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9 Attorneys for Defendants
FORJAS TAURUS S.A. (Specially appearing only) and
10 TAURUS INTERNATIONAL MANUFACTURING, INC.

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF SAN DIEGO

14 Coordination Proceeding Special Title) JUDICIAL COUNCIL COORDINATION
(Rule 1550(b))) PROCEEDING NO. 4095
15)
16 FIREARM CASE) San Francisco Superior Court No. 303753
17)
Including actions:) Los Angeles Superior Court No. BC210894
18)
People, et al. v. Arcadia Machine & Tool,) Los Angeles Superior Court No. BC214794
19 Inc., et al.)
20)
People, et al. v. Arcadia Machine & Tool,) MOTION EXHIBIT LIST OF
21 Inc., et al..) DEFENDANTS FORJAS TAURUS, S.A.
AND TAURUS INTERNATIONAL
MANUFACTURING, INC. IN SUPPORT
OF DEFENDANTS' MOTION FOR AN
ORDER COMPELLING PLAINTIFFS
COUNTY OF ALAMEDA, CITY OF
BERKELEY, CITY OF SACRAMENTO
AND CITY OF SAN FRANCISCO TO
RESPOND TO WRITTEN DISCOVERY
BY DATE CERTAIN

[EXHIBITS LODGED SEPARATELY AT
COUNTER]

Date: February 20, 2001
Time: 8:30 a.m.
Ctm: "65"

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:
2 COMES NOW defendants Forjas Taurus, S.A. ("Forjas Taurus") and Taurus
3 International Manufacturing, Inc. ("TIMI") and serves and identifies the following
4 documents, copies of which will be manually lodged with the court over the counter, as
5 exhibits in support of defendants' Motion For An Order Compelling Plaintiffs County of
6 Alameda, City of Berkeley, City of Sacramento and City of San Francisco to respond to
7 Defendants' Written Discovery by a Date Certain.

8 <u>Exhibit</u>	<u>Description</u>
9 A	Special Interrogatories of Defendant Forjas Taurus served on Plaintiff
10	County of Alameda on November 23, 1999.
11 B	Request for Admissions of Defendant Forjas Taurus served on Plaintiff
12	County of Alameda on November 23, 1999.
13 C	Form Interrogatory No. 17.1 of Defendant Forjas Taurus served upon
14	Plaintiff County of Alameda on November 23, 1999.
15 D	Special Interrogatories of Defendant Forjas Taurus served upon
16	Plaintiff City of Berkeley on November 23, 1999.
17 E	Request for Admissions of Defendant Forjas Taurus served upon
18	Plaintiff City of Berkeley on November 23, 1999.
19 F	Form Interrogatory No. 17.1 of Defendant Forjas Taurus served upon
20	Plaintiff City of Berkeley on November 23, 1999.
21 G	Special Interrogatories of Defendant Forjas Taurus served upon
22	Plaintiff City of San Francisco on November 23, 1999.
23 H	Request for Admissions of Defendant Forjas Taurus served upon
24	Plaintiff City of San Francisco on November 23, 1999.
25 I	Form Interrogatory No. 17.1 of Defendant Forjas Taurus served upon
26	Plaintiff City of San Francisco on November 23, 1999.
27 J	Special Interrogatories of Defendant Forjas Taurus served upon
28	Plaintiff City of Sacramento on November 23, 1999.

1 K Request for Admissions of Defendant Forjas Taurus served upon
2 Plaintiff City of Sacramento on November 23, 1999.
3 L Form Interrogatory No. 17.1 served upon Plaintiff City of Sacramento
4 on November 23, 1999.
5 M Special Interrogatories of Defendant TIMI served upon Plaintiff
6 County of Alameda on December 1, 1999.
7 N Request for Admissions of Defendant TIMI served upon Plaintiff
8 County of Alameda on December 1, 1999.
9 O Form Interrogatories 17.1 served upon Plaintiff County of Alameda on
10 December 1, 1999.
11 P Special Interrogatories of Defendant TIMI served upon Plaintiff City
12 of Berkeley on December 1, 1999.
13 Q Request for Admissions of Defendant TIMI served upon Plaintiff City
14 of Berkeley on December 1, 1999.
15 R Form Interrogatories 17.1 served upon Plaintiff City of Berkeley on
16 December 1, 1999.
17 S Special Interrogatories of Defendant TIMI served upon Plaintiff City
18 of San Francisco on December 1, 1999.
19 T Request for Admissions of Defendant TIMI served upon Plaintiff City
20 of San Francisco on December 1, 1999.
21 U Form Interrogatories 17.1 served upon Plaintiff City of San Francisco
22 on December 1, 1999.
23 V Special Interrogatories of Defendant TIMI served upon Plaintiff City
24 of Sacramento on December 1, 1999.
25 W Request for Admissions of Defendant TIMI served upon Plaintiff City
26 of Sacramento on December 1, 1999.
27 X Form Interrogatories 17.1 served upon Plaintiff City of Sacramento on
28 December 1, 1999.

1 Y Written Discovery Stipulation & Order.
2 Z Case Management Order No. 2.
3 AA Letter from Timothy Bumann to Ex Kano Sams II dated January 24,
4 2001.
5 BB Letter from Ex Kano Sams II to Timothy Bumann dated January 24,
6 2001.
7 CC Letter Timothy Bumann to Ex Kano Sams II dated January 25, 2001.
8

9 Dated: February 9, 2001

HAIGHT, BROWN & BONESTEEL, L.L.P.

10
11 By: _____/s

12 Michael J. Bonesteel
13 Denis J. Moriarty
14 Attorneys for Defendants
15 FORJAS TAURUS S.A. (Specially
16 Appearing Only) and
17 TAURUS INTERNATIONAL
18 MANUFACTURING, INC.
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9 Attorneys for Defendants
FORJAS TAURUS S.A. (Specially Appearing Only) and
10 TAURUS INTERNATIONAL MANUFACTURING, INC.

11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF SAN DIEGO

14 Coordination Proceeding Special Title) JUDICIAL COUNCIL COORDINATION
15 (Rule 1550(b))) PROCEEDING NO. 4095
16 FIREARM CASE) San Francisco Superior Court No. 303753
17 Including actions:) Los Angeles Superior Court No. BC210894
18 People, et al. v. Arcadia Machine & Tool,) Los Angeles Superior Court No. BC214794
Inc., et al.)
19 People, et al. v. Arcadia Machine & Tool,) NOTICE OF MOTIONS AND MOTIONS
20 Inc., et al.) OF DEFENDANTS FORJAS TAURUS,
21 People, et al. v. Arcadia Machine & Tool,) S.A. AND TAURUS INTERNATIONAL
Inc., et al..) MANUFACTURING, INC. FOR ORDER
22) COMPELLING PLAINTIFFS COUNTY
OF ALAMEDA AND CITIES OF
BERKELEY, SACRAMENTO AND SAN
FRANCISCO TO ANSWER FORM
INTERROGATORIES, SPECIAL
INTERROGATORIES AND REQUESTS
FOR ADMISSIONS BY A DATE
CERTAIN; MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATION OF DENIS J.
MORIARTY; PROPOSED ORDER;
MOTION EXHIBIT LIST (EXHIBITS
LODGED SEPARATELY)

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28 Date: February 20, 2001
Time: 8:30 a.m.

2-9-01

Ctrm: "65"

PLEASE TAKE NOTICE that on February 20, 2001 at 8:30 a.m. in Dept. 65 of the above-captioned court located at 330 West Broadway, San Diego, California 92101, defendants Forjas Taurus S.A. ("Forjas Taurus") and Taurus International Manufacturing, Inc. ("TIMI") will move this court for orders compelling plaintiffs County of Alameda, City of Berkeley, City of Sacramento and City of San Francisco to answer form interrogatories, special interrogatories, and requests for admission served upon them by a date certain. Said motions are made on the grounds that the form interrogatories, special interrogatories and requests for admissions served by defendants Forjas Taurus and TIMI upon plaintiffs during 1999 constitute "non-core" discovery, and that plaintiffs' failure and refusal to respond to defendants' written discovery is without substantial justification.

These motions will be based upon this notice, the accompanying Memorandum of Points and Authorities, the attached declarations of Denis J. Moriarty and Timothy A. Bumann, the accompanying exhibits list of the exhibits lodged separately over the counter with the court, upon the complete files and records in this action and upon such further and additional evidence as the court may entertain at the time of hearing .

Dated: February 9, 2001

HAIGHT, BROWN & BONESTEEL, L.L.P.

By: _____

Michael J. Bonesteel
Denis J. Moriarty
Attorneys for Defendants
FORJAS TAURUS S.A. (Specially
Appearing Only) and
TAURUSINTERNATIONAL
MANUFACTURING, INC.

1 7. On December 1, 1999, Haight, Brown & Bonesteel, LLP, on behalf of
2 defendant Taurus International Manufacturing, Inc. served special interrogatories (Motion
3 Exhibit "P"); request for admissions (Motion Exhibit "Q"); and judicial form interrogatory
4 17.1 (Motion Exhibit "R"); upon plaintiff City of Berkeley.

5 8. On December 1, 1999, Haight, Brown & Bonesteel, LLP, on behalf of
6 defendant Taurus International Manufacturing, Inc. served special interrogatories (Motion
7 Exhibit "S"); request for admissions (Motion Exhibit "T"); and judicial form interrogatory
8 17.1 (Motion Exhibit "U"); upon plaintiff City of San Francisco

9 9. On December 1, 1999, Haight, Brown & Bonesteel, LLP, on behalf of
10 defendant Taurus International Manufacturing, Inc. served special interrogatories (Motion
11 Exhibit "V"); request for admissions (Motion Exhibit "W"); and judicial form interrogatory
12 17.1 (Motion Exhibit "X"); upon plaintiff City of Sacramento.

13 10. As of the date and time this declaration is being prepared, plaintiff County of
14 Alameda and plaintiffs cities of Berkeley, San Francisco and Sacramento have not
15 responded to defendants special interrogatories, request for admissions or judicial form
16 interrogatories. Defendants' written discovery to these plaintiffs constitutes non-core
17 discovery.

18 11. Defendants Forjas Taurus S.A. and Taurus Manufacturing International, Inc.
19 have responded to plaintiffs' discovery, by answer and objection.

20 12. Counsel for defendants Forjas Taurus S.A. and Taurus Manufacturing
21 International, Inc. have requested that plaintiffs County of Alameda and cities of Berkeley,
22 San Francisco and Sacramento respond to defendants' written discovery.

23 13. The court is familiar with the procedural history and complexities of these
24 consolidated matters. In the interests of brevity, only facts material to this motion are
25 included in this declaration. On October 13, 2000, the parties entered into a Written
26 Discovery Stipulation and Order which distinguished between core and non-core
27 discovery, placing a 90-day moratorium on non-core discovery. Attached hereto as
28

1 Motion Exhibit "Y" is a copy of the Written Discovery Stipulation and Order entered on
2 October 13, 2000.

3 14. The Written Discovery Stipulation and Order provides: "All responses to
4 andmotion practice relating to written discovery, other than the core discovery identified
5 above, shall be deferred for a period of ninety (90) days from the date of this agreement, at
6 which time the parties will meet and confer regarding the timing for responses to defer
7 written discovery". The court's order further provided: "The parties waive the 45 day rule
8 set forth in C.C.P. 2030(l) and 2031(m). Parties may make motions to compel further
9 responses to discovery at any time up to the deadline to complete all fact discovery". (See
10 Motion Exhibit "Y".)

11 15. On November 21, 2000, the Honorable Vincent P. DiFiglia entered Case
12 Management Order No. 2, a true copy of which is attached as Exhibit "Z". Pursuant to
13 Case Management Order No. 2, the parties were provided one year of fact discovery,
14 which concludes on September 28, 2001.

15 16. The written discovery of defendants Forjas Taurus, S.A. and Taurus
16 International Manufacturing, Inc. was served upon each of these plaintiffs prior to the 90-
17 day moratorium on non-core discovery. These plaintiffs' responses to that discovery were
18 overdue at the time the Written Discovery Stipulation and Order was entered.

19 17. The 90-day moratorium on non-core discovery expired on January 13, 2001.
20 (See Motion Exhibit "Y".)

21 18. To date, plaintiffs County of Alameda and cities of Berkeley, San Francisco
22 and Sacramento have failed and refused to answer or otherwise respond to the outstanding
23 written discovery. Although an outright failure to respond does not trigger any "meet and
24 confer" requirement, defendants' counsel, Timothy A. Bumann, wrote plaintiffs' liaison
25 counsel (Ex Kano Sams, II) seeking responses to defendants' written discovery. A true and
26 correct copy of Mr. Bumann's letter of January 24, 2001 to Mr. Sams is attached to the
27 accompanying exhibits as Motion Exhibit "AA". Mr. Sams responded on January 24,
28

1 2001. A copy of Mr. Sams' response to Mr. Bumann's letter is attached to the exhibit
2 volume as Motion Exhibit "BB".

3 19. Mr. Bumann responded to Mr. Sams' letter of January 24, 2001 on January
4 25, 2001. That letter is attached as Motion Exhibit "CC".

5 20. Defendants Forjas Taurus, S.A. and Taurus International Manufacturing, Inc.
6 consider the discovery propounded upon these plaintiffs more than one year ago to be
7 critical to their defense in this action. Accordingly, defendants Forjas Taurus S.A. and
8 Taurus International Manufacturing, Inc. seek to have the court set a date certain requiring
9 plaintiffs to serve answers to the discovery propounded and attached as Motion Exhibits A
10 throughX, inclusive.

11 I declare under penalty of perjury under the laws of the State of California that the
12 foregoing is true and correct.

13 Executed this 9th day of February 2001, at Santa Monica, California.

14
15 /s/

16 _____
Denis J. Moriarty

1 **MEMORANDUM OF POINTS & AUTHORITIES OF DEFENDANTS FORJAS**
2 **TAURUS S.A., AND TAURUS INTERNATIONAL MANUFACTURING, INC. IN**
3 **SUPPORT OF THEIR MOTIONS FOR AN ORDER COMPELLING PLAINTIFFS**
4 **COUNTY OF ALAMEDA AND CITIES OF BERKELEY, SACRAMENTO AND**
5 **SAN FRANCISCO TO RESPOND TO DEFENDANTS' WRITTEN DISCOVERY**
6 **BY A DATE CERTAIN**

7
8 **I. INTRODUCTION/FACTUAL AND PROCEDURAL BACKGROUND**

9 Defendants Forjas Taurus S.A. ("Forjas Taurus") and Taurus International
10 Manufacturing, Inc. ("TIMI") were named as a defendant in each of three lawsuits of
11 which this coordinating proceeding is composed. Both defendants were named in
12 litigation entitled *People, et al. v. Arcadia Machine & Tool, Inc., et al.*, previously pending
13 in San Francisco Superior Court under case number 303 753. That action was brought by
14 various plaintiffs including the County of Alameda and the cities of Berkeley, Sacramento
15 and San Francisco on or about May 25, 1999.

16 During November and December, 1999, defendants Forjas Taurus and TIMI served
17 special interrogatories, request for admissions and judicial form interrogatory 17.1 upon
18 plaintiffs County of Alameda, City of Berkeley, City of Sacramento and City of San
19 Francisco. The discovery served is listed as exhibits on the accompanying Motion exhibit
20 list, and copies of the discovery are being manually lodged with the court. The discovery
21 directed to plaintiff County of Alameda is lodged with the court as Motion Exhibits A
22 through C and M through O, inclusive. The discovery served upon plaintiff City of
23 Berkeley is lodged with the court as Motion Exhibits D through F and T through R,
24 inclusive. The discovery served upon plaintiff City of Sacramento is lodged with the court
25 as Motion Exhibits J through L and V through X, inclusive. The discovery served upon
26 plaintiff City of San Francisco is lodged with the court as Motion Exhibits G through I,
27 and S through U, inclusive.

1 Plaintiffs have not responded to defendants' special interrogatories, nor to
2 defendants' requests for admissions and judicial form interrogatory 17.1. Plaintiffs have
3 simply failed to respond to defendants' written discovery without explanation or
4 justification. This motion is made pursuant to California Code of Civil Procedure section
5 2030(k) for an order compelling plaintiff City of Alameda and plaintiffs cities of Berkeley,
6 Sacramento and San Francisco to respond to defendants' special interrogatories, request for
7 admissions and judicial form interrogatory 17.1 by a date certain.

8 Although in cases where no response is served, a meet and confer requirement is
9 not imposed, defendants' counsel has met and conferred by way of a face-to-face meeting,
10 a telephone conversation, and correspondence with liaison counsel representing the
11 plaintiffs. As is more fully set forth in the accompanying declaration of Timothy Bumann,
12 plaintiffs' liaison counsel Ex Kano Sams, II was unable to commit to a date certain for
13 these plaintiffs to respond to defendants' discovery. The discovery represented by
14 defendants' written discovery (Motion Exhibits A through X, inclusive) constitutes non
15 core discovery. It has been outstanding for more than one year, and the deadline for
16 concluding fact discovery (September 28, 2001) is approaching. The material and
17 information sought by defendants' written discovery to these plaintiffs is critical to
18 defendants' preparation of their defense in this consolidated litigation.

19
20 **II. THIS COURT SHOULD ISSUE AN ORDER COMPELLING PLAINTIFFS**
21 **COUNTY OF ALAMEDA AND CITIES OF BERKELEY, SACRAMENTO AND**
22 **SAN FRANCISCO TO ANSWER THE SPECIAL INTERROGATORIES,**
23 **REQUEST FOR ADMISSIONS AND JUDICIAL FORM INTERROGATORY 17.1**
24 **SERVED BY DEFENDANTS.**

25 This court should issue an order (proposed order attached) directing plaintiffs
26 County of Alameda and cities of Berkeley, Sacramento and San Francisco to respond to
27 defendants' written discovery by a date certain.

1 Pursuant to California *Code of Civil Procedure*, section 2030(k) if a party to whom
2 interrogatories have served fails to serve a timely response, the party propounding the
3 interrogatories may move for an order compelling the response. The service and filing of
4 interrogatories pursuant to section 2030 of the *Code of Civil Procedure* places the burden
5 upon the interrogated party to respond by answer, or to object. The obligation of a
6 response must be satisfied unless excused by a protective order obtained on a factual
7 showing of good cause why no response should be given. *Corriell L v Superior Court*, 39
8 Cal. App. 3d 487, 492 (1974).

9 Pursuant to California *Code of Civil Procedure*, section 2033(k) if a party to whom
10 request for admissions have been served fails to serve a timely response, the party
11 propounding the request for admissions may move for an order that the truth of any
12 matters specified in the request be deemed admitted, as well as for monetary sanctions
13 under section 2023. At this time defendants Forjas Taurus and TIMI only seek an order
14 compelling plaintiffs County of Alameda and cities of Berkeley, Sacramento and San
15 Francisco to respond to defendants' request for admissions, and the concurrently served
16 judicial form interrogatory 17.1.

17
18 **III. THE DISCOVERY RESPONSES SOUGHT FROM THESE PLAINTIFFS BY**
19 **DEFENDANTS FORJAS TAURUS AND TIMI REPRESENT RESPONSES TO**
20 **"NON-CORE" DISCOVERY.**

21 The Written Discovery Stipulation and Order (Motion Exhibit "Y") issued and filed
22 by this court on October 13, 2000 distinguishes between "core" discovery and "non-core"
23 discovery. With respect to non-core discovery, that order provides: "All responses to and
24 motion practice relating to written discovery, other than core discovery identified above,
25 shall be deferred for a period of ninety (90) days from the date of this agreement, at which
26 time the parties will meet and confer regarding the timing for responses to deferred written
27 discovery. (Motion Exhibit "Y," page 2. lines 58.) As is more fully set forth in the
28 accompanying declaration of Timothy Bumann, defendants' counsel has sought responses

1 to the written discovery from plaintiffs' liaison counsel. However, plaintiffs' liaison
2 counsel has declined to agree to a date when plaintiffs' discovery responses will be served.
3 No good cause or justification exists for plaintiffs' continued and repeated failure and
4 refusal to respond to the written discovery these defendants served upon them more than
5 13 months ago! With the September 28, 2001 deadline for concluding fact discovery
6 approaching, plaintiffs County of Alameda, and cities of Berkeley, Sacramento and San
7 Francisco should be ordered to respond to defendants' written discovery forthwith.

9 IV. SUMMARY AND CONCLUSION

10 The discovery sought by defendants Forjas Taurus and TIMI from plaintiffs County
11 of Alameda and cities of Berkeley, Sacramento and San Francisco is critical to defendants'
12 preparation of the defense of their case. This discovery was served more than 13 months
13 ago, and no reasonable basis, grounds or justification exists for the plaintiffs' defiant
14 failure and refusal to respond to it. For reasons more fully set forth above, and in the
15 accompanying declarations of Denis Moriarty and Timothy Bumann, the court should
16 order the County of Alameda and cities of Berkeley, Sacramento and San Francisco to
17 serve responses by a date certain to defendants' special interrogatories, request for
18 admissions and judicial form interrogatory 17.1.

20 Dated: February 9, 2001

HAIGHT, BROWN & BONESTEEL, L.L.P.

22 By: /s/

23 Michael J. Bonesteel
24 Denis J. Moriarty
25 Attorneys for Defendants
26 FORJAS TAURUS S.A. (Specially
27 Appearing Only) and
28 TAURUS INTERNATIONAL
MANUFACTURING, INC.

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1 which is approximately eight months away. Plaintiffs' answers to the discovery served
2 upon them by TIMI and Forjus Taurus is necessary to my clients' preparation of their
3 defense in this case.

4 Executed on February 9, 2001, at Atlanta, Georgia .

5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct.

7
8 /s/

9 Timothy A. Bumann
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2 upon them by TIMI and Forjus Taurus is necessary to my clients' preparation of their
3 defense in this case.

4 Executed on February 9, 2001, at Atlanta, Georgia .

5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct.

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8 /s/

9 Timothy A. Bumann
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1 PROOF OF SERVICE BY MAIL

2
3 STATE OF CALIFORNIA)
4 COUNTY OF LOS ANGELES) ss.:

5 *Firearm Case*
6 *JCCP No. 4095*

7 I am employed in the County of Los Angeles, State of CaliforniaCalifornia. I am
8 over the age of 18 and not a party to the within action. My business address is 1620 26th
9 Street, Suite 4000 North, Santa Monica, California 90404-4013.

10 On February 9, 2001, I served on interested parties in said action the within:

11 NOTICE OF MOTIONS AND MOTIONS OF DEFENDANTS FORJAS TAURUS, S.A.
12 AND TAURUS INTERNATIONAL MANUFACTURING, INC. FOR ORDER
13 COMPELLING PLAINTIFFS COUNTY OF ALAMEDA AND CITIES OF BERKELEY,
14 SACRAMENTO AND SAN FRANCISCO TO ANSWER FORM INTERROGATORIES,
15 SPECIAL INTERROGATORIES AND REQUESTS FOR ADMISSIONS BY A DATE
16 CERTAIN; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF
17 DENIS J. MORIARTY; PROPOSED ORDER; MOTION EXHIBIT LIST(EXHIBITS
18 LODGED SEPARATELY)

19 By transmitting a true copy of said document by electronic mail on line through
20 JusticeLink.

21 see attached service list

22 Executed on February 9, 2001, at Santa Monica, California.

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

25
26 Ann Carpenter
27 (Type or print name)

28 /s/

(Signature)

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**CALIFORNIA FIREARMS LITIGATION
SERVICE LIST**

JUDICIAL COUNCIL COORDINATION PROCEEDING No. 4095

San Francisco Superior Court Case No. 303753

Los Angeles Superior Court Case No. BC 210894

Los Angeles Superior Court Case No. BC 214794

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Patrick Coughlin
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