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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

15 ANTHONY MARIO ASSENZA, *et al.*,

16 Plaintiffs/Petitioners

17 vs.

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

19 Defendants/Respondents

CASE NO. BC 115813

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

**DEFENDANTS' MEMORANDUM
OF POINTS AND AUTHORITIES IN
OPPOSITION TO MOTION OF
PLAINTIFFS FOR ORDER TO
SHOW CAUSE RE CONTEMPT;
DECLARATIONS IN SUPPORT
THEREOF**

**Date: April 23, 2012
Time: 8:45 a.m.
Dept: 14**

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24 DEFENDANTS/RESPONDENTS (hereinafter Defendants) City of Los Angeles, Chief of
25 Police Charlie Beck and the Los Angeles Police Department (LAPD), hereby submit the following
26 Memorandum of Points and Authorities in opposition to Plaintiffs'/Petitioners'(hereinafter Plaintiffs)
27 Motion for Order to Show Cause re Contempt.

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 STATEMENT OF FACTS

3 On February 1, 1995, the plaintiffs and original defendants in this action (City of Los
4 Angeles, Los Angeles Police Department, Police Chief Willie Williams, Police Captain G.E. Ornelas
5 and various members of the Los Angeles Board of Police Commissioners) entered into a Stipulation
6 for Entry of Judgment which provided that a declaratory judgment may be entered into in settlement
7 of the action. (See Stipulation for Entry of Judgment, Exhibit 2 to Plaintiffs' Request for Judicial
8 Notice in Support of Plaintiffs' Motion for Order to Show Cause re Contempt.) On March 3, 1995,
9 this Court entered a Judgment of Declaratory Relief (Pursuant to Stipulation). (See Judgment of
10 Declaratory Relief, Exhibit 3 to Plaintiffs' Request for Judicial Notice in Support of Plaintiffs'
11 Motion for Order to Show Cause re Contempt.) On June 11, 2010, this Court entered a Third
12 Amended Judgment of Declaratory Relief which amended the judgment to add Police Chief Charlie
13 Beck as a defendant. (See Third Amended Judgment for Declaratory Relief attached hereto as
14 Exhibit 1, hereinafter *Assenza* Judgment.)¹ All three of the referenced documents contain identical
15 language regarding the distribution of information about the carry concealed weapon (CCW) license
16 application process (hereinafter "distribution requirements"). The language, found in subsection (6)
17 of the *Assenza* Judgment, simply states:

18 PROCEDURAL MATTERS

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

21 (Exhibit 1, p. 7, lines 18-20.)

22 On July 29, 1998, the Honorable Alan G. Buckner entered an Order directing the City
23 of Los Angeles officials who were defendants at that time to file uniform declarations of the 18
24 geographic Area Captains. (See Order attached hereto as Exhibit 2, hereinafter Buckner Order.)² On
25 July 6, 2011, the Honorable Terry Green entered an Order on Plaintiffs' Motion to Enforce Judgment
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28 ¹ The Third Amended Judgment of Declaratory Relief is attached as Exhibit 5 to Plaintiffs' Request for Judicial
Notice in Support of Motion for Order to Show Cause re Contempt. It is attached to Defendants' Opposition for the
Court's convenience.

² The Buckner Order is attached as Exhibit 4 to Plaintiffs' Request for Judicial Notice in Support of Motion for
Order to Show Cause re Contempt. It is attached to Defendants' Opposition for the Court's convenience.

1 directing the defendants to perform three acts. (See Order on Plaintiffs' Motion to Enforce Judgment
2 attached hereto as Exhibit 3, hereinafter Green Order.)³ Defendants submitted a Notice of
3 Compliance with Court Order dated September 7, 2011, and a Supplemental Notice of Compliance
4 with Court Order dated September 22, 2011, which provided the Court with proof that defendants had
5 complied with its Order.

6 Plaintiffs now ask the Court to issue an Order to Show Cause re Contempt based on
7 their allegations that Defendants have disobeyed the *Assenza* distribution requirements, the Buckner
8 Order and the Green Order.

9 I.

10 **THERE IS NO PROPER BASIS FOR THE COURT TO ISSUE AN**
11 **ORDER TO SHOW CAUSE RE CONTEMPT TO DEFENDANTS**

12 Plaintiffs request this court to issue an Order to Show Cause why they should not be
13 held in contempt for willful violation of the *Assenza* Judgment, the Buckner Order and the Green
14 Order. The jurisdictional facts for a contempt proceeding are "(1) the making of the order; (2)
15 knowledge of the order; (3) ability of the respondent to render compliance, (4) willful disobedience
16 of the order." *In re Liu* (1969) 273 Cal.App.2d 135, 140-141 [citing *Warner v. Superior Court*, 126
17 Cal.App.2d 821, 824.]

18 The gravamen of Plaintiffs' complaint is that Defendants are not complying with the
19 distribution requirements of the *Assenza* Judgment because the Los Angeles Police Department's
20 (LAPD) 21 Area stations have failed to provide the LAPD's CCW policy and the California
21 Department of Justice (DOJ) Standard CCW application (hereinafter CCW Materials) to interested
22 persons. It is not altogether clear whether a judgment of declaratory relief can be the basis for
23 contempt and Plaintiffs cite no authority for it. However, assuming that a declaratory relief judgment
24 is enforceable by way of contempt, Defendants submit that the four requisite jurisdictional facts have
25 not been shown by Plaintiffs such that an Order to Show Cause should issue.

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³ The Green Order is attached as Exhibit 6 to Plaintiffs' Request for Judicial Notice in Support of Motion for
Order to Show Cause re Contempt. It is attached to Defendants' Opposition for the Court's convenience.

1 1. The Assenza Judgment Does Not Prescribe a Particular
2 Method of Distribution of CCW Materials

3 The *Assenza* Judgment states that “[a]ll applicants shall receive a copy of these
4 guidelines along with the application form.” (Exhibit 1, p. 7, lines 18-20.) Although Defendants
5 have been making efforts to have desk personnel at the 21 Area station desks distribute the CCW
6 Materials to interested persons, this manner of distribution is not specifically required by the *Assenza*
7 Judgment. “The prime purpose of [contempt] proceedings is punishment for disobedience of a valid
8 order directing performance of a specified act. Liability for such punishment ‘should not rest upon
9 implication or conjecture’ but rather upon an order expressing in ‘clear, specific, and unequivocal’
10 language the act required. (Citation omitted) It was therefore said in the Flynn case that ‘greater
11 certainty and clarity may be required to support [contempt] proceedings than are necessary to support
12 other judgment remedies . . .’ (citation omitted). *Little v. Superior Court of Los Angeles County*
13 (1968) 260 Cal.App.2d 311, 316 [citing *Foust v. Foust*, 47 Cal.2d 121, 124-125.] Since there is no
14 language in the *Assenza* Judgment that requires the distribution of the CCW application form and
15 guidelines to be performed in any particular way, Defendants cannot be punished for failing to
16 perform an act that was not specifically required of them.

17 Defendants recognize that the Honorable Alan G. Buckner issued an order to the
18 LAPD in July 1998 as a way of ensuring compliance with the *Assenza* distribution requirements.
19 However, the Buckner Order directed the Police Department to provide declarations from its then 18
20 geographic Area Captains with respect to procedures that were considered appropriate at that time.
21 (Exhibit 2.) Nothing in the Buckner Order directs Defendants to meet the *Assenza* distribution
22 requirements in a particular, specific way. The procedure described in the Buckner Order is not the
23 only way compliance with the *Assenza* distribution requirements can be achieved. Surely, the
24 Buckner Order cannot be read to prevent the Defendants from finding more effective ways of
25 meeting the *Assenza* distribution requirements so as to better achieve the original goal of the litigants,
26 i.e. ensuring that all CCW applicants receive an application and the Department’s CCW policy.

27 Defendants also acknowledge that the Honorable Terry Green issued an order in July
28 2011 after presiding over a hearing on Plaintiffs’ Motion to Enforce Judgment in this case. Other

1 than directing the Defendants to post the CCW Materials on its website, the Green Order did not
2 direct Defendants to meet the *Assenza* distribution requirements in a particular, specific way. (Exhibit
3 3) As noted above, Defendants have complied with the three directives in the Green Order and
4 submitted a Notice of Compliance with Court Order on September 7, 2011, and a Supplemental
5 Notice of Compliance with Court Order on September 22, 2011. It is clear that the Honorable Terry
6 Green recognized that in the 14 years since the Buckner Order the internet has become an important,
7 effective and widely-used tool to disseminate information to the public.

8 Although Defendants acknowledge that there was an understanding between the
9 parties that the LAPD would make its best efforts to distribute the CCW Materials at its Area station
10 desks, there is no order that specifically requires Defendants to so. The broad language of subsection
11 (6) of the *Assenza* Judgment is not a “clear, specific and unequivocal” directive to Defendants of such
12 an obligation. Furthermore, neither the Buckner Order nor the Green Order contains any “clear,
13 specific and unequivocal” mandate to distribute the CCW Materials at the LAPD’s Area stations.
14 Therefore, the harsh punishment of contempt is not available here.

15 2. The Defendants’ Ability to Comply with the Order Must Be Shown

16 Even assuming there was an order specifically requiring distribution of the CCW
17 Materials at the LAPD’s Area stations, the declarations submitted in support of Plaintiffs’ Motion
18 seem to indicate that Defendants would not have the ability to comply with such an order. Despite
19 the best efforts of the LAPD geographic Commanding Officers and the Gang and Narcotics Division,
20 Gun Unit to educate Area station desk personnel regarding their obligation to provide CCW Materials
21 to interested persons, Plaintiffs allege there continue to be lapses. Notwithstanding counsel for
22 Defendants expression at the June 2011 hearing on Plaintiffs’ Motion to Enforce Judgment of her
23 honest and sincere belief that the LAPD had the ability to make the CCW materials available at Area
24 stations, it has proved much more challenging. It is incredibly difficult to keep Area desk personnel
25 aware of their obligation to provide CCW Materials due to the transitory nature of the desk
26 assignment, the infrequency of requests for CCW information, and the myriad of responsibilities of
27 desk officers. (Declaration of Debra Gonzales, ¶ 12.) For these reasons, Defendants have proposed
28 to Plaintiffs that the distribution of CCW Materials be centralized at the Gun Unit to ensure that

1 interested persons are provided with the proper materials and information regarding the CCW
2 application process. (Gonzales Decl., ¶ 12, Exhibit 5.)

3 3. Defendants Have Not Willfully Disobeyed A Court Order

4 Even though there is no order which specifically directs Defendants to comply with
5 the *Assenza* distribution requirements by making them available at LAPD Area stations, Defendants
6 have made good faith efforts to do so. In February 2002, then Police Chief Bernard Parks issued
7 Special Order No. 5 which directed officers to provide the CCW Materials to any person who
8 requested to apply for a CCW license. (Declaration of Richard Tompkins, ¶ 4.) Special Order No. 5
9 was codified in the LAPD Policy Manual section 4/767.05 and all officers are expected to abide by
10 the policies set forth in the Manual. (Tompkins Decl., ¶4.) On June 1, 2011, Captain William Hart,
11 Commanding Officer of the Gang and Narcotics Division, issued a Badge Note reminding all
12 Commanding Officers of the obligations of all LAPD personnel under Special Order No. 5 and
13 attached the CCW Materials. (Tompkins Decl., ¶ 7.) On June 13, 2011, Defendants' counsel made a
14 presentation to the LAPD's Command Staff and Area Commanding Officers at their General Staff
15 meeting concerning the Department's responsibilities under the *Assenza* Judgment and the
16 procedures outlined in LAPD Manual section 4/767.05. (Gonzales Decl., ¶ 6.)

17 In July, August and September 2011, all 21 Area Commanding Officers signed
18 declarations attesting to the efforts they took at each of their stations to ensure that station personnel
19 were aware of their responsibilities to provide CCW Materials to the public. Additionally, in
20 compliance with the Green Order, the LAPD posted the CCW Materials on its public website on
21 September 21, 2011, and they have remained there ever since. Any interested member of the public
22 may go to www.lapdonline.org and enter "carry concealed weapon" or "ccw" in the search box on
23 the home page. The first item on the search results contains a link which allows the person to view
24 and print the CCW Materials. (Tompkins Decl., ¶ 9.)

25 Therefore, Defendants are complying with the *Assenza* Judgment distribution
26 requirements by making the CCW Materials available 24-hours a day, seven days a week on the
27 LAPD's website. Additionally, Defendants' are making a good faith effort to continue making the
28 CCW Materials available at the Area stations. Nonetheless, the Defendants believe a more efficient

1 and effective way to distribute the CCW Materials is to centralize that responsibility at the
2 Department's Gun Unit. Because Defendants are making the CCW Materials available on the LAPD
3 website and making good faith efforts to make them available at LAPD Area stations, they have not
4 willfully disobeyed any court order.

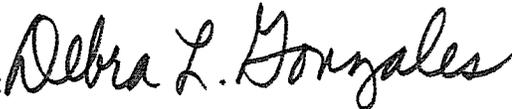
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6 **CONCLUSION**

7 For all of the aforementioned reasons, Defendants respectfully request that this Court
8 deny the Plaintiffs' Motion for Order to Show Cause re Contempt.

9 DATE: April 10, 2012

Respectfully submitted,

10 **CARMEN A. TRUTANICH**, City Attorney
11 **CARLOS DE LA GUERRA**, Managing Assistant City Attorney
12 **DEBRA L. GONZALES**, Assistant City Attorney

13 By: 

14 **DEBRA L. GONZALES**
15 Assistant City Attorney

16 Attorneys for Defendants/Respondents
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**DECLARATION OF
DEBRA L. GONZALES**

1 **DECLARATION OF DEBRA L. GONZALES**

2
3 I, DEBRA L. GONZALES, declare as follows:

4 1. I am employed as an Assistant City Attorney with the Los Angeles City Attorney's
5 Office. I have personal knowledge of all the facts set forth herein and if called upon to testify, I
6 could and would do so competently. As to those matters of which I am informed and believe, I
7 believe them to be true and accurate.

8 2. I am the attorney representing the Defendants in the instant Motion for Order to Show
9 Cause re Contempt in *Anthony Mario Assenza, et al. v. City of Los Angeles, et al.*, Case No. BC
10 115813 (hereinafter *Assenza*).

11 3. Attached hereto as Exhibit 1 is a true and correct copy of the *Assenza* Third Amended
12 Judgment of Declaratory Relief filed in this court on July 11, 2010. The same document is attached
13 as Exhibit 5 to Plaintiffs' Motion for Order to Show Cause re Contempt.

14 4. Attached hereto as Exhibit 2 is a true and correct copy of the Order issued by the
15 Honorable Alan G. Buckner and filed in the *Assenza* matter in this court on July 29, 1998. The same
16 document is attached as Exhibit 4 to Plaintiffs' Motion for Order to Show Cause re Contempt.

17 5. Attached hereto as Exhibit 3 is a true and correct copy of the Order on Plaintiffs'
18 Motion to Enforce Judgment issued by the Honorable Terry Green and filed in the *Assenza* matter in
19 this court on July 6, 2011. The same document is attached as Exhibit 6 to Plaintiffs' Motion for
20 Order to Show Cause re Contempt.

21 6. During the months of July, August and September of 2011, I received the sworn
22 declarations of the Area Commanding Officers of the 21 Area Police Stations of the Los Angeles
23 Police Department (LAPD) concerning the steps they had taken to ensure that their personnel knew
24 how to comply with the *Assenza* requirement that the Department's Carry Concealed Weapon
25 (CCW) Policy and the Department of Justice (DOJ) Standard Application for CCW License be
26 provided to all interested persons. On September 7, 2011 and September 23, 2011, I submitted true
27 and correct copies of those declarations to the court to comply with the court's July 6, 2011 order.

28 ///

1 (CCW) Policy and the Department of Justice (DOJ) Standard Application for CCW License be
2 provided to all interested persons. On September 7, 2011 and September 23, 2011, I submitted true
3 and correct copies of those declarations to the court to comply with the court's July 6, 2011 order.
4 At no time before or after I submitted those declarations to the court did I have any reason to believe
5 that the declarations were false in any way.

6 8. I had a telephone conversation with Plaintiffs' counsel Tamara Rider on October 5,
7 2011 during which she indicated that she had received reports that individuals were still having
8 difficulty obtaining the LAPD CCW policy or the DOJ CCW application. I told her that if she
9 identified which LAPD Area stations were involved, I would personally call the Area Commanding
10 Officer to attempt to correct the situation or I would request the Chief of Detectives to get involved
11 if necessary. Ms. Rider did not respond to my request for further information.

12 9. On November 7, 2011, I met with Plaintiffs' counsel Tamara Rider and Joshua Dale
13 to discuss a discovery dispute in the CCW litigation in *Davis, et al. v. City of Los Angeles, et al.*,
14 Case No. BS131915. Mr. Dale and Ms. Rider again indicated they had reason to believe that certain
15 Area stations were not providing the LAPD CCW policy or the DOJ application. I told both Mr.
16 Dale and Ms. Rider that it would be helpful if they identified which Area stations were not
17 complying but they refused to provide that information to me.

18 10. On January 5, 2012, I had another telephone conference with Ms. Rider and Mr. Dale
19 to discuss a discovery dispute in the *Davis* matter. During that call, Mr. Dale claimed that he had
20 evidence that one of the Area Commanding Officers had committed perjury by submitting a false
21 declaration (an allegation he had also made in a December 21, 2011 letter). When I asked Mr. Dale
22 to identify the Commanding Officer so that LAPD could investigate his claim, he refused to do so. I
23 then told him that an allegation of perjury would be very serious misconduct and if he did not want
24 to provide me with further information, he should file a personnel complaint directly with the LAPD
25 so that an investigation could be conducted. To my knowledge, Mr. Dale never did so.

26 11. Although Mr. Dale faxed his letter dated March 20, 2012, to me at 4:25 p.m. on that
27 date, I did not become aware of it until the late afternoon of March 22, 2012. As soon as I became
28 aware of it, I sent an email to Mr. Dale expressing my willingness to discuss the issues outlined in

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11. I am informed and believe that the LAPD has extreme difficulty in keeping Area station desk personnel aware of their obligation to provide CCW applications and the LAPD CCW policy to the public due to the transitory nature of the desk assignment, the infrequency of requests for CCW information and the myriad of responsibilities of desk officers. Consequently, the LAPD has proposed to Plaintiffs that the distribution of CCW materials be centralized at the Gang and Narcotics Division, Gun Unit. Attached hereto as Exhibit 5 is a true and correct copy of my letter to Mr. Joshua Dale dated April 4, 2012, explaining this proposal.

I swear under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 10th day of April, 2012 at Los Angeles, California.

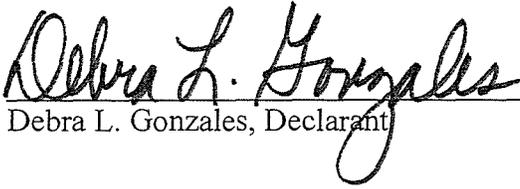

Debra L. Gonzales, Declarant

EXHIBIT 1

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

10	ANTHONY MARIO ASSENZA, et al.,)	CASE NO. BC 115813
11	Plaintiffs/Petitioners)	THIRD AMENDED JUDGMENT OF
12	v.)	DECLARATORY RELIEF
13	CITY OF LOS ANGELES, et al.,)	
14	Defendants/Respondents.)	

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

20 A. Defendants Affected.

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

26 B. Introduction.

27 This action challenging LAPD's procedure, rules and
28

COPY

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
19 CRITERIA FOR LICENSURE

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

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

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

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

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

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

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

18 PROCEDURAL MATTERS

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

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

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

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

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

12 G. Advisory Review.

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

20 2. LAPD will accompany its notification to applicants
21 of its action on their application with a statement that a review
22 panel exists. If the applicant is dissatisfied and requests such
23 review, LAPD will promptly submit to the panel's review its files
24 in all cases in which an application is rejected or granted with
25 substantial limitations and will attempt to respond in a
26 reasonable and timely manner to questions the panel may have. The
27 panel will promptly review each submitted application and
28

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

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

10 H. Continued Jurisdiction.

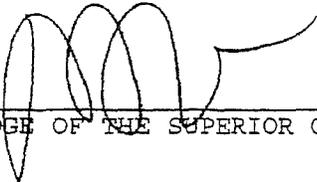
11 The court will retain continued jurisdiction of the action
12 in order to make any further orders which may be necessary.

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

16 IT IS SO ORDERED.

17 DATED:

18 6/11/10

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20 _____
21 JUDGE OF THE SUPERIOR COURT

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EXHIBIT 2

JUL 28 1998

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FILED *u*

LOS ANGELES SUPERIOR COURT

JUL 29 1998

JOHN A. CLARKE, CLERK

BY *J. Lorenz*
J. LORENZ, DEPUTY

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

ANTHONY MARIO ASSENZA,)	CASE NO. BC 115813
et al.,)	
)	ORDER
Plaintiffs/Petitioners,)	
)	[Proposed]
vs.)	
)	
CITY OF LOS ANGELES, et al.,)	
)	
Defendants/Respondents,)	
)	

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,

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

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

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

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

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

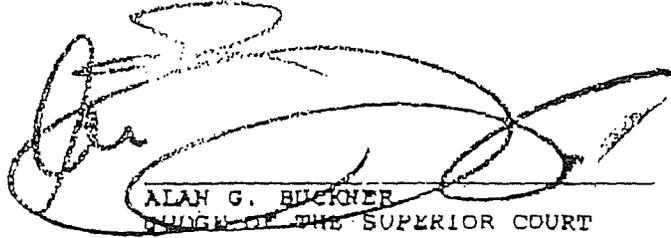
23 Fifth: Verification by each such declarant that those sworn
24 or civilian personnel at each of the Departments 18 regional
25 stations or divisions has been specifically instructed through
26 roll call or other formal means as to the specific desk or office
27 within each of such 18 facilities to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

1 July 1998 verbal order of Commander Hagerty.

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

5 IT IS SO ORDERED.

6 Dated: July 29, 1998

7
8 
9 ALAN G. BUCKNER
JUDGE OF THE SUPERIOR COURT

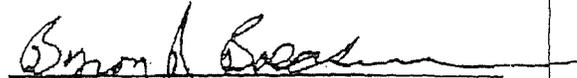
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11 APPROVED AS TO FORM ~~XXXXXXXXXX~~
(Court may accept fax copy signature)

12 Dated: July 28, 1998

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15 
BYRON BOECKMAN
Attorney for Defendants

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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.

LAPD CONCEALED WEAPON LICENSE POLICY

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

LAPD CONCEALED WEAPON LICENSE POLICY

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.

EXHIBIT 3

14

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 Tel: (310)553-8533

FILED
LOS ANGELES SUPERIOR COURT

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REC'D

JUN 10 2011

JOHN A. CLARKE, CLERK
M. LORENZ, DEPUTY

FILING WINDOW

5 Attorneys for Plaintiffs/Petitioners
6 C. D. Michel - SBN 144258
Joshua R. Dale - SBN 209942
7 Tamara M. Rider - SBN 267951
MICHEL & ASSOCIATES, P.C.
8 180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
9 Telephone: (562) 216-4444
Fax: (562) 216-4445
10 cmichel@michellawyers.com

11 Attorneys for Plaintiffs/Petitioners

12
13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF LOS ANGELES
15 CENTRAL DISTRICT

16 ANTHONY MARIO ASSENZA, et al.) CASE NO. BC115813 **D14**
17 Plaintiffs and Petitioners,) ~~PROPOSED~~ ORDER ON PLAINTIFFS'
18 vs.) MOTION TO ENFORCE JUDGMENT
19 THE CITY OF LOS ANGELES, et al.)
20 Defendants and Respondents.)

21
22 The Motion to Enforce Judgment And For Monetary Sanctions of Plaintiffs Anthony
23 Mario Assenza, et al., came for hearing on June 9, 2011 in Department 14 of this Court.
24 Attorneys Joshua R. Dale, Tamara M. Rider, and Burton C. Jacobson appeared on behalf of
25 Plaintiffs/Petitioners, and Debra L. Gonzales appeared on behalf of Defendants/Respondents.

26 Having read the motion, the memoranda, declarations, and exhibits filed by the parties,
27 and having heard argument of counsel, the Court makes the following ORDER:

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TT/LB/LB

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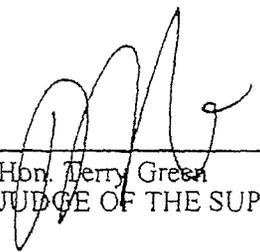
1. Defendants/Respondents must provide Petitioners with all contact information of each and every concealed carry weapons (alternatively referred to as "carry a concealed weapon") (hereinafter "CCW") license applicant who has applied to Defendants/Respondents for a CCW license since July 29, 1998, the 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 Los Angeles Police Department's 21 station houses and precincts. The declaration 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 with both the *Assenza* judgment and Judge Buckner's Order.
3. Defendants/Respondents must provide a link on the Los Angeles Police Department's website, <lapdonline.org>, allowing members of the public who view the Department's website to easily locate, read, download, and print both the Department's CCW policy and the California Department of Justice CCW Standard Application.
4. Defendants/Respondents must comply with this Order no later than Wednesday, September 7, 2011, 90 days from the date of this hearing. Parties are ordered to appear before this Court on _____, 2011 at _____ a.m./p.m. to address these matters stated herein.

IT IS FURTHER ORDERED _____

IT IS SO ORDERED,

Dated: _____

7/6/11



 Hon. Terry Green
 JUDGE OF THE SUPERIOR COURT

BT/ST/LL

EXHIBIT 4

 **Assenza, et al. v. City of Los Angeles**

Debra Gonzales <debra.gonzales@lacity.org>

Thu, Mar 22, 2012 at 4:05 PM

To: jdale <JDale@michellawyers.com>

Cc: "Tamara M. Rider" <TRider@michellawyers.com>

Bcc: Carlos De La Guerra <carlos.delaguerra@lacity.org>, KIRK ALBANESE <albanese@lapd.lacity.org>, NATALIE CORTEZ <30640@lapd.lacity.org>, "TOMPKINS, RICHARD" <27904@lapd.lacity.org>

Mr. Dale:

I just became aware of the letter you faxed to my office dated March 20, 2012. I will carefully review your letter and I look forward to having a good faith discussion of any *Assenza* compliance issues with you and Mr. Burton Jacobson. I and the Los Angeles Police Department would very much like to resolve any Assenza compliance issues without the necessity of further litigation. I will contact you next week so that we may discuss this matter further. Thank you.

--
Debra L. Gonzales
Assistant City Attorney
Public Safety General Counsel
Los Angeles City Attorney's Office
(213) 978-8391, Fax (213) 978-8787
Debra.Gonzales@lacity.org

EXHIBIT 5

City Hall East
200 N. Main Street
Room 800
Los Angeles, CA 90012

(213) 978-8380 Tel
(213) 978-8787 Fax
Debra.Gonzales@lacity.org



CARMEN A. TRUTANICH
City Attorney

April 4, 2012

Joshua R. Dale, Esquire
Michel & Associates, P.C.
180 E. Ocean Boulevard, Suite 200
Long Beach, CA 90802

VIA FAX (562) 216-4445

Re: *Assenza, et al. v. City of Los Angeles, et al.*
Case No. BS 131915

Dear Mr. Dale:

After reviewing Plaintiffs' Motion for OSC re Contempt and your correspondence dated December 21, 2011, and January 5, 2012, the Los Angeles Police Department (the Department) would like to accept your offer to put "more achievable compliance measures in place" regarding the "distribution requirements" of the *Assenza* judgment. In your December 21, 2011 letter, you stated that "to the extent that Defendants have concluded that they are serially unable to comply with *Assenza's* requirement of making application materials available at station houses, whatever the cause, then we are willing to discuss methods for modifying the judgment to ensure that the public has adequate access to the application materials in such a manner that LAPD does not have to fear continually violating *Assenza* by its serial inability to comply."

As of late September 2011, the Department has maintained its Carry Concealed Weapon (CCW) policy and the standard California Department of Justice (DOJ) CCW application (the CCW materials) on its website at www.lapdonline.org. These CCW materials can be easily printed from the Department's website. However, since all Los Angeles residents may not have easy access to the Internet, the Department recognizes that it is important to ensure that members of the public are able to obtain the CCW materials directly from the Department. Despite the Department's best efforts to communicate to all of its desk personnel the proper procedures to follow concerning providing the CCW materials to the public when requested, Plaintiffs continue to assert that the Department is failing in this regard (at least as of November 2011).

Mr. Joshua R. Dale, Esq.
April 3, 2012
Page 2

As you know from taking the depositions of Detective Richard Tompkins and Officer Kosal Bun in the *Davis v. City* litigation, the Gang and Narcotics Division, Gun Unit, is responsible for reviewing and processing CCW applications submitted to the Department. The Gun Unit personnel are intimately familiar with the requirements of the *Assenza* judgment and are accustomed to providing the CCW materials to any interested person. As you will recall, Detective Tompkins and Officer Bun testified in their depositions that they already provide the CCW materials (by mail, email, facsimile or in person) to anyone who contacts the Gun Unit about obtaining a CCW permit. Therefore, the Department recommends that the distribution requirement be centralized at the Gun Unit rather than having it spread out throughout the 21 Area stations. It will be much easier to ensure compliance with the distribution requirement if the responsibility is given to the 15 members of the Gun Unit as opposed to the large numbers of Area station desk personnel who are continually changing. An additional benefit to centralizing this function would be that the Gun Unit personnel could answer any questions a prospective applicant might have about either the DOJ application or the Department's policy. The Department already has many instances where the public is directed to a centralized location to obtain certain information or documents, (e.g. to the Records and Identification Division for copies of traffic collision reports) and it has worked quite well, both for the Department and the public.

Please let me know if this proposal would be satisfactory to your clients. Thank you.

Very truly yours,



Debra L. Gonzales
Assistant City Attorney
Public Safety General Counsel Division

DLG/pg

cc: Kirk Albanese, Deputy Chief (via email)

**** Transmit Conf. Report ****

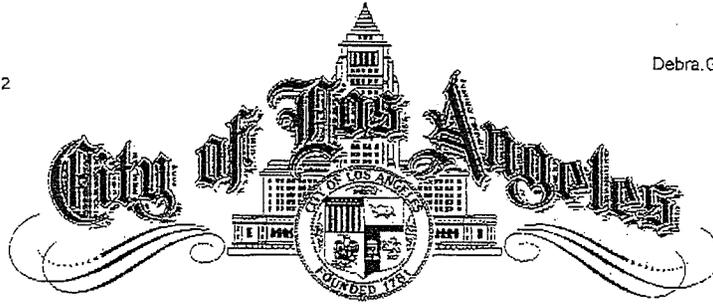
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Los Angeles, CA 90012

(213) 978-8360 Tel
(213) 978-8787 Fax
Debra.Gonzales@lacity.org



CARMEN A. TRUTANICH
City Attorney

April 4, 2012

Joshua R. Dale, Esquire
Michel & Associates, P.C.
180 E. Ocean Boulevard, Suite 200
Long Beach, CA 90802

VIA FAX (562) 216-4445

Re: *Assenza, et al. v. City of Los Angeles, et al.*
Case No. BS 131915

Dear Mr. Dale:

After reviewing Plaintiffs' Motion for OSC re Contempt and your correspondence dated December 21, 2011, and January 5, 2012, the Los Angeles Police Department (the Department) would like to accept your offer to put "more achievable compliance measures in place" regarding the "distribution requirements" of the *Assenza* judgment. In your December 21, 2011 letter, you stated that "to the extent that Defendants have concluded that they are serially unable to comply with *Assenza's* requirement of making application materials available at station houses, whatever the cause, then we are willing to discuss methods for modifying the judgment to ensure that the public has adequate access to the application materials in such a manner that LAPD does not have to fear continually violating *Assenza* by its serial inability to comply."

As of late September 2011, the Department has maintained its Carry Concealed Weapon (CCW) policy and the standard California Department of Justice (DOJ) CCW application (the CCW materials) on its website at www.lapdonline.org. These CCW materials can be easily printed from the Department's website. However, since all Los Angeles residents may not have easy access to the Internet, the Department recognizes that it is important to ensure that members of the public are able to obtain the CCW materials directly from the Department. Despite the Department's best efforts to communicate to all of its desk personnel the proper procedures to follow concerning providing the CCW materials to the public when requested, Plaintiffs continue to assert that the Department is failing in this regard (at least as of November 2011).

**DECLARATION OF
RICHARD TOMPKINS**

1 DECLARATION OF RICHARD TOMPKINS

2
3 I, RICHARD TOMPKINS, declare as follows:

4 1. I am a Detective III with the Los Angeles Police Department (LAPD or Department),
5 currently assigned as the Officer in Charge (OIC), Gun Unit, Gang and Narcotics Division. I have
6 over 20 years of service with the Department, the last eight of which have been with the Gun Unit.
7 Prior to that I worked as a gang detective for five years, where I dealt with firearms issues on a regular
8 basis. I have personal knowledge of all the facts set forth herein and if called upon to testify, I could
9 and would do so competently. As to those matters of which I am informed and believe, I believe them
10 to be true and accurate.

11 2. In my capacity as OIC of the Gun Unit, I supervise all Gun Unit activities which include
12 receiving and investigating all the carry concealed weapon (CCW) permit applications that are
13 submitted to the LAPD. Additional Gun Unit responsibilities include receiving firearms shipped to the
14 LAPD from outside agencies, inspecting all licensed firearm dealer locations in the City to ensure
15 compliance with federal, state, and local licensing requirements, seeking prosecution of individuals
16 who violate firearms laws, firearm tracing for LAPD, maintaining communication with Area detectives
17 on gun matters and investigating and seeking criminal filings on gun traffickers. The Gun Unit is also
18 responsible for regulating firearms and ammunition purchases by convicted felons and those prohibited
19 from owning firearms such as individuals under orders of a criminal protective order, civil restraining
20 order, or orders from the court while as a condition of bail. The Gun Unit conducts gun trafficking
21 investigations with the Bureau of Alcohol, Tobacco and Firearms (ATF) on firearm sales between local
22 gang members and greater organized crime circuits. We train district attorneys and attorneys from the
23 California Attorney General's office regarding firearm-related prosecutions. The Gun Unit participates
24 in the APPS (Armed Prohibited Persons System) task force with the California Department of Justice
25 (DOJ) for prohibited persons that are not authorized to carry, own, or possess firearms or ammunition.
26 We provide expertise on guns in court cases, and assist the 21 LAPD geographic areas by providing
27 expertise or handling the entire case as appropriate. The Gun Unit also maintains special files on
28 machine gun permits, destructive device permits, and federal aviation administration regulations,

1 requirements, and procedures regarding the carrying of firearms on commercial aircraft flights.

2 3. As the Gun Unit OIC, I have completed staff projects related to firearms issues and
3 developed strategies to combat gun trafficking. I interface with the United States Marshalls, Federal
4 Bureau of Investigations, and the ATF. In addition, I complete projects for LAPD which may include
5 conducting analysis of proposed legislation and coordinating with other agencies to develop
6 appropriate firearms legislation. I have testified on behalf of LAPD in Sacramento when working with
7 lawmakers and analysts to ensure appropriate firearms legislation is enacted.

8 4. Since May 2011, I have been involved in efforts to ensure the LAPD's compliance with
9 the Judgment of Declaratory Relief in *Assenza v. City of LA, et al*, BC115813. Specifically, I and other
10 members of the LAPD have attempted to improve compliance with Paragraph 6 (hereinafter
11 Distribution Requirements) under the heading "PROCEDURAL MATTERS" which states:
12 "Divulgence of Information. All applicants shall receive a copy of these guidelines along with the
13 application form." Since 2002, LAPD Policy Manual section 4/767.05 has directed officers to provide
14 a copy of the California Department of Justice Standard Application For License To Carry A
15 Concealed Weapon (CCW) and a copy of LAPD's CCW License Policy to any person who requests to
16 apply for a CCW permit. A true and correct copy of Manual section 4/767.05 is attached hereto as
17 Exhibit 6. All LAPD officers are expected to abide by the policies set forth in the Policy Manual.
18 Section 4/767.05 resulted from Special Order No. 5 dated February 13, 2002, issued by Chief of Police
19 Bernard C. Parks. A true and correct copy of Special Order No. 5 is attached hereto as Exhibit 7.

20 5. The Gun Unit has developed a CCW information packet to provide to anyone interested
21 in applying to the LAPD for a CCW permit. The CCW information packet contains the following
22 items: (1) a one-page information sheet for the applicant about a required in-person interview, proof of
23 residency and the training requirement entitled "Carry a Concealed Weapon (CCW) application
24 Guidelines," (2) a two-page document entitled "LAPD Carry Concealed Weapon License Policy," and
25 (3) the 20-page DOJ CCW Standard Application, Form BCIA 4012 (6/99).

26 6. Whenever a citizen contacts the Gun Unit seeking information about how to apply for a
27 CCW permit, the CCW information packet is provided to the prospective applicant either by mail,
28 email, facsimile or in person. The prospective applicant is also told to contact the Gun Unit if he/she

1 has any questions concerning the application or the process.

2 7. On June 1, 2011, Captain William Hart, Commanding Officer of the Gang and
3 Narcotics Division, issued a Badge Note to all Commanding Officers reminding them of the
4 obligations of all LAPD personnel under Special Order No. 5. A true and correct copy of Captain
5 Hart's Badge Note is attached hereto as Exhibit 8. Captain Hart attached the one-page information
6 sheet described in Paragraph 6, a copy of the DOJ CCW Standard application and the LAPD CCW
7 Policy to his Badge Note. All Commanding Officers were invited to call me if they had any questions.

8 8. I attended the court hearing on Plaintiffs' Motion to Enforce Judgment on June 9, 2011,
9 concerning the LAPD's alleged noncompliance with the *Assenza* Judgment's Distribution
10 Requirements which resulted in the issuance of the Honorable Terry Green's Order (the Green Order)
11 on Plaintiffs' Motion to Enforce Judgment dated July 6, 2011. The Green Order required the LAPD to
12 "provide a link on the Los Angeles Police Department's website, lapdonline.org, allowing members of
13 the public who view the Department's website to easily locate, read, download, and print both the
14 Department's CCW policy and the California Department of Justice CCW Standard Application."

15 9. From June to September 2011, I worked with LAPD's webmaster to place the
16 Department's CCW policy and the DOJ Standard Application on the Department's website. Since
17 September 21, 2011, both documents have continued to be available on the Department's website.
18 Any interested member of the public may go to www.lapdonline.org and enter "carry concealed
19 weapon" or "ccw" in the search box and he or she will be taken to search results, the first of which will
20 be a link to the LAPD's CCW Policy and the DOJ application. The link allows the person to view and
21 print the three documents identified in Paragraph 5.

22 I swear under penalty of perjury under the laws of the State of California that the foregoing is
23 true and correct.

24 Executed this 10th day of April, 2012 at Los Angeles, California.

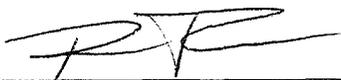
25 
26 RICHARD TOMPKINS, Declarant

EXHIBIT 6

767. LICENSE TO CARRY CONCEALED FIREARMS.

767.05 REQUESTS FOR LICENSE. All requests for licenses to carry a concealed firearm shall be acted upon, by the Chief of Police.

Employee's Responsibility. When any person requests to apply for a concealed weapon license, a Department employee shall:

- Provide the applicant with a Department of Justice, Form BCIA 4012;
- Provide the applicant with a copy of the Department's Concealed Weapon License Operational Policy; and,
- Advise the applicant that upon completion of the application, he/she shall schedule an appointment with the Gun Unit, DSVD, as instructed in the Department's Concealed Weapon License Operational Policy.

Questions concerning concealed firearms licenses or requests for applications shall be referred to the Gun Unit, Detective Support and Vice Division.

767.10 INVESTIGATING REQUESTS. Upon receiving a request for the investigation of an application for a license to carry a concealed firearm the Gun Unit, Detective Support and Vice Division, shall:

- Investigate all applications for concealed weapon licenses; and,
- Forward the application with recommendations via his/her chain of command to the Office of the Chief of Police for approval/denial.

EXHIBIT 7

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 5

February 13, 2002

SUBJECT: APPLICATION FOR A LICENSE TO CARRY A CONCEALED WEAPON (CCW), FORM BCIA 4012 - IMPLEMENTED.

PURPOSE: Assembly Bill (AB) 2022, 1998, which revised California Penal Code (PC) Section 12051, required that the California Attorney General establish an advisory committee to develop a standardized application for a license to Carry a Concealed Weapon (CCW). A standardized CCW application has been developed and approved by the Attorney General for mandatory use Statewide. The law also requires the Department to provide its policy statement regarding the criteria for issuance of a CCW license along with each application form.

This Order deactivates the Application for a License to Carry a Concealed Weapon, Form 12.49.1, and implements the California Department of Justice (DOJ) Standard Application for License to Carry a Concealed Weapon, Form BCIA 4012, for Department use.

PROCEDURE:

I. DEPARTMENT CONCEALED WEAPON PERMIT POLICY - REVISED.

The Los Angeles Police Department Concealed Weapon Permit Policy is renamed, the Los Angeles Police Department Concealed Weapon License Operational Policy (attached), and has been revised to meet the procedural requirements specified in Section 12051 PC.

II. APPLICATION FOR A LICENSE TO CARRY A CONCEALED WEAPON, FORM 12.49.1 - DEACTIVATED. The Application for a License to Carry a Concealed Weapon, Form 12.49.1, is deactivated and all existing copies shall be destroyed.

III. STANDARD APPLICATION FOR LICENSE TO CARRY A CONCEALED WEAPON, DOJ FORM BCIA 4012 - IMPLEMENTED. The Standard Application for License to Carry a Concealed Weapon, DOJ Form BCIA 4012, is implemented for Department use. Commanding officers shall ensure that an adequate supply of DOJ Form BCIA 4012 and the Department's Concealed Weapon License Operational Policy statement are maintained at each command and provided to the public upon request.

A. Use of Form. This form shall be used by any resident of the City of Los Angeles when applying for a license to carry a concealed weapon, as defined in Section 12050 PC.

B. **Completion.** Self-explanatory.

C. **Distribution.**

1 - Original, forwarded to the Gun Unit, Detective Headquarters Division (DHD), by the applicant.

1 - **TOTAL**

IV. **EMPLOYEE'S RESPONSIBILITY.** When any person requests to apply for a concealed weapon license, a Department employee shall:

- * Provide the applicant with a DOJ Form BCIA 4012;
- * Provide the applicant with a copy of the Department's Concealed Weapon License Operational Policy; and,
- * Advise the applicant that upon completion of the application, he/she shall schedule an appointment with the Gun Unit, DHD, as instructed in the Department's Concealed Weapon License Operational Policy.

V. **GUN UNIT, DETECTIVE HEADQUARTERS DIVISION, RESPONSIBILITY.** The Gun Unit, DHD, shall investigate all applications for concealed weapon licenses. Upon completion of the investigation, the application with recommendations shall be forwarded via their chain of command to the Office of the Chief of Police for approval/denial.

VI. **COMMANDING OFFICER, DETECTIVE HEADQUARTERS DIVISION, RESPONSIBILITY.** The Commanding Officer, DHD, shall ensure that:

- * Applications for a concealed weapon license are investigated; and,
- * Completed investigations are forwarded, via their chain of command, to the Office of the Chief of Police for approval/denial.

FORMS AVAILABILITY: The DOJ Form BCIA 4012 and the Department's Concealed Weapon License Operational Policy statement will be available from the Department of General Services, Distribution Center, in about 90 days.

AMENDMENT: This Order amends Sections 2/642.21 and 4/767.05 of the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Detective Services Group, shall monitor compliance with this directive in accordance with Department Manual Section 0/080.30.

BERNARD C. PARKS
Chief of Police

Attachment

DISTRIBUTION "A"

7

EXHIBIT 8



A note from

Captain Bill Hart

Commanding Officer
Gang and Narcotics Division
24196@lapd.lacity.org

June 1, 2011

TO: All Commanding Officers

SUBJECT: SPECIAL ORDER NO. 5, APPLICATION FOR A LICENSE TO CARRY A CONCEALED WEAPON, DEPARTMENT OF JUSTICE FORM BCIA 4012 – IMPLEMENTED

Special Order No. 5, dated February 13, 2002 (Application For a License To Carry a Concealed Weapon (CCW), Department of Justice (DOJ) Form BCIA 4012 – Implemented), requires that Commanding officers ensure that an adequate supply of this form *and* the Department's ~~Concealed Weapon License Operational Policy statement be maintained at each command and~~ provided to the public upon request.

There have been several recent incidents where applicants have gone into police stations requesting these forms and they have not been available. I have attached the Los Angeles Police Department Carrying a Concealed Weapon permit policy and DOJ BCIA 4012 application. The cover page contains any and all instructions that the applicant should need to complete the application form.

If you have any questions regarding this matter please call Detective III Rick Tompkins, Gang and Narcotics Division, Gun Unit, at (213) 486-5360 or (213) 486-4788.


BH

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 200 N. Main Street, City Hall East Room 800, Los Angeles, CA 90012.

On April 10, 2012, I served the foregoing document described as:

DEFENDANTS' MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO PLAINTIFFS' MOTION FOR ORDER TO SHOW CAUSE RE CONTEMPT; DECLARATIONS IN SUPPORT THEREOF

on the interested party(ies) in this action by placing the true copy(ies) thereof enclosed in sealed envelope(s) addressed as follows:

Burton C. Jacobson
Franklin S. Adler
Attorney at Law
Beverly Hills Law Building
424 South Beverly Drive
Beverly Hills, CA 90212-4414
Tel (310) 553-8533; Fax (310) 286-2819

C.D. Michel
Joshua R. Dale
Tamara M. Rider
Michel & Associates, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
Tel (562) 216-4444; Fax (562) 216-4445

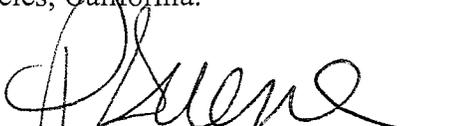
[X] BY MAIL – I caused each envelope with postage fully prepaid, to be placed in the United States Mail at Los Angeles, California. I thereafter caused such envelope to be deposited in the mail at Los Angeles, California, with first class postage thereon fully prepaid. I am readily familiar with the business practice for collection and processing of correspondence for mailing. Under that practice, it is deposited with the United States Postal Service on that same day, at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one (1) day after the date of deposit for mailing in affidavit.

[X] BY FACSIMILE TRANSMISSION – I caused such documents to be transmitted to the offices of the addressee via facsimile machine, prior to 5:00 p.m. on the date specified above. The facsimile machine I used was in compliance with Rule (2003(3)), and the transmission was reported as complete without error. Pursuant to Rule 2008(e), I caused a copy of the transmission report to be properly issued by transmitting facsimile.

[] BY L.A. CITY ATTORNEY'S DOCUMENTS SERVICES – I caused each envelope to be delivered by the City of Los Angeles Document Services Department to the party served. The City of Los Angeles Document Service Department is located at 200 North Main St., 8th Floor, City Hall East, Los Angeles, CA 90012.

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

Executed April 10, 2012, at Los Angeles, California.


PATRICIA GUERRA

**** Transmit Conf. Report ****

P.1

Apr 10 2012 12:54pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
913102862819/P192006	Normal	10:12:47pm	7' 15"	51	# 0 K	

1 **CARMEN A. TRUTANICH**, City Attorney (SBN 86629x)
2 **CARLOS DE LA GUERRA**, Managing Assistant City Attorney (SBN 164046)
3 **DEBRA L. GONZALES**, Assistant City Attorney (SBN 95153)
4 200 North Main Street
5 City Hall East, Room 800
6 Los Angeles, CA 90012
7 Email: debra.gonzales@lacity.org
8 Phone No.: (213) 978-8380
9 Fax No.: (213) 978-8787

10 *Attorneys for Defendants/Respondents*
11 CHARLIE BECK and CITY OF LOS ANGELES

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

ANTHONY MARIO ASSENZA, *et al.*,

Plaintiffs/Petitioners

vs.

CITY OF LOS ANGELES, *et al.*,

Defendants/Respondents

CASE NO. BC 115813

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

**DEFENDANTS' MEMORANDUM
OF POINTS AND AUTHORITIES IN
OPPOSITION TO MOTION OF
PLAINTIFFS FOR ORDER TO
SHOW CAUSE RE CONTEMPT;
DECLARATIONS IN SUPPORT
THEREOF**

**Date: April 23, 2012
Time: 8:45 a.m.
Dept: 14**

DEFENDANTS/RESPONDENTS (hereinafter Defendants) City of Los Angeles, Chief of Police Charlie Beck and the Los Angeles Police Department (LAPD), hereby submit the following Memorandum of Points and Authorities in opposition to Plaintiffs'/Petitioners' (hereinafter Plaintiffs) Motion for Order to Show Cause re Contempt.

///

**** Transmit Conf. Report ****

P.1

Apr 10 2012 01:03pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
915622164445/P192006	Normal	10:12:55pm	8'33"	51	# 0 K	

1 **CARMEN A. TRUTANICH**, City Attorney (SBN 86629x)
2 **CARLOS DE LA GUERRA**, Managing Assistant City Attorney (SBN 164046)
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5 City Hall East, Room 800
6 Los Angeles, CA 90012
7 Email: debra.gonzales@lacity.org
8 Phone No.: (213) 978-8380
9 Fax No.: (213) 978-8787

10 *Attorneys for Defendants/Respondents*
11 **CHARLIE BECK and CITY OF LOS ANGELES**

12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

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

16 Plaintiffs/Petitioners

17 vs.

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

19 Defendants/Respondents

CASE NO. BC 115813

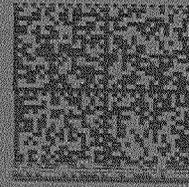
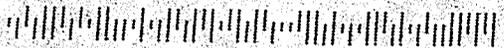
[Assigned to Hon. Terry A. Green,
Dept. 14]

**DEFENDANTS' MEMORANDUM
OF POINTS AND AUTHORITIES IN
OPPOSITION TO MOTION OF
PLAINTIFFS FOR ORDER TO
SHOW CAUSE RE CONTEMPT;
DECLARATIONS IN SUPPORT
THEREOF**

Date: April 23, 2012
Time: 8:45 a.m.
Dept: 14

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21
22
23
24 DEFENDANTS/RESPONDENTS (hereinafter Defendants) City of Los Angeles, Chief of
25 Police Charlie Beck and the Los Angeles Police Department (LAPD), hereby submit the following
26 Memorandum of Points and Authorities in opposition to Plaintiffs'/Petitioners' (hereinafter Plaintiffs)
27 Motion for Order to Show Cause re Contempt.

28 ///



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04/10/2012

Mailed From 90012

US POSTAGE

FROM: **DEBRA GONZALES**



OFFICE OF THE CITY ATTORNEY
CARMEN A. TRUTANICH
CITY ATTORNEY
200 N. MAIN STREET
LOS ANGELES, CA 90012

TO:

C.D. Michel
Joshua R. Dale
Tamara M. Rider
Michel & Associates, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802