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

15 ANTHONY MARIO ASSENZA, *et al.*)

16 Plaintiffs and Petitioners,)

17 vs.)

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

19 Defendants and Respondents.)

CASE NO.: BC115813

**PETITIONERS' REPLY TO
RESPONDENTS' OPPOSITION TO
MOTION FOR ORDER TO SHOW CAUSE
RE CONTEMPT AGAINST
RESPONDENTS**

Date: April 23, 2012

Time: 8:30 a.m.

Dept. 14

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CONFORMED COPY
ORIGINAL FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

APR 18 2012

John A. Clarke, Executive Officer/Clerk

BY  Deputy
Shaurya Wesley

1 **I. RESPONDENTS' CYNICAL ATTEMPT IN THEIR OPPOSITION TO REJECT**
2 **THE LONGSTANDING DISTRIBUTION REQUIREMENTS UNDERSCORES**
3 **THEIR CONTEMPTIBLE BEHAVIOR**

4 For the first time in 17 years, Respondents have altered their position as to their
5 distribution requirements under the *Assenza* Judgment. Caught flatfooted in making
6 misrepresentations to the Court about their claimed ongoing compliance, Respondents now
7 attempt to claim that the Judgment and enforcement orders are too vague for them to understand
8 or for the Court to enforce, and that despite distributing materials at station houses for the past 17
9 years, they were not really ever obligated to do so. (Respondents' Opposition Memorandum at
10 4:4-7, 4:13-16, 4:21-22, and 4:28 - 5:2.) Such a cynical and demonstrably false argument
11 underscores the level of disdain with which Respondents view their obligations under the
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17 This new argument raised in Respondents' opposition brief also underscores – as
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20 filed by Respondents in May 2011 in opposition to Petitioners' motion to enforce argued that
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13 Respondents' conduct – in both not complying with the Judgment as well as making now-
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16 **II. OVERWHELMING EVIDENCE SUPPORTS THE ISSUANCE AN ORDER TO**
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18 Contrary to Respondents' claims, Petitioners have clearly and adequately satisfied the four
19 requisite elements for a contempt order to be issued: (1) an order was issued, (2) the contemnor
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23 The first two elements have clearly been satisfied as Respondents devote their entire
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25 compliance orders. (Opp. Memo., at 2:2 - 3:5.)

26 Respondents' opposition, however, hinges on the argument that the final two elements
27 have not been met. Respondents thus claim that a particular method of distribution of CCW
28 materials is not expressly provided and thus Respondents ability to comply with the order was not
shown, and Respondents have not willfully disobeyed a court order. (Opp. Memo., at 4:1 - 7:4.)

1 These arguments are discussed and contradicted in turn below.

2 **A. Respondents Repeatedly Represented to Be Capable of Obeying the**
3 ***Assenza* Judgment and Subsequent Orders**

4 Respondents have repeatedly represented to this Court that they are capable of obeying the
5 procedural requirements of *Assenza* by ensuring that both CCW materials are made available at
6 each precinct and station house. For example, in the June 2011 hearing, Respondents' counsel
7 represented that "the Department is committed to complying with the Assen[za] Judgment. The
8 two things that the Petitioners complain of are not getting applications from the stations and not
9 getting the policy. As we pointed out in our declaration, the Chief of Police issued and made part
10 of the policy manual that the employees have that obligation." (RFJN Exhibit 7 [Transcript of
11 June 9, 2011 hearing at 5:21-28].)

12 Respondents' counsel continued with: "But more importantly, because I do think this is
13 beneficial and sort of goes to the spirit of the Assen[za] judgment, we've also told - - the
14 Department has also told its personnel, you know, when somebody comes in looking for an
15 application or the policy or is interest in any way, give them the application, give them the policy,
16 but also send them over to the gun unit because they're experts, they're the ones that are going to
17 process the application, they know the policy, they can help the applicant through the process."
18 (*Id.* at 6:18-27.)

19 Respondents now claim that, despite their own internal CCW distribution policies, which
20 were crafted directly from the *Assenza* Judgment and its compliance Orders, because "there is no
21 language in the *Assenza* Judgment that requires the distribution of the CCW application form and
22 the [LAPD CCW Policy] to be performed in any particular way, Respondents cannot be punished
23 for failing to perform an act that was not specifically required of them." (Opp. Memo., at 4:13-
24 16.)

25 It is clear that the *Assenza* Judgment provided the end result, that "all applicants shall
26 receive a copy of the guidelines along with the application form," and the compliance Orders
27 provided a means to achieve that end, i.e., that the required CCW materials would be made
28 available at *each* precinct and station house. This is evidenced by the fact that both compliance
Orders required sworn declarations from commanders at *each* station house. (Compare RFJN

1 Exhibit 4 [July 1998 Order] and Exhibit 6 [July 2011 Order].) Each commander in turn, testified
2 to the materials' availability at each station house. (See, *e.g.*, Declaration of Captain William
3 Murphy, RFJN Exhibit 8, at 3:19-22 ["Furthermore, I understand that it is my responsibility as the
4 Commanding Officer of Northeast Area to ensure that an adequate supply of California
5 Department of Justice Standard Application for License to Carry a Concealed Weapon, Form
6 BCIA 40J 2 and the Department's Concealed Weapon License Operational Policy is maintained at
7 Northeast Area station."].)

8 If providing these CCW materials at each station house was problematic, as Respondents
9 now contend, such objection should have been raised at the 1998 hearing, or the 2011 hearing, or
10 by filing a motion with the Court to that effect at any time in the past 17 years and prior to raising
11 the issue in their opposition brief. For the past 17 years, Respondents have been content to allow
12 the judgment to be amended three times without raising any such objection, and, in fact, have
13 repeatedly affirmed to judges in filings that providing the materials at each station house was
14 readily achievable.

15 Respondents also mischaracterize the purpose of Petitioners' declarations filed in support
16 of this motion. Respondents claim that "the declarations submitted in support of Plaintiffs'
17 Motion seem to indicate that Respondents would not have the ability to comply with such an
18 order." (Opp. Memo., at 5:17-18.) Petitioners' declarations were not presented for that
19 proposition, but to show that Respondents were not complying with their court-ordered
20 obligations – obligations Respondents repeatedly affirmed to this Court they could *and were*
21 complying with. Furthermore, Petitioners' declarations also demonstrate that Respondents'
22 September 2011 declarations, attesting to commanders' knowledge, understanding, and
23 compliance with the *Assenza* Judgment (by handing the required CCW materials out at each
24 station house), were defective at best and intentionally false at worse. This is evidenced not only
25 by the 75 percent non-compliance rate discovered at the LAPD station houses in September and
26 November of 2011, but by the commanders testifying under oath that they knew they had an
27 obligation to distribute materials at station houses that Respondents now argue they never had.

28 Respondents' new proposition as to the unknown "particular" manner to distribute the

1 CCW materials is inherently false as it is implicit within the *Assenza* Judgment, as well as
2 evidenced by the subsequent court Orders, that they are to be made available at each precinct and
3 station house. That is why Respondents made such representations before the Court that they
4 were capable of obeying the *Assenza* Judgment in this way. Respondents should not now be
5 suffered to so cavalierly claim ignorance of obligations they have attested to repeatedly and
6 without reservation.

7 **B. Respondents Willfully Disobeyed the Court's Orders**

8 Despite Respondents claim that they have made a "good faith" effort to comply with this
9 Court's Orders, the 75 percent non-compliance rate of the station houses, the questioned veracity
10 of one of the filed declarations signed by Captain William Murphy (discussed further in the
11 section below), the lack of interest to investigate Petitioners' warnings of such non-compliance,
12 and now the disavowment of the distribution requirements, all evidence Respondents' conscious
13 disregard of their duties to obey this Court's Order.

14 Tellingly, the timeline presented in Respondents' opposition brief and declarations
15 discussing their attempted compliance efforts ends in September 2011, the period when the
16 declarations of the station commanders were filed. (Opp. Memo., at 6:6 - 7:4.) Nowhere in
17 Respondents' opposition brief, or in its supporting declarations, does it mention any sort of
18 investigation or corrective measures taken after receiving Petitioners' multiple warnings of
19 Respondents' serial non-compliance from October of 2011 to January of 2012. And as identified
20 in Petitioners' moving papers, as late as February 2012, the testimony elicited from LAPD
21 Detective Richard Tompkins in the *Davis* matter revealed that despite the warnings of non-
22 compliance, neither he, nor any other LAPD personnel, had investigated or were investigating the
23 non-compliance. (RFJN Exhibit 9 [Transcript of Depo. of Det. Richard Tompkins, Vol. 2, in
24 *Davis v. City of Los Angeles*, at 281:11 - 286:3].) Therefore, Respondents flatly refused to take
25 *any* action or corrective measures to ensure compliance with its court-ordered obligations, despite
26 Petitioners' multiple warnings and attempted suggestions to rectify the contempt.

27 Respondent's continued disregard for court-ordered compliance feels like 1998 and 2011
28 all over again. For example, Respondents previously claimed to be in compliance with the 1995

1 *Assenza* Judgment just three years after it was entered, all the while being noncompliant. (See
2 RFJN Exhibit 10 [Transcript of June 26, 1998 hearing, at 44:28 -45:5: “We concede that we did
3 not, in fact, comply with our own standard with respect to issuance of the copies of the various
4 provisions of this agreement to all applicants with respect to issuance of concealed weapons
5 permits. We agree we did not do that.”].) It took a contempt motion and a potential contempt
6 hearing – including having then-Chief Parks appear to testify about the non-compliance – before
7 Respondents finally acknowledged the gravity of non-compliance.

8 Then, again in 2011, this Court heard about Respondents’ continued procedural
9 deficiencies and issued another Order regarding Respondents’ compliance. (RFJN Exhibit 6 [July
10 2011 Order].) Despite Respondents alleged compliance filings, Petitioners – at great expense to
11 themselves – are back in the same position they found themselves in 1998, as Respondents
12 continue to neglect their court-ordered obligations.

13 Therefore, overwhelming evidence supports all of the requisite elements for the issuance
14 of another contempt order.

15 **III. RESPONDENTS’ LACK OF ACTION IN THE FACE OF EVIDENCE THAT**
16 **THEY PRESENTED FALSE TESTIMONY TO THE COURT DEMONSTRATES**
17 **THEIR LACK OF “GOOD FAITH” COMPLIANCE**

18 In addition to Respondents’ lack of interest in investigating their failure to adhere to
19 *Assenza*’s distribution requirements, Respondents’ failure to investigate the veracity of the filed
20 declarations, especially after a claim of perjury was made and evidence was offered, further
21 demonstrates Respondents’ lack of “good faith” compliance to their court-ordered obligations, and
22 further justifies this Court asking Respondents to explain their actions in a hearing on an OSC Re
23 Contempt.

24 A markedly absent topic in Respondents’ opposition papers is any discussion as to what
25 steps Respondents took to investigate the perjury claim made against Captain William Murphy, as
26 evidenced by the declaration of Robert Smith regarding his conversation with Captain Murphy in
27 Smith’s role as a volunteer citizen advisor to LAPD. Instead of providing any discussion of
28 Captain Murphy in their opposition brief, the perjury topic is only briefly discussed in the

1 declaration of Debra Gonzales in which she incorrectly claims the perjured declarant was not
2 identified, but correctly notes Petitioners' counsel did not file a formal complaint with the LAPD.
3 (Decl. Gonzales, at ¶ 10). While Captain Murphy was clearly identified to Respondents' counsel
4 on January 5, 2012 (see Decl. Dale in support of Motion for OSC Re Contempt, at ¶¶ 11-12,
5 Exhibit D), thus undercutting the credibility and effectiveness of the testimony of Respondents'
6 counsel, the lone comment about the lack of a complaint being filed frames the indifference with
7 which Respondents have approached any and all efforts to informally address Respondents'
8 deficiencies.

9 Most galling about Respondents' handling of this issue is the assumption that
10 Respondents' and their counsel's ongoing obligation to present truthful and accurate testimony to
11 the Court somehow only inures upon the filing of a formal complaint on an LAPD-approved form.
12 That Petitioners' counsel would not engage in such kabuki theater and await the LAPD's
13 predetermined and self-serving findings on such a complaint should not in any way influence how
14 Respondents handle their obligation to provide truthful testimony and correct the record when
15 they are on reasonable notice that they may not have provided truthful testimony. Yet the sum of
16 Respondents' cursory response to such a very serious issue is to ignore the issue because *the*
17 *proper paperwork wasn't filed*. Testimony made under penalty of perjury gains no more
18 credibility simply because someone chose not to refute such testimony on a pre-printed LAPD
19 form generated in triplicate.

20 Respondents never assumed any responsibility for independently investigating their non-
21 compliance, with respect to both their distribution requirements and perjured declarations, even
22 after Petitioners expended a significant amount of their own resources – and even hired their own
23 private investigator – to bring the issue to Respondents' attention to have them correct the non-
24 compliance. Such a blithe response further evidences Respondents' lack of good faith
25 compliance, and underscore why a contempt hearing *may* be the only thing that motivates
26 Respondents to take their obligations seriously.

1 **IV. CONCLUSION**

2 For the forgoing reasons, this Court should order Respondents to show cause why they
3 should not be held in contempt of this Court's judgments and orders. This Court is also
4 encouraged to enter appropriate orders to make witnesses available at the hearing on OSC so as to
5 allow a full and complete airing of Respondents' purported defenses to their non-compliance.

6 Dated: April 16, 2012

MICHEL & ASSOCIATES, P.C.

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9 _____
10 C.D. Michel
11 Joshua R. Dale
12 Attorney for Plaintiffs/Petitioners
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1 PROOF OF SERVICE

2 STATE OF CALIFORNIA
3 COUNTY OF LOS ANGELES

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

7 On April 16, 2012, I served the foregoing document(s) described as

8 **PLAINTIFFS' REPLY TO RESPONDENTS' OPPOSITION TO MOTION FOR ORDER**
9 **TO SHOW CAUSE RE: CONTEMPT AGAINST RESPONDENTS**

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

14 **"SEE ATTACHED SERVICE LIST"**

15 (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
16 processing correspondence for mailing. Under the practice it would be deposited with the
17 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,
18 California, in the ordinary course of business. I am aware that on motion of the party
19 served, service is presumed invalid if postal cancellation date is more than one day after
20 date of deposit for mailing an affidavit.
21 Executed on April 16, 2012, at Long Beach, California.

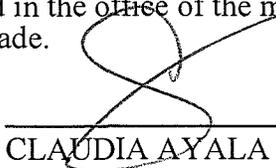
22 (VIA ELECTRONIC MAIL) As follows: I served a true and correct copy by electronic
23 transmission. Said transmission was reported and completed without error.

24 (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
25 addressee.
26 Executed on April 16, 2012, at Long Beach, California.

27 X (OVERNIGHT MAIL) As follows: I am "readily familiar" with the firm's practice of
28 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 April 16, 2012, 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

1 "SERVICE LIST"

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

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shown, and Respondents have not willfully disobeyed a court order. (Opp. Memo., at 4:1 - 7:4.)

1 These arguments are discussed and contradicted in turn below.

2 **A. Respondents Repeatedly Represented to Be Capable of Obeying the**
3 ***Assenza* Judgment and Subsequent Orders**

4 Respondents have repeatedly represented to this Court that they are capable of obeying the
5 procedural requirements of *Assenza* by ensuring that both CCW materials are made available at
6 each precinct and station house. For example, in the June 2011 hearing, Respondents' counsel
7 represented that "the Department is committed to complying with the Assen[za] Judgment. The
8 two things that the Petitioners complain of are not getting applications from the stations and not
9 getting the policy. As we pointed out in our declaration, the Chief of Police issued and made part
10 of the policy manual that the employees have that obligation." (RFJN Exhibit 7 [Transcript of
11 June 9, 2011 hearing at 5:21-28].)

12 Respondents' counsel continued with: "But more importantly, because I do think this is
13 beneficial and sort of goes to the spirit of the Assen[za] judgment, we've also told - - the
14 Department has also told its personnel, you know, when somebody comes in looking for an
15 application or the policy or is interest in any way, give them the application, give them the policy,
16 but also send them over to the gun unit because they're experts, they're the ones that are going to
17 process the application, they know the policy, they can help the applicant through the process."
18 (*Id.* at 6:18-27.)

19 Respondents now claim that, despite their own internal CCW distribution policies, which
20 were crafted directly from the *Assenza* Judgment and its compliance Orders, because "there is no
21 language in the *Assenza* Judgment that requires the distribution of the CCW application form and
22 the [LAPD CCW Policy] to be performed in any particular way, Respondents cannot be punished
23 for failing to perform an act that was not specifically required of them." (Opp. Memo., at 4:13-
24 16.)

25 It is clear that the *Assenza* Judgment provided the end result, that "all applicants shall
26 receive a copy of the guidelines along with the application form," and the compliance Orders
27 provided a means to achieve that end, i.e., that the required CCW materials would be made
28 available at *each* precinct and station house. This is evidenced by the fact that both compliance
Orders required sworn declarations from commanders at *each* station house. (Compare RFJN

1 Exhibit 4 [July 1998 Order] and Exhibit 6 [July 2011 Order].) Each commander in turn, testified
2 to the materials' availability at each station house. (See, *e.g.*, Declaration of Captain William
3 Murphy, RFJN Exhibit 8, at 3:19-22 ["Furthermore, I understand that it is my responsibility as the
4 Commanding Officer of Northeast Area to ensure that an adequate supply of California
5 Department of Justice Standard Application for License to Carry a Concealed Weapon, Form
6 BCIA 40J 2 and the Department's Concealed Weapon License Operational Policy is maintained at
7 Northeast Area station."].)

8 If providing these CCW materials at each station house was problematic, as Respondents
9 now contend, such objection should have been raised at the 1998 hearing, or the 2011 hearing, or
10 by filing a motion with the Court to that effect at any time in the past 17 years and prior to raising
11 the issue in their opposition brief. For the past 17 years, Respondents have been content to allow
12 the judgment to be amended three times without raising any such objection, and, in fact, have
13 repeatedly affirmed to judges in filings that providing the materials at each station house was
14 readily achievable.

15 Respondents also mischaracterize the purpose of Petitioners' declarations filed in support
16 of this motion. Respondents claim that "the declarations submitted in support of Plaintiffs'
17 Motion seem to indicate that Respondents would not have the ability to comply with such an
18 order." (Opp. Memo., at 5:17-18.) Petitioners' declarations were not presented for that
19 proposition, but to show that Respondents were not complying with their court-ordered
20 obligations – obligations Respondents repeatedly affirmed to this Court they could *and were*
21 complying with. Furthermore, Petitioners' declarations also demonstrate that Respondents'
22 September 2011 declarations, attesting to commanders' knowledge, understanding, and
23 compliance with the *Assenza* Judgment (by handing the required CCW materials out at each
24 station house), were defective at best and intentionally false at worse. This is evidenced not only
25 by the 75 percent non-compliance rate discovered at the LAPD station houses in September and
26 November of 2011, but by the commanders testifying under oath that they knew they had an
27 obligation to distribute materials at station houses that Respondents now argue they never had.

28 Respondents' new proposition as to the unknown "particular" manner to distribute the

1 CCW materials is inherently false as it is implicit within the *Assenza* Judgment, as well as
2 evidenced by the subsequent court Orders, that they are to be made available at each precinct and
3 station house. That is why Respondents made such representations before the Court that they
4 were capable of obeying the *Assenza* Judgment in this way. Respondents should not now be
5 suffered to so cavalierly claim ignorance of obligations they have attested to repeatedly and
6 without reservation.

7 **B. Respondents Willfully Disobeyed the Court's Orders**

8 Despite Respondents claim that they have made a "good faith" effort to comply with this
9 Court's Orders, the 75 percent non-compliance rate of the station houses, the questioned veracity
10 of one of the filed declarations signed by Captain William Murphy (discussed further in the
11 section below), the lack of interest to investigate Petitioners' warnings of such non-compliance,
12 and now the disavowment of the distribution requirements, all evidence Respondents' conscious
13 disregard of their duties to obey this Court's Order.

14 Tellingly, the timeline presented in Respondents' opposition brief and declarations
15 discussing their attempted compliance efforts ends in September 2011, the period when the
16 declarations of the station commanders were filed. (Opp. Memo., at 6:6 - 7:4.) Nowhere in
17 Respondents' opposition brief, or in its supporting declarations, does it mention any sort of
18 investigation or corrective measures taken after receiving Petitioners' multiple warnings of
19 Respondents' serial non-compliance from October of 2011 to January of 2012. And as identified
20 in Petitioners' moving papers, as late as February 2012, the testimony elicited from LAPD
21 Detective Richard Tompkins in the *Davis* matter revealed that despite the warnings of non-
22 compliance, neither he, nor any other LAPD personnel, had investigated or were investigating the
23 non-compliance. (RFJN Exhibit 9 [Transcript of Depo. of Det. Richard Tompkins, Vol. 2, in
24 *Davis v. City of Los Angeles*, at 281:11 - 286:3].) Therefore, Respondents flatly refused to take
25 *any* action or corrective measures to ensure compliance with its court-ordered obligations, despite
26 Petitioners' multiple warnings and attempted suggestions to rectify the contempt.

27 Respondent's continued disregard for court-ordered compliance feels like 1998 and 2011
28 all over again. For example, Respondents previously claimed to be in compliance with the 1995

1 *Assenza* Judgment just three years after it was entered, all the while being noncompliant. (See
2 RFJN Exhibit 10 [Transcript of June 26, 1998 hearing, at 44:28 -45:5: “We concede that we did
3 not, in fact, comply with our own standard with respect to issuance of the copies of the various
4 provisions of this agreement to all applicants with respect to issuance of concealed weapons
5 permits. We agree we did not do that.”].) It took a contempt motion and a potential contempt
6 hearing – including having then-Chief Parks appear to testify about the non-compliance – before
7 Respondents finally acknowledged the gravity of non-compliance.

8 Then, again in 2011, this Court heard about Respondents’ continued procedural
9 deficiencies and issued another Order regarding Respondents’ compliance. (RFJN Exhibit 6 [July
10 2011 Order].) Despite Respondents alleged compliance filings, Petitioners – at great expense to
11 themselves – are back in the same position they found themselves in 1998, as Respondents
12 continue to neglect their court-ordered obligations.

13 Therefore, overwhelming evidence supports all of the requisite elements for the issuance
14 of another contempt order.

15 **III. RESPONDENTS’ LACK OF ACTION IN THE FACE OF EVIDENCE THAT**
16 **THEY PRESENTED FALSE TESTIMONY TO THE COURT DEMONSTRATES**
17 **THEIR LACK OF “GOOD FAITH” COMPLIANCE**

18 In addition to Respondents’ lack of interest in investigating their failure to adhere to
19 *Assenza*’s distribution requirements, Respondents’ failure to investigate the veracity of the filed
20 declarations, especially after a claim of perjury was made and evidence was offered, further
21 demonstrates Respondents’ lack of “good faith” compliance to their court-ordered obligations, and
22 further justifies this Court asking Respondents to explain their actions in a hearing on an OSC Re
23 Contempt.

24 A markedly absent topic in Respondents’ opposition papers is any discussion as to what
25 steps Respondents took to investigate the perjury claim made against Captain William Murphy, as
26 evidenced by the declaration of Robert Smith regarding his conversation with Captain Murphy in
27 Smith’s role as a volunteer citizen advisor to LAPD. Instead of providing any discussion of
28 Captain Murphy in their opposition brief, the perjury topic is only briefly discussed in the

1 declaration of Debra Gonzales in which she incorrectly claims the perjured declarant was not
2 identified, but correctly notes Petitioners' counsel did not file a formal complaint with the LAPD.
3 (Decl. Gonzales, at ¶ 10). While Captain Murphy was clearly identified to Respondents' counsel
4 on January 5, 2012 (see Decl. Dale in support of Motion for OSC Re Contempt, at ¶¶ 11-12,
5 Exhibit D), thus undercutting the credibility and effectiveness of the testimony of Respondents'
6 counsel, the lone comment about the lack of a complaint being filed frames the indifference with
7 which Respondents have approached any and all efforts to informally address Respondents'
8 deficiencies.

9 Most galling about Respondents' handling of this issue is the assumption that
10 Respondents' and their counsel's ongoing obligation to present truthful and accurate testimony to
11 the Court somehow only inures upon the filing of a formal complaint on an LAPD-approved form.
12 That Petitioners' counsel would not engage in such kabuki theater and await the LAPD's
13 predetermined and self-serving findings on such a complaint should not in any way influence how
14 Respondents handle their obligation to provide truthful testimony and correct the record when
15 they are on reasonable notice that they may not have provided truthful testimony. Yet the sum of
16 Respondents' cursory response to such a very serious issue is to ignore the issue because *the*
17 *proper paperwork wasn't filed*. Testimony made under penalty of perjury gains no more
18 credibility simply because someone chose not to refute such testimony on a pre-printed LAPD
19 form generated in triplicate.

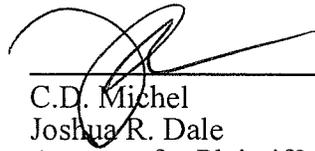
20 Respondents never assumed any responsibility for independently investigating their non-
21 compliance, with respect to both their distribution requirements and perjured declarations, even
22 after Petitioners expended a significant amount of their own resources – and even hired their own
23 private investigator – to bring the issue to Respondents' attention to have them correct the non-
24 compliance. Such a blithe response further evidences Respondents' lack of good faith
25 compliance, and underscore why a contempt hearing *may* be the only thing that motivates
26 Respondents to take their obligations seriously.

1 **IV. CONCLUSION**

2 For the forgoing reasons, this Court should order Respondents to show cause why they
3 should not be held in contempt of this Court's judgments and orders. This Court is also
4 encouraged to enter appropriate orders to make witnesses available at the hearing on OSC so as to
5 allow a full and complete airing of Respondents' purported defenses to their non-compliance.

6 Dated: April 16, 2012

MICHEL & ASSOCIATES, P.C.

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9 _____
10 C.D. Michel
11 Joshua R. Dale
12 Attorney for Plaintiffs/Petitioners
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1 PROOF OF SERVICE

2 STATE OF CALIFORNIA
3 COUNTY OF LOS ANGELES

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

7 On April 16, 2012, I served the foregoing document(s) described as

8 **PLAINTIFFS' REPLY TO RESPONDENTS' OPPOSITION TO MOTION FOR ORDER**
9 **TO SHOW CAUSE RE: CONTEMPT AGAINST RESPONDENTS**

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

14 **"SEE ATTACHED SERVICE LIST"**

15 (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
16 processing correspondence for mailing. Under the practice it would be deposited with the
17 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,
18 California, in the ordinary course of business. I am aware that on motion of the party
19 served, service is presumed invalid if postal cancellation date is more than one day after
20 date of deposit for mailing an affidavit.
21 Executed on April 16, 2012, at Long Beach, California.

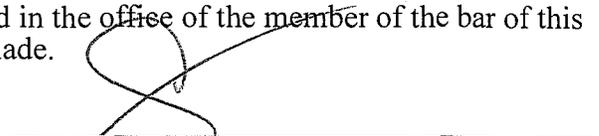
22 (VIA ELECTRONIC MAIL) As follows: I served a true and correct copy by electronic
23 transmission. Said transmission was reported and completed without error.

24 (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
25 addressee.
26 Executed on April 16, 2012, at Long Beach, California.

27 X (OVERNIGHT MAIL) As follows: I am "readily familiar" with the firm's practice of
28 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 April 16, 2012, 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

1 "SERVICE LIST"

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

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INCORPORATED

DATE: 4/16/12 SECRETARY: CA ATTORNEY: JRD ATTORNEY FILE #: 1042052

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

PLAINTIFF: Assenza et al, COURT: LASC
VS. JUDICIAL DIST:
DEFENDANT: L.A et al, CITY: Central LA. CASE #: BC115813

APPROVED DIRECT BILLING: ADJUSTER:
CARRIER NAME: INSURED:
ADDRESS: CLAIM NUMBER:
CITY, STATE, & ZIP: DATE OF LOSS:

LIST ALL DOCUMENTS: HEARING DATE FEES PAID/ DATE FEES ATTACHED
1) Reply to Opposition to Motion for Order to Show Cause re. Contempt.

INSTRUCTIONS: FILE BY 4/16/12 SERVE BY

DEPT. CLERK

IMPORTANT	<input checked="" type="checkbox"/>
FILE	<input checked="" type="checkbox"/>
SERVE	<input type="checkbox"/>
DELIVER	<input type="checkbox"/>
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OTHER	<input type="checkbox"/>

Please file today
and deliver courtesy
copy to Judge
Thank You

- RESIDENCE
- BUSINESS

MALE FEMALE RACE AGE HT WT HAIR

ORIGINAL SUBMIT DATE: April 16 RUNNER: 218
2nd SUBMIT DATE RUNNER
Clark would only conform 2 copies
del 1 to dept 14
OKAY BACK TO COURT REJECTED
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OFFICE USE	
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NO CONFORM	SHERIFF	COURTESY	DROP C/W	DROP DP	RCV C/W	RCV DP	FILE C/W	FILE DP	ATTY CK	OUR CK	CASH
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