applicant has obtained, or is a person included within the protections of, a court order which establishes that the applicant is the on-going victim of a threat or physical violence or otherwise meets the criteria set forth in Penal Code Section 12025.5. d) The applicant establishes that circumstances exist requiring him or her to transport in public significant amounts of valuable property which it is impractical or impracticable to entrust to the protection of armored car services or equivalent services for safe transportation of valuables. e) The applicant establishes that he or she is subject to a particular and unusual danger of physical attack and that no reasonable means are available to abate that threat.

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

Unfavorable Factors. Factors which will bear negatively on issuance (unless they appear to be in the remote past) are: a) the applicant has a long-term history of mental or emotional instability, alcoholism, drug use or addiction to controlled substances; b) the applicant has a history of fault in serious accidents with firearms, automobiles or other dangerous instrumentalities; c) the applicant has had a permit to own or carry a concealed weapon denied, suspended or revoked for good cause by any issuing authority; d) the applicant has had a driver's license denied, suspended or revoked for good cause by any issuing authority; e) the applicant has a long-term record of irresponsible and dangerous behavior with automobiles as indicated by numerous convictions of serious driving offenses; f) the applicant has a long-term history of

conduct from which it appears that he or she is not now of good moral character, trustworthy or responsible. While none of the foregoing disqualify an applicant per se, a license will be denied if it appears, in the discretion of the department, that the applicant does not now have good character or that issuance of a license to him/her is not consistent with public safety.

FURTHER INFORMATION

Residency. Proof that the applicant is a resident of the City of Los Angeles will be fulfilled upon presentation of a copy of the following two items: a recognized California identification card and at least one recent utility or rent receipt showing the applicant's name and residence address.

Conditions of license. The Department may attach to the license such conditions as in the reasonable exercise of its discretion it deems appropriate. These conditions will be noted on the face of the license.

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 13

OCTOBER 4, 1996

SUBJECT: APPLICATION FOR A LICENSE TO CARRY A CONCEALED FIREARM, FORM 12.49.1 - ACTIVATED

PURPOSE: In 1993 the Board of Police Commissioners transferred authority for issuing licenses to carry a concealed firearm to the Chief of Police. The Department also revised its policy for the issuance of a license to carry a concealed firearm, and adopted the Concealed Weapon License Application, Temporary Form 331.

This Order amends the Department Manual to reflect current procedures for the issuance of a license to carry a concealed firearm(s); deactivates the Concealed Weapon License Application, Temporary Form 331; and activates the Application for a License to Carry a Concealed Firearm, Form 12.49.1.

PROCEDURE:

I. **CONCEALED WEAPON LICENSE APPLICATION, TEMPORARY FORM 331 - DEACTIVATED.** The Concealed Weapon License Application, Temporary Form 331, is deactivated.

II. **APPLICATION FOR A LICENSE TO CARRY A CONCEALED FIREARM, FORM 12.49.1 - ACTIVATED.** The Application for a License to Carry a Concealed Firearm, Form 12.49.1, is activated. Area Commanding Officers shall ensure that an adequate supply of Form 12.49.1 are maintained at each Community Police Station and provided to the public upon request.

USE OF FORM: This form is used by any eligible resident of the City of Los Angeles to apply for a license to carry a concealed firearm, as defined in Section 12050 of the Penal Code.

COMPLETION: The form shall be completed and signed by the applicant. Incomplete or incorrect applications will not be accepted. The completed application shall be forwarded to the Gun Unit, Detective Headquarters Division, for investigation. Upon completion of the investigation, the application with recommendations shall be forwarded to the Office of the Chief of Police for approval.

DISTRIBUTION:

1 - Original, to Gun Unit, Detective Headquarters Division.

III. **GUN UNIT, DETECTIVE HEADQUARTERS - RESPONSIBILITIES.** The Gun Unit, Detective Headquarters Division, shall investigate all applications for concealed firearm licenses. Completed investigations shall be forwarded to

the Office of the Chief of Police, who will review and approve or deny the request.

FORM AVAILABILITY: The Application for a License to Carry a Concealed Firearm, Form 12.49.1, will be available for ordering from Supply Division within 90-120 days. A copy of Form 12.49.1, is attached for duplication as needed. Temporary Form 331 shall be marked "obsolete" and placed into the divisional recycling bin.

AMENDMENT: This Order amends Sections 4/540.32, 4/560.40, 4/767.05, 4/767.10 of, and adds Section 5/12.49.1 to, the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Detective Services Group, shall monitor compliance with this directive in accordance with Department Manual Section 9/080.30.

WILLIE L. WILLIAMS
Chief of Police

Attachment

DISTRIBUTION "A"

EXHIBIT B

RECEIVED

JUL 28 1998

FILED
LOS ANGELES SUPERIOR COURT
JUL 29 1998
JOHN A. CLARKE, CLERK
BY J. LORENZ, DEPUTY

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 ORDER ~~[Proposed]~~

On July 24, 1998, the Court's Order to Show Cause Re Contempt came regularly before this Court. Burton C. Jacobson and William Arthur Crawford appeared for the plaintiffs and/or applicants, Byron Boeckman appeared for all defendants. The Court, having read the briefs of the parties; having heard the arguments of counsel and being fully advised in the premises makes the following ORDER:

First: Not later than close of business Friday, 28 August, 1998, Defendants shall have filed and served a uniform declaration, executed by the each of the individual sworn Los Angeles Police Department personnel identified by job title below,

and attesting to each of the following: One, his or her receipt, on or about 23 July, 1998, of the two-page document headed "Los Angeles Police Department Concealed Weapon Permit Policy" issued late on 22 July 1998 pursuant to the verbal order of Commander Bruce E. Hagerty, Acting Commanding Officer, Operations Headquarters Bureau, Parker Center.

A true and correct copy of that document has been marked and received in evidence as Court's Exhibit "A" to this days's proceeding. An identical copy shall be attached to each such declaration.

Second: His or her ready familiarity with and understanding of the terms of such statement of the Los Angeles Police Department's Policy.

Third: Acknowledgement by each such declarant that his or her oath of office requires obedience to such statement of policy.

Fourth: Verification by each such declarant of the present and future availability to any applicant for a concealed firearms license of both a copy of such statement of policy and of Los Angeles Police Department Form 12.49.1, Edition 6/96 application for concealed weapons license. A true and correct copy of such document has been marked and received in evidence as Plaintiff's Exhibit "1" to this day's proceedings.

Fifth: Verification by each such declarant that those sworn or civilian personnel at each of the Departments 18 regional stations or divisions has been specifically instructed through roll call or other formal means as to the specific desk or office within each of such 18 facilities to which such applications and statements of policy have been delivered in accordance with the 22

July 1998 verbal order of Commander Hagerty.

Each such declaration shall be executed by each and every sworn Commanding Officer of each of the 18 Regional Los Angeles Police Department Stations or Divisions.

IT IS SO ORDERED.

Dated: July 29, 1998

ALAN G. BUCKNER
JUDGE OF THE SUPERIOR COURT

APPROVED AS TO FORM [redacted]
(Court may accept fax copy signature)

Dated: July 28, 1998

BYRON BOECKMAN
Attorney for Defendants

EXHIBIT C

14

FILED
LOS ANGELES SUPERIOR COURT
JUN 11 2010
JOHN A. CLARKE, CLERK
BY J. LORENZ, DEPUTY

RECEIVED
JUN 04 2010
DEPT. 14

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 THIRD 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

COPY

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

C. Admission.

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

D. Plaintiffs' Licenses.

The allegations of the complaint showed good cause as to all of the plaintiffs who sought to be issued licenses. For purposes of this judgment the following persons are deemed plaintiffs: ANTHONY MARIO ASSENZA, ROBERT JAMES BRYANT, WILLIAM ARTHUR CRAWFORD, PAUL STEVEN DWAN, BRUCE HAROLD EDELMAN, OLOGY ERLE GIBSON, TERRY HOMER HARDEN, RICHARD ALAN HOCHBERG, BURTON C. JACOBSON, THOMAS MICHAEL KUTROSKY, YAROM LIMOR, MARSHALL CLIFFORD

MARS, JOHN R. MARTIN, ROBERT KELLOGG MILLER, MICHAEL SCOTT ONTIVEROS, TED PASTERNACK, VICTOR DONALD RAPPOPORT, JESSEE DONALD RICH, JEROME MARTIN ROSENBERG, JOEL C. SCHLOSSMAN, NATHAN DAVID SCHLOSSMAN, CARLOS SEDILLO, SANFORD SHIRE, BERNICE SHARON SILVER, RICHARD CLAYTON TEMME, JOHN HARRIS THALER, DONNA LYNNE THOMAS, GARY BRIAN TIGAR, KENT LEE TURNIPSEED, and DAVID ALAN YOCHELSON. These named plaintiffs will receive licenses, and their licenses will be renewed for a one year term, but only so long as they continue to have good cause, good character, not to be barred by law from the ownership of concealable firearms, and to meet each of the other requirements of licensure under Section 12050 ff.

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

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

INTRODUCTORY

(1) 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.

CRITERIA FOR LICENSURE

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

use and storage of concealable firearms; competency with the types of firearms to be listed on the license.

2. Good Cause. Good cause shall be deemed to exist, and a license will issue in the absence of strong countervailing factors, upon a showing of any of the following circumstances: a) The applicant is able to establish that there is an immediate or continuing threat, express or implied, to the applicant's, or the applicant's family's, safety and that no other reasonable means exist which would suffice to neutralize that threat. b) The applicant is employed in the field of security, has all requisite licenses, is employed by a security firm having all requisite licenses, and provides satisfactory proof that his or her work is of such a nature that it requires the carrying of a concealed weapon. c) The applicant has obtained, or is a person included within the protections of, a court order which establishes that the applicant is the on-going victim of a threat or physical violence or otherwise meets the criteria set forth in Pen. C. Section 12025.5. d) The applicant establishes that circumstances exist requiring him or her to transport in public significant amounts of valuable property which it is impractical or impracticable to entrust to the protection of armored car services or equivalent services for safe transportation of valuables. e) The applicant establishes that he or she is subject to a particular and unusual danger of physical attack and that no reasonable means are available to abate that threat.

3. Favorable Factors. Among facts upon which the department will, in the exercise of its discretion, look favorably in

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

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

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

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

PROCEDURAL MATTERS

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

7. Evidence. Declarations under penalty of perjury suffice as evidence of facts showing good cause, provided that the Department is not required to accept the allegations in a declaration if it has credible counter-evidence or finds the declarant not credible. The applicant will be required to furnish proof of his or her medical and psychological fitness in a manner to be prescribed by the department. This shall include

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

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

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

on the face of the license. Conditions may include, but are not limited to:

a. The type of weapon to be carried.

b. The type of ammunition to be permitted.

c. Circumstances in which it may or may not be carried. Absent some compelling reason, limitations a. and b. shall not preclude use of kinds of firearm or ammunition which are generally deemed appropriate for issuance to plain clothes law enforcement personnel in the State of California.

G. Advisory Review.

1. Plaintiffs' lead counsel, Don B. Kates, shall appoint a panel of advisors to review contested applications. (Kates may add or substitute members of the panel as he deems necessary to carry out its functions, e.g. in case of the resignation, death or disability a new nominee to make such appointments shall be nominated by the plaintiff Second Amendment Foundation.)

2. LAPD will accompany its notification to applicants of its action on their application with a statement that a review panel exists. If the applicant is dissatisfied and requests such review, LAPD will promptly submit to the panel's review its files in all cases in which an application is rejected or granted with substantial limitations and will attempt to respond in a reasonable and timely manner to questions the panel may have. The panel will promptly review each submitted application and

recommend in writing if it believes a different decision should have been made by LAPD. LAPD will promptly reconsider the matter and take any further action it deems merited.

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

H. Continued Jurisdiction.

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

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

IT IS SO ORDERED.

DATED: 6/11/10

JUDGE OF THE SUPERIOR COURT

6/25/10

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

I, Claudia Ayala, am employed in the City of Long Beach, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Blvd., Suite 200, Long Beach, California 90802.

On July 19, 2011, I served the foregoing document(s) described as

NOTICE OF MOTION AND MOTION TO CONSOLIDATE; DECLARATION OF JOSHUA R. DALE IN SUPPORT OF MOTION TO CONSOLIDATE

on the interested parties in this action by placing
[ ] the original
[X] a true and correct copy
thereof enclosed in sealed envelope(s) addressed as follows:

"SEE ATTACHED SERVICE LIST"

X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date is more than one day after date of deposit for mailing an affidavit.
Executed on July 19, 2011, at Long Beach, California.

__ (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the addressee.
Executed on July 19, 2011, at Long Beach, California.

__ (OVERNIGHT MAIL) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for overnight delivery by UPS/FED-EX. Under the practice it would be deposited with a facility regularly maintained by UPS/FED-EX for receipt on the same day in the ordinary course of business. Such envelope was sealed and placed for collection and delivery by UPS/FED-EX with delivery fees paid or provided for in accordance.
Executed on July 19, 2011, at Long Beach, California.

X (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

___ (FEDERAL) I declare that I am employed in the office of the member of the bar of this court at whose direction the service was made.

CLAUDIA AYALA

"SERVICE LIST"

ANTHONY MARIO ASSENZA, et al. v. THE CITY OF LOS ANGELES, et al.

Carmen A. Trutanich, City Attorney Carlos De La Guerra, Managing City Attorney Debra L. Gonzalez, Assistant City Attorney CITY OF LOS ANGELES 200 North Main Street City Hall East, Room 800 Los Angeles, CA 90012	Attorneys for Defendants/Respondents Charlie Beck and City of Los Angeles
Burton C. Jacobson ATTORNEYS AT LAW Beverly Hills Law Building 424 South Beverly Drive Beverly Hills, California 90212-4414	Co-Counsel

L.A.S.C. - FILINGS #32
111 N. HILL STREET
LOS ANGELES CA 90012

DATE PAID: 07/20/11 03:29:33 PM
RECEIPT #: 0CH4659B0071

CIT/CASE: BC115813 LEA/DEF#:

PAYMENT: $40.00 0010
RECEIVED:
CHECK: 40.00
CASH:
CHANGE:
CARD:

MICHEL & ASSOCIATES, P.C.

LA Court Online
Client Advance:Filing Fees

7/19/2011
Los Angeles Superior Court: 07/19/11 Filing Fee for

Checking WF - 7133

FIRM:

Signal ATTORNEY SERVICE INCORPORATED
Long Beach 562-595-1337
Torrance 310-316-1256
Fax 562-595-6294

DATE	SECRETARY	ATTORNEY	ATTORNEY FILE #
7/18/11	CA	JRD	1017025

DO TODAY _____ **RETURN TODAY** _____

Mark X for special assignment(s). RUSH CHARGES APPLY

PLAINTIFF: Assenza et al.,
VS.
DEFENDANT: City of L.A. et al.,

COURT: LASC
JUDICIAL DIST: Central
CITY: Los Angeles CASE #: BC115813

APPROVED DIRECT BILLING:
CARRIER NAME:
ADDRESS:
CITY, STATE, & ZIP:

ADJUSTER:
INSURED:
CLAIM NUMBER:
DATE OF LOSS:

LIST ALL DOCUMENTS: HEARING DATE _____ FEES PAID/ DATE _____ FEES ATTACHED _____

1) Notice of Motion and Motion to Consolidate
2) Declaration of Joshua R. Dale In Support of Motion to Cons.
3) Proposed Order Granting Motion to Consolidate
4) Filing Fee

INSTRUCTIONS: FILE BY _____ SERVE BY _____

DEPT. ____ CLERK ____ Please File the above listed documents and also serve conformed courtesy copies to Judge Terry Green's Dept. 14 Thankyou

IMPORTANT	✓
FILE	✓
SERVE	
DELIVER	
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OTHER	

OFFICE USE	
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TOTAL	

SPECIAL ASSIGNMENT #

☐ RESIDENCE
☐ BUSINESS

MALE ____ FEMALE ____ RACE ____ AGE ____ HT ____ WT ____ HAIR ____

ORIGINAL SUBMIT
DATE 7/20 RUNNER SOV

OKAY ☒
BACK TO COURT ☐ REJECTED ☐

2nd SUBMIT
DATE _____ RUNNER _____

2011 JUL 20 AM 11:53

OKAY ☐
BACK TO COURT ☐ REJECTED ☐

NO CONFORM	SHERIFF	COURTESY	DROP C/W	DROP DP	RCV C/W	RCV DP	FILE C/W	FILE DP	ATTY CK	OUR CK	CASH
		X							X		